

Criminal Code

matter cleared up without any necessity for a prosecution. The hon. member says there is a defect in our law because the penalty is not severe enough. If he looks at clause 165 of Bill No. 7 he will see the penalty is imprisonment for two years. If he looks at section 1035 of the present code he will see that it reads:

Any person convicted by any magistrate under part XVI or by any court of an indictable offence punishable with imprisonment for five years or less may be fined in addition to, or in lieu of any punishment otherwise authorized, in which case the sentence may direct that in default of payment of his fine the person so convicted shall be imprisoned until such fine is paid, or for a period not exceeding five years, to commence at the end of the term of imprisonment awarded by the sentence, or forthwith as the case may require.

There is no limit to that fine.

Mr. Diefenbaker: What about corporations?

Mr. Garson: There is no limit; so all these fulminations the hon. member has inflicted upon us tonight about the inadequacy of our law and so forth are somewhat inappropriate until the facts are established and we can tell whether the existing law can be invoked to support a charge that would clear this matter up. Until these facts are established I must say that it is going to be most difficult to frame an amendment that will cover them.

Mr. Low: Is it not true that if you were seeking to convict under one of these clauses that we are speaking about at the present time you would first have to establish that some plant or some industry is pouring something into the river that does pollute the water?

Mr. Garson: Yes.

Mr. Low: Is it not true that that is exactly what the provinces are trying to do now, with the assistance of the Department of National Health and Welfare? It seems to me that hon. member for Prince Albert, whose legal wisdom we admire in this house, is now using this for political purposes. I have great admiration for my hon. friend, and he has established a reputation here for wisdom in the legal field. I do not blame him for one moment for putting forward the case of his city, and perhaps other cities in the province of Saskatchewan; certainly, as he said a few moments ago, one of the most important things to people in any section of the country is a good water supply. We admit that; but my hon. friend knows full well that before he can start any type of prosecution under the Criminal Code he has to get evidence, as the minister said, and it has to be pretty well established.

[Mr. Garson.]

Mr. Montgomery: The hon. member misses the point altogether.

Mr. Low: No, I have the point. I think the minister is quite right. If I remember correctly the statute law in Alberta does give the authorities there ample opportunity to take action to stop the pollution of the water. If it can be discovered, let us say, that one of the big industries in or around the city of Edmonton is pouring substances into the Saskatchewan river which results in the condition one finds in Prince Albert, there is enough power in the statute law of Alberta to make it possible for the authorities there to stop it. That being so—

Mr. Martin: The public health act.

Mr. Low: —I do not see why it is necessary to talk about this particular criminal law in order to get a conviction for something we do not know a thing about. I suggested a moment ago that there is an outside possibility that escaping gas from gas wells may be causing it. I do not know if that is a fact, but there is a suggestion.

Mr. Coldwell: I understand that people are drinking water from the Battle river, and the Battle river flows right through the gas fields. If it is escaping gas that is causing the trouble, why is the Battle river water all right?

Mr. Low: I do not know; all I can say is that there are certain people, some of them from Saskatchewan, who suggest that the taste and smell of the samples of water they have had from the river in Prince Albert and other places in Saskatchewan indicates escaping gas.

Mr. Coldwell: Why is the Battle river water not polluted, then?

Mr. Low: That would not necessarily follow.

The Deputy Chairman: May I suggest to the committee that the Chair would like this discussion to be as wide open as possible and keep within the rules, but I should like the committee to keep away from a technical argument as to whether a condition in a certain river is caused by gas or by some other product and stay with the shortcomings, if you like, of the Criminal Code and its application.

Mr. Low: What I was trying to do was relate the question to the Criminal Code. Before we could take anything like specific action under the Criminal Code we would have to know whether it was escaping gas which was responsible, or we would have to know if it were effluent being poured into the river deliberately, and whether upon