

Cruelty to Animals

see would be introduced into the sentencing provisions of the Criminal Code if Bill C-46 as presently drafted were to pass this House.

That is why I said at the outset, Mr. Speaker, that while I see some merit in the bill and while I laud the intention of the proposed amendment, I find some portions of it, the one providing minimum penalties in particular, to be quite unacceptable. Before accepting the proposition of a minimum penalty in the case of a prohibition, I think all members would want to see how this would affect other summary conviction offences in the Criminal Code.

Mr. Mather: Mr. Speaker, would the hon. member permit a question? Having in mind the fact that the hon. member has found merit in part of this proposal and that he would like to see some aspects of it studied further, would he be prepared to allow the subject matter of this bill to proceed to committee for that further examination?

Mr. Smith (Saint-Jean): Mr. Speaker, I could agree to that.

Mr. Jack Cullen (Sarnia-Lambton): Mr. Speaker, I commend the hon. member for Surrey-White Rock (Mr. Mather) for the legislation he has brought forward. We have come to expect from the hon. member legislation and motions to do with the safety of motor vehicles and anti-smoking campaigns. Today the hon. member has brought forward Bill C-46 which seeks to provide an additional penalty to be added under section 402 of the Criminal Code with respect to people who are cruel to animals. Frankly, I am not as hung up on the problem of a minimum penalty as my colleague seems to be. Actually, the individual with whom we are concerned already will have had one chance. He already will have been convicted and fined a certain amount or given a certain sentence in accordance with the facts in the first instance.

I think it is proper to provide for maximum penalties so that judges and magistrates may exercise the greatest discretion in determining the penalty to be imposed for an offence. Once an individual has been found guilty, and disobeys a court order, he may be subject to further penalty. If an individual disobeys an order of a civil court, he may be held in contempt of court. Here we are speaking of an individual who violates a specific court order which requires him not to do something specific. He has already committed a criminal offence. He has already had his first opportunity. He has been given a trial and the discretion of the court has been exercised. In all probability, as the hon. member suggested, the result was a fine. Notwithstanding being given all these opportunities in the first instance, he then violates or in effect contravenes the order or judgment of the court and he is now faced with a minimum fine.

• (1630)

The amendment proposes that the law says, in effect, to the individual, "You have had your first chance. You will have your second chance, but in that situation you know what you will face. You will not face a judge who is lenient, who does not like animals or cannot be bothered with this kind of thing." No judge or magistrate will be able to fine someone \$1 or \$10 or say, "Don't let it happen again." The individual knows when he contravenes the

[Mr. Smith (Saint-Jean).]

order that he will face a particular minimum fine. The judge has no option; he must at least impose that minimum fine.

If this had appeared in section 7 of the amendment I would have agreed, but when it appears in the second section where the individual has already had his opportunity, I think it is appropriate that this particular sentence should apply. I do not know that the analogy is complete, but I know that in the days when I used to practice law and defend people on impaired driving charges, a magistrate had a particular discretion on the first offence: on the second offence it was an automatic jail term. I remember on one occasion hoping that my client would not be convicted of impaired driving because drunk driving was a first offence and he would only go to jail for seven days, whereas on a second conviction for impaired driving he would have gone to jail for 14 days. My point is that on the second offence there is a good case to be made for establishing a minimum penalty.

It bespeaks well of this country that we have in the Criminal Code a section dealing with individuals who commit the offence of cruelty to animals or birds: from the explanatory notes this goes from (a) to (g) and applies to people who do various things wilfully, without reasonable excuse, and so on, and the action they take in one form or another which results in pain or suffering to animals. It bespeaks well that we have in our Criminal Code provisions to protect animals that are unable to protect themselves or are not able to speak on their own behalf. The country is right in having this kind of legislation in the Criminal Code.

I think the amendment proposed by the hon. member is good. For my part, I would like to see more discretion in respect of offences of this nature where an individual who has done something such as abusing an animal would not have the privilege or the opportunity of having an animal in his possession for a certain period of time. Where a person has committed vandalism, that individual should repair the vandalism, be it writing on a school wall, a broken window or vandalism to any public building. The magistrate should have the opportunity to say to the individual that he must rectify the damage he has done. That seems to be the way the law is heading.

I have yet to learn of this type of punishment being criticized by the general public. I know we read more of this in the United States. When a person is convicted of drunk driving, the judge may indicate that he must attend a school of safe driving for the next year or two and lectures on why persons should not mix drinking and driving. That is a much more effective penalty than simply paying a fine. In a positive way judges are reacting to what society is demanding. The individual must not only do these things which are punitive but he must learn something.

I remember reading a placard in front of a Presbyterian church in my area. Different sayings are put up from day to day. On one occasion it read, "If you would learn something, teach it to others." That is the type of punishment the hon. member is suggesting under amendments (7) and (8) to section 402 of the Criminal Code. I feel that when an individual has committed an offence and is guilty of committing a second offence violating a court