

talking to the Canadian Association of Broadcasters as well.

**Mr. Macaluso:** I have read their brief. But I still note the difference here. Usually in a statute it says not less than so many dollars.

**Miss LaMarsh:** We talked about this. I would like to say, first, that I do not know of any instance where it has happened. I am told by the CAB—even by one who confessed to being a 40-time law-breaker in this regard—that this almost invariably is unintentional; and, as a matter of fact, I am surprised to find that they are convicted for things that happen without design. I am told that there are no known instances where a private broadcaster deliberately broke the regulations to get extra revenue.

I do not have the figures before me at the moment, but in my speech on Second Reading I showed how easy it was, by just a slight infraction repeated, to create a very tremendous increase in income. This is because, as you know, depending on the market, so much is paid by the minute for commercial messages. Therefore, I certainly understand your argument and that of the CAB that this is a great deal of money and that it rather looks like setting a wolf trap to catch a mouse; but if no wolves walk into it then it is not going to snap anyway.

● (4.45 p.m.)

**Mr. Macaluso:** Would it not be wise to make provision for a fine of not less than, say, \$5,000 and not more than...

**Miss LaMarsh:** But sometimes this...

**Mr. Macaluso:** Why the great latitude? This really does not appear in any other statute.

**Miss LaMarsh:** Because there are so many different kinds of regulations that can be broken. The questions of intent and of unwarranted income certainly are most important to consider.

I did talk to the CAB—and perhaps the Committee might be interested—about setting a fine that had some teeth in it, such \$10,000, or \$15,000 or \$25,000, plus two, or five or ten times any unwarranted income that was received. This seemed to commend itself to them. I think they are really afraid of the \$100,000, because it leaves the impression that they are big, bad bears. The suggestion is not that they are, but that if they are they are not going to be allowed to continue to be.

**Mr. Macaluso:** What happens if the magistrate levies a fine of \$100, or \$200 or \$500, in what the Commission may consider to be a very serious breach? Is the Commission going to appeal that decision?

**Miss LaMarsh:** That is the business of the CRC, not mine. I have not seen a list of the offences, but I am told that the fines that have been levied up till now are just licence fees to break the law. They are \$5, or \$10, or something of that kind.

**Mr. Macaluso:** What would be wrong with levying a fine of not less than \$5,000, and having a maximum of \$100,000?

**Miss LaMarsh:** Well, the broadcaster who told me about his being an offender to the tune of 40 convictions is considered to be a first-rate broadcaster in this country. As a matter of fact, he is the president of the Association at the moment. A minimum fine of \$5,000 on him would mean that by the time he reached 40 he would be out of business.

**Mr. Macaluso:** I would think if he were fined \$50,000 or \$100,000, he might be out of business, too.

**Miss LaMarsh:** That is right; but the \$100,000 is not intended to cover the kinds of things for which it appears he has been held responsible.

**Mr. Macaluso:** It may be because I have too legal a mind, but it appears to be just too wide and might be tightened up a little.

**Miss LaMarsh:** This is up to the Committee. You asked me why we have made the proposal. I wanted to show that we meant business.

**Mr. Macaluso:** Finally, I am concerned about the limitations on the grounds of appeal. There are of course, statutes that put the limitation on certiorari and mandamus, but why not allow an order of the Commission to be restrained or removed by certiorari—which is still a court procedure—or mandamus. I think it would be a more equitable procedure.

**Miss LaMarsh:** I think that is a standard provision with respect to prerogative writs. It is similar to one that has appeared latterly in many pieces of legislation. I will consult the Justice Department.