

Criminal Code

is to endeavour to remedy the well known defects of that procedure. As we all know, the offence comes under the obtaining of goods under false pretences, and the first essential is to prove what was in the man's mind at a certain hour on a certain date. As that is almost impossible to prove, ninety cases out of a hundred go by default. Every lawyer knows that and every court recorder will tell you so. The weakness of the section is that we have to prove an intent to defraud, and this bill is an attempt to overcome that defect.

Some hon. members wished to widen the scope of the bill to provide that it should be a criminal offence simply to issue a cheque for which there are not sufficient funds. That opens up the ground taken by the Minister of Trade and Commerce (Mr. Stevens) the other night. We must protect the innocent man; we must not legislate that a man who carelessly or accidentally overdraws his account is liable to be sent to gaol.

Mr. ERNST: Supposing the bill went this far:

Every one who draws and issues a cheque on a chartered bank in Canada for the payment of money and at the time he draws and issues the cheque has no funds or insufficient funds on deposit in that bank to meet the cheque, and has no reasonable grounds to believe that the cheque will be paid by the bank, is guilty of an offence.

Suppose we stop there; would that be satisfactory?

Mr. NEILL: Hardly; it was claimed it was necessary to go the extra distance as mentioned in the section and referred to by the hon. member for Vancouver Centre (Mr. Mackenzie). You must give the man an opportunity to make good his cheque. The honest man who has made a mistake can easily arrange the matter; he may need a day or two in which to do it. But that is where you catch the crook. He has no standing, no domicile, and that is where he falls down. The honest man is protected by giving him that reasonable time, but the crook falls down because he cannot make his cheque good in a reasonable time. After all it is important to see that an honest man who innocently overdraws his account does not suffer for so doing.

The hon. member who has just sat down has suggested a change in the wording of this section. That leads me to the suggestion, which I think is a suitable one and one which was, I believe, voiced by the hon. member for Ottawa (Mr. Chevrier), that the second reading should be allowed to pass and the bill be sent to the banking and commerce com-

[Mr. Neill.]

mittee where it can be modified according to the wishes of the members thereof. I am not wedded to the details of the bill; I wish only to introduce the general principle of it.

Considering the limited time and the comparatively small importance of the matter, I have received an enormous amount of correspondence from people supporting the bill. I have communications from the Vancouver Board of Trade, the Bureau of Businessmen's Credits in Winnipeg, the Better Business Bureau of Montreal, the Royal Bank of Canada and other institutions. There is only one criticism amongst them all and this is only in regard to a matter of detail. It points out that I use the language "a chartered bank," whereas I should have made provision for cheques drawn on trust companies, savings banks or other institutions that issue cheques. I have also received the model bill proposed by the Associated Boards of Trade of New York where an enormous business is done. I have also received a copy of the act which is in force now in certain states, Minnesota and another adjoining state of which I forget the name. Every one of these is along the lines of this bill, only in many instances they are a little more severe. The only difference I see in them is that they do not make provision for the man who innocently overdraws his account.

I cannot see that this will open the way to any further violation of the act because it is practically wide open now. The penalty provision covers the case where a man has, as somebody has said, the "ingredients" or, as I would say, the "essentials" of the crime, no funds, no reasonable ground for supposing he had credit and who does not, upon the refusal of the bank to honour the cheque, deposit within a reasonable time the necessary money to his credit. That, I think, takes care of the objections in that regard.

I shall not delay the house longer. As I say, the house will take my word, as it took the word of the Minister of Justice, that I have received many letters from all parts of Canada in support of this bill, and I know many, because they have told me so, are writing to their member asking for his support. It seems that the one thing we can all agree upon is that there is a widespread need for some legislation of this character. When a businessmen's credit association of Canada goes on record that in one year they had to handle 70,000 bad cheques amounting to around \$5,500,000, one can imagine the cost if it is only the protest fees and incidental costs to omit mention of such of the principal as is finally lost.