

Criminal Code

The bill puts forward the interesting proposition of allowing 15 days' grace. However, I think there are many more aspects to this whole question of cheques that are being utilized increasingly in our society. Under the credit card system, there is an interest charge of 18 per cent. Cheques have become a form of credit card system for many people. If a cheque is small, the interest becomes exceedingly excessive.

I do not know the exact amount of my telephone bill because it has changed so often recently. In any event, it is a relatively small amount. Many people pay their telephone bills as well as their hydro bills and other relatively modest amounts through the bank. Once again they are jabbed by the banking system for an excessive amount of money.

There are one or two other members who want to speak on this subject. I want again to congratulate the sponsor of the bill for bringing forward this subject, which is of interest to very many Canadians, in order that we may have a few minutes to discuss it.

● (1752)

Mr. Bill Jarvis (Perth-Wilmot): Mr. Speaker, perhaps I might be permitted to spend a few moments putting forward some personal observations on Bill C-215. I am prompted to do so if for no other reason than that it stands in the name of the hon. member for London East (Mr. Turner); in my view, therefore, it is a matter which is deserving of serious consideration. I compliment the hon. member on bringing this legislation forward and I compliment also the hon. member for Middlesex-London-Lambton (Mr. Condon) for explaining so well the purposes of the bill.

I agree with what the bill seeks to achieve. I am not sure, however, that I agree with the means by which the sponsor and the hon. member for Middlesex-London-Lambton wish to attain those objectives. Let me first of all draw attention to a matter which is, for me, one of serious principle, though I do not say so as a lawyer. Is the Criminal Code a vehicle to be used for the enforcement of a commercial contract? In other words, should we superimpose the Criminal Code upon day to day business activities? There are great arguments on both sides. I understand the frustration of small businessmen in the London area. My own riding is very close to that area and I appreciate the frustration businessmen feel in trying to get litigation through the courts, having regard to the inadequate facilities at their disposal. I understand that a similar situation exists in Ottawa to the extent that the regional bar association has made strong representations to various levels of government.

Nevertheless, are we to use the Criminal Code in an attempt to mitigate this understandable frustration and financial loss suffered by small businessmen? I am sure the financial loss suffered by these people in the London area has been very significant indeed. Knowing the nature of the court list in that area I can well understand that a businessman would not be much inclined to say to the law enforcement agencies: "I want this case prosecuted." Because of the frustration they feel with the civil court procedure, small businessmen in the area, as

[Mr. Stollery.]

well, I am sure, in many other areas across Canada, are saying possibly: "At least we may be able to expedite our cases by resorting to the use of the Criminal Code."

This brings me back to the principle I stated: Should the Criminal Code be used to enforce commercial transactions? I do not know which side of the fence I am on. Looking at the legislation I can see certain difficulties immediately. Suppose I am a tenant and I receive a cheque from a friend or a business associate at the time my rent is due and I endorse that cheque to my landlord and it is returned stamped "NSF." Now, who is the payee? According to the cheque, I am. I, in turn, endorsed it to pay my rent. Under the bill before us, as I read it, I am in a situation in which, should the payor pay the amount of the dishonoured cheque to the payee, no further action is taken against him. Well, Mr. Speaker, I have no claim to that money. The claim has passed to my landlord to whom I have endorsed it. If he becomes the payee in law, that is fine, but I am not sure he does.

Another situation occurs to me. Again, as a tenant, I write a cheque to the landlord and the landlord endorses it over to another, and the recipient endorses it again, as happens in many commercial transactions; the cheque may pass through three or four hands before being finally presented to the bank upon which it is drawn.

I come, now, to the very good point made by the hon. member for Middlesex-London-Lambton with respect to the morality of certain aspects of the measure and his concern about protecting the little fellow, the uneducated person, the person who lacks an adequate command of either of our official languages. Is it in the moral interest of such a person, or of any other Canadian, to say: "You can write cheques even though you do not have funds to meet them, as long as within a 15-day period following notification of the fact that you do not have sufficient funds to meet them, you make arrangements to do so." Is that good morally? I do not stand in judgment. I do not know.

What I am willing to say is that I support the position taken by the hon. member for Broadview (Mr. Gilbert). I think this would be a very good subject for consideration by the Standing Committee on Justice and Legal Affairs, of which I happen to be a member. I am not so sure it should be discussed in this precise form but, in the absence of any other form, let us consider it in the form of Bill C-215. I should very much like to discuss further this matter of principle, the contemplated use of the Criminal Code to enforce commercial contracts.

Mr. Roger Young (Parliamentary Secretary to Minister of Justice): Mr. Speaker, I join with others who have spoken this afternoon in commending the hon. member for London East (Mr. Turner) and the hon. member for Middlesex-London-Lambton (Mr. Condon) for bringing this bill forward. It has given us all a chance to take a run at the subject matter.

I might say that I have prepared what I thought was a pretty good speech on the subject. I had hoped to deal at some length with the legal technicalities involved because I believe there has been some misinterpretation of what this bill would