

Public Order Act, 1970

The Deputy Chairman: There is no need to withdraw the amendment because it has not been put.

Shall clause 5 carry?

Clause 5 agreed to.

On clause 6—*Idem*.

Mr. Broadbent: Mr. Chairman, I should like to move an amendment to clause 6. The amendment would strike out all the words in clause 6 beginning at the word "or" in line 16 on page 4 down to and including the word "policies" in line 20. The new wording, therefore, would read:

6. An owner, lessee, agent or superintendent of any building, room, premises or other place who knowingly permits therein any meeting of the unlawful association or of any branch, committee or members thereof, is guilty of an indictable offence and liable to a fine of not more than five thousand dollars or to imprisonment for a term not exceeding five years or to both.

If we look at the unamended wording, the argument might be the following: The first part of the clause provides that anyone who knowingly permits any meeting of the unlawful association or of any branch and so on, in the given premises will be subject to the punishment outlined at the end of the clause. This is fine because there is already established legal precedent on this matter in the Criminal Code. Anyone who knowingly permits a group of bank robbers to assemble on his premises before they set out to rob a bank is appropriately chargeable under the Criminal Code. In this amendment, I would strike out the following words:

—or any assemblage of persons who advocate or promote the unlawful acts of, or the use of the unlawful means advocated by, the unlawful association for accomplishing its aims, principles or policies—

I shall briefly state the reason for the omission of those words. The brevity should not be taken as an indication that it is an unimportant point because I think it is extremely important. Why should a person who knowingly permits an assemblage of persons, who ultimately advocate or support an unlawful association, be subject to this kind of punishment if in fact he did not know what that assemblage intended to do. He does know he is going to have an assemblage and has permitted that to take place, a meeting of some sort. However, this is quite different from the situation which would exist when one might argue that it is appropriate to punish a person for knowingly permitting a conspiratorial or criminal association to meet. It is one thing to take that position and quite another to say that a man should be guilty of an offence simply because he permits a group of people to come together who eventually engage in criminal activity. That would seem to be indefensible. That is the first point.

The second point, which is not unrelated to the first point, is that quite apart from the interpretation of the law as it reads now in the clause which I am proposing be amended, which would have the effect of extending the category of groups which would be excluded from the right to assemble, this would permit, and in fact in my judgment encourage, the police to harass a variety of dissident groups, say in the province of Quebec, at this

[Mr. De Bané.]

time. I think this is an extremely important point in terms of the maintenance of civil liberties, particularly the right of freedom of speech and freedom of assembly. If this wording should remain, the police could not necessarily obtain a conviction but could harass meetings of the Parti Quebecois, for example, and could harass meetings of students who wanted to get together simply to discuss the idea of separatism, either in the violent form associated with the FLQ or in the non-violent form associated with the Parti Quebecois.

In other words, the wording in this clause as it now stands could have the same effect in terms of the political climate of Quebec as the old padlock law had in that province. Following the argument of the Minister of Justice to the effect that the real purpose of this bill is to get at the FLQ, it would seem to me that nothing would be lost by simply retaining the first six and half lines of the clause and striking out the part I propose be struck out. But there is a real and important danger of severely inhibiting the free expression of ideas if that central part of the clause remains. I would suggest this change is important, not only to the civil rights of the individuals who might be affected but also in the broader sense for the political life of Quebec and, indeed, of Canada. If this clause should be given the broad interpretation, which I contend the police could give it, and if the police were to embark even in the next few months during the life of this legislation on a program of harassing legitimate separatist organizations such as democratic separatist organizations in the province of Quebec, then I for one would have very great apprehension concerning the future of Canada, and particularly the relationship between the province of Quebec and the government of Canada.

I could see such a situation sparking a very strong movement—I am saying this is a distinct and real possibility and therefore one that we must consider—of thousands of civilized French Canadians, who up until this point have not decided on the separatist option, into the separatist camp. If that should happen, then we are in real trouble.

• (2:50 p.m.)

Mr. Turner (Ottawa-Carleton): Mr. Chairman, if the hon. member were right, then his amendment should be to strike out the first part of the paragraph as well. What he suggests is that an owner, lessee, agent or superintendent should not be found guilty merely for knowingly permitting a meeting. What he is saying is that the owner or lessee might not know it was an assemblage of persons who advocate or promote the unlawful acts of, or the use of the unlawful means advocated by the unlawful association. He is suggesting that the word "knowingly" does not apply to the words "to advocate or promote the unlawful acts", etc.

If that were so, the word "knowingly" in the first part would apply to "meeting" and would not apply to "unlawful association". The view has been given that the words "knowingly permit" in the first part of the clause as it now reads apply to any meeting of the unlawful association. There would have to be knowledge of the