

predicated on the fact that there is a conviction of the corporation. When one reads the reasons advanced by the Minister of Justice for bringing in his declaration, in a report to this House, that the particular amendment was inconsistent with the Bill of Rights, some of the words used are of interest. A press release issued by the Minister of Justice on April 7 states as follows:

One of the amendments reported on by the minister in the House today was designed to tighten the enforcement of the Feeds Act where offences are committed by corporations.

This clause would presume the chief executive officer of a corporation to be guilty of an offence under the act where his corporation was convicted under the act.

This would not apply if he established that the offence was committed without his knowledge and consent and that he exercised all due diligence to prevent its conviction.

I think the final words should have been "to prevent its commission": I think these are the operative words. We must give some attention to the fact that there is a difference in the conviction of a corporation. As I understood it, the Minister of Justice said the onus was cast upon an individual to establish by a preponderance of evidence in a criminal proceeding that the offence was committed "without his knowledge and consent and that he exercised all due diligence to prevent its commission". I suggest the parallel is too close. It may well be that if the Deputy Attorney General had his attention directed to this, he might be able to make a distinction. It seems to me, at first blush, it is too close a parallel to allow the clause to be passed at this time. The minister might wish to stand the clause in order to seek an opinion and, if so, we could consider it if we find there are good reasons for it. The words used, that a person charged with the offence must show that he "exercised all due diligence to prevent its commission" are very far reaching and we must consider them very carefully.

Mr. Macdonald (Rosedale): Madam Chairman, I have not had the advantage of seeing this particular opinion. While I am sure that the Department of Justice tries to act in a consistent fashion, I would not advance the proposition that they could not have delivered an inconsistent opinion. I suggest we might stand clause 29, and clause 30—which is related to the same subject matter—and go on to clause 31.

Mr. Orlikow: Before the clause is stood, Madam Chairman, speaking as one who is not a lawyer and may not appreciate all the fine nuances of the law, I am concerned about the differences that seem to take place in this country when we consider corporate prosecutions compared to the prosecution of others. For a whole host of other crimes such as robbery or assault, it is not unusual for the people who commit them to go to prison. I am not particularly an advocate of sending people to prison, because I do not think it helps persuade them or others not to commit crimes, but that is the system under which we live. When it comes to corporations, however, and actions relating to anti-combines law and a host of other laws, it appears that a different view is taken.

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Under our system, a corporation is treated as a corporate person. We will see what will happen to those charged

Oil and Petroleum

with rigging dredging bids. In the past, when a corporation has committed an offence and has been convicted by the courts, it has been fined even though it has been convicted several times. I agree that fines have become progressively larger. They ought to be larger. My hon. friend suggests that seldom have officers of a corporation convicted of breaking the law suffered the penalty of imprisonment. I think he suggested this has seldom happened, if at all. As the hon. member for Calgary Centre suggested, it is almost as if the corporate person is some kind of mythical being who can only be punished with a fine. I suggest that we apply a different set of value judgments, a different set of rules to corporate crimes, committed by corporate officers than we do to other types of crimes committed by other people.

Although I do not object to these clauses being stood, I certainly object to the inclusion in this bill of a principle which encourages courts, prosecutors and other court officials to look upon corporate crimes as different from crimes in general. I submit that officers of a corporation or of any other organization should be treated in the same way as other individuals when the law is broken. They should be subject to the same kinds of penalties whether they be fines or imprisonment. In short, they should be treated exactly as other individuals are treated who have broken the law.

Mr. Andre: Madam Chairman, I concur with the minister's suggestion to stand these clauses or to stand one of them at least. I think that if justice department lawyers look more closely at these clauses they will suggest amendments.

I want to correct an impression left by the hon. member for Winnipeg North, who said that we suggested lesser penalties should be imposed by the law on corporate officers or corporate officials than on other people. Our position is quite the contrary: we suggest that there should be identical treatment of persons who have committed a crime either while sitting behind a desk and working for a corporation or standing behind a gun in a service station.

It is a well established principle of our common law, and this principle is further enshrined in the Bill of Rights, that a person is presumed innocent until proven guilty. If the hon. member for Winnipeg North were to read clause 30, he would see that it says a person is guilty of certain offences unless he can prove his innocence. Surely he does not suggest that a person employed by a corporation should not be accorded the same protection under our common law and the Bill of Rights as is accorded to any other citizen. That is why we think this clause should be amended. Perhaps the Department of Justice will suggest an amendment.

Under our system of justice, all persons, whoever they may be, are presumed innocent until proven guilty. Although it might suit the convenience of those who seek to enforce the law—be they police officers or government officials—to have it the other way around, I do not think that we, as parliamentarians, should permit that to happen. That is why we are seeking an amendment.

Mr. Orlikow: Madam Chairman, I agree completely with the hon. member for Calgary Centre who says that it is a basic principle of our system of justice that a person is