

*Public Order Act, 1970*

With respect to the translation errors, I do not know whether the phrase "agent of any room" means anything in English, but I know perfectly well that in French the phrase "Régisseur d'une pièce" has none, or at the least, is a very unusual expression. Also, the words "building superintendent" in North American translate into "concierger" and not into "surintendant". Webster's *Third International Dictionary* gives this definition of a "superintendent": the person who "is responsible for the cleaning and maintenance of a building".

About the possibility of ambiguity, the wording of this clause is bad, because while allowing a meeting of "members of the unlawful association", this includes necessarily a meeting of the association, of a branch or a committee of said association, while, in my opinion, the wording should be "meeting of members", without adding the words "of the association or any branch, committee".

Then, the second group of persons covered by clause 6 is described from line 24 to line 30 inclusively. I wanted, without proposing an amendment, to suggest a version which seems to me simpler and especially, much more efficient. I must also say that it is much harsher, but this is justified by the temporary character of this act.

Furthermore, the clause, as written, seems to forbid two different things.

First of all, the first part of the clause forbids, without taking into consideration its objectives, any meeting of the members of the unlawful association, while the second part forbids any meeting of any group of persons who advocate or promote the unlawful acts of an unlawful association for accomplishing its aims, principles or policies.

The clause would have been acceptable had the expression "unlawful acts" been used. But by using "the unlawful acts" we see how impossible it is to prove that they are unlawful. Finally, I quote the Kipling case, of the Ontario court of appeal, in connection with Section 221 (2) which deals with leaving the site of an accident, in which the following terms were to be interpreted:

Every one who, having the control of a vehicle that is involved in an accident with a person, vehicle or cattle in charge of a person, with intent to escape—

The court reached the conclusion that the expression "in charge of a person" applied not to the vehicle but to the cattle.

I think the version I suggest, without moving it as a formal amendment, is clearer and solves a lot of problems.

Finally, considering the concept of strict, absolute or objective responsibility, the following words should be added after "knowingly permits": "without lawful justification or excuse the onus of which lies upon him".

I shall give the example of the owner of premises who would knowingly allow a physician or a political scientist to gather members of an unlawful association for an interview for scientific purposes.

We must finally realize that the clause stands out mostly because it provides for a maximum sentence that,

[Mr. De Bané.]

off-hand at least, is greater than the one prescribed under clause 4(g) for someone who really makes use of violence.

Finally, let us note that, by the combined effect of clause 4 of this bill and section 21 and following of the Criminal Code, this clause seems unnecessary.

I should like just to suggest, without moving it formally, the following version of clause 6:

Is guilty of an indictable offence and liable to a fine of not more than \$5,000 or to imprisonment for a term not exceeding five years or to both, any person who is the owner or the lessee of any building, room, premises or other place, or who acts in a responsible or supervisory capacity with regard to them, and who knowingly permits without lawful justification or excuse, the onus of which lies upon him, any meeting of the persons who have violated or who violate the provisions of subclauses (a) to (g) in clause 4 of this act.

I hope that when the promised legislation is drafted in a few months' time these suggestions will be taken into consideration.

• (3:40 p.m.)

[English]

**The Chairman:** Shall clause 6 carry?

**Mr. Knowles (Winnipeg North Centre):** On division. Clause 6 agreed to.

On clause 7—*Detention*.

[Translation]

**Mr. Béchard:** Mr. Chairman, prominent law officers from the department and outside have called the attention of the minister upon certain anomalies contained in the French version of clause 7 which would make it a little difficult to understand this clause in view of the double negative. Furthermore, with regard to the English version, mention has been made of some difficulty, for instance, in understanding the meaning of the first paragraph which reads as follows:

[English]

A person charged with an offence under section 4 shall be detained in custody without bail pending his trial unless

(a) the Attorney General of the province in which the person is in custody has not—

[Translation]

On account of those two negatives, the minister is prepared to move an amendment, if the House agrees. I have here both the French and English versions of the amendment. Copies of the amendment have already been distributed in the House so that hon. members can get acquainted with it.

With the agreement of the committee, I am ready to move this amendment concerning Bill C-181.

I move that lines 25 to 37 on page 4 and lines 1 to 6 on page 5 be deleted and replaced by the following:

7. (1) Without prejudice to subsection (2), a person charged with an offence under section 4 shall be detained in custody without bail pending his trial.