

Criminal Code

local person to walk in, pay cash for the goods and thus make money move around so that the businessman can buy more goods and increase his assets. It is not only businessmen who have suffered over the years. People who do not understand the law have also been the victims.

I should like to read into the record a letter written to the Prime Minister (Mr. Trudeau), a copy of which was sent to the hon. member for London East. It is a very sad story of a person who was given poor advice and who then suffered a calamity. It reads as follows:

I'm writing to you begging for help. I should explain what has happened to me and my family. I am 37 years old and have been working since I was 16 with my present employer, not for very much money but it has been steady work, saving everything that I could for me, my wife and two children. Recently I was misled by a real estate salesman to invest in second mortgages. I took all of our savings and did so. The total amount was \$20,000. After five months the postdated cheques went NSF—

● (1712)

I assume this refers to the person making payments on the second mortgage.

—all of them on four properties, so the first mortgage holder foreclosed on the properties, and that left me helpless because I had no money to carry them on. Since this has happened I have not been able to sleep for a month. I'm on the verge of losing my job because my nerves have been so bad that my hands can't stop shaking since this has happened. I would appreciate if you can help me before I go out of my mind. I don't know anybody else that I can turn to. That is why I'm going to the top. Forgive me for the poor English as I came to Canada when I was twelve and had not gone to school in Italy and had only four years of school here in Canada. I hope you can help us, as I have not felt so low in life before.

Thank you. Hope to hear from you—

This is a typical example of what is happening. This gentleman has a family; he has worked very hard, saved \$20,000, and finally felt he could be self-sufficient. He put his money into second mortgages so that he could raise his family and give his children the education he never had. This happened because of poor advice and because of the law we have now which does not protect people with little education. It is not just businessmen and landlords who suffer; the little fellow suffers as well.

How do you answer a letter like that? Some of my colleagues who are in the legal profession might say this gentleman could have purchased the properties, got more money and taken over the mortgage. That would be very simple for some people who are educated, but this gentleman lost all his money and possibly will lose his job because of his nervous problems and his worry. His money has been stolen, and he has no recourse. This is just one of the reasons why this bill in the name of the hon. member for London East should be passed.

I admit that I am not a lawyer, but I think we have a moral as well as a legal obligation to protect people like this gentleman. We talk about taking care of people of all kinds, but I think we have forgotten the people who count the most, the hard workers who lose their money because of this quirk in the law. They lose their money because of a lack of knowledge and because they do not do things which perhaps others with a knowledge of the law would do.

[Mr. Condon.]

Our criminal law provides no satisfaction for the merchant, the landlord, or for ladies and gentlemen like the gentleman to whom I referred. The law does not provide for repayment, nor does it deter others from committing this kind of crime. Offenders walk down the street laughing. They say, "If I can get away with it, why not?" French law treats this as an offence. The severity of punishment depends on the amount of money involved. The fraud is considered serious if the NSF cheque is between \$200 and \$700. The penalty is from one to five years. Some in this country may think that is harsh, but I wonder if one to five years is too harsh in the case I have cited involving \$20,000. The victim in this case, as well as his family, suffered frustration.

For the sake of the consumer in the market place and every merchant with whom he deals, I strongly suggest that there is a need for a simple and effective law which would identify and eliminate cheque counterfeiters and bring about prosecution by the Crown without requiring the merchant, the landlord, or the little fellow to weigh the cost and the benefit of trying to collect payments on account of bad cheques. In my view the proposed bill would provide such a law, and I heartily support it.

Mr. Gus Mitges (Grey-Simcoe): Mr. Speaker, it is indeed a pleasure for me to speak in support of Bill C-215, sponsored by the hon. member for London East (Mr. Turner). This bill would do something concrete to combat the ever-increasing number of NSF cheques, the elasticity of which is also increasing and stretching from one end of Canada to the other.

At present the Criminal Code of Canada states that if a person obtains any merchandise by means of a cheque dishonoured for insufficient funds, a false pretence will be assumed unless the court is satisfied by evidence that such cheque would be honoured if it were presented for payment within a reasonable time after it was issued. There is no doubt in my mind that the issuing of a cheque without funds in a bank account to back it up is nothing but the perpetration of fraud by the cheque issuer. This should no longer be tolerated. It is a well known and established fact that 90 per cent of the people who knowingly write cheques against bank accounts with insufficient funds have no intention of ever paying.

Too many people do not realize that the ability to pay by cheque is not only a shopping convenience but a customer privilege as well. It is certainly not a divine right.

Too few cheque writers understand that until such time as a cheque clears the bank it is merely a promise to pay and represents the granting of credit. Occasionally an accounting error on the part of a cheque writer may cause an overdrawing of his finances. Honest mistakes are promptly rectified, and honest mistakes occur in the vast majority of cases.

Writing an NSF cheque in Canada is not in itself a criminal offence unless it can be proved it was intended in the first place to be NSF. Proving this can be very difficult.

Bill C-215 would provide a mechanism by which to put some teeth into the law and to prevent the misuse of cheques. Cheques should be a satisfactory way of making payments.