

Election Expenses

the time this bill gets through. It might be 15 cents. Quite frankly, I doubt very much whether this will be the case, but it is a possibility. But whatever limitation is determined, an officer or a registered agent of the party should not be allowed to deliberately flout the law and over-reach that limitation without having any punishment inflicted on him as an individual. I am sure that if an officer of a party, under the law as it now is, did that deliberately, he would get bad publicity.

Certainly, the fact that a charge would be laid against a registered party for violating proposed section 13.2(1) would mean that somebody representing that party would have to appear in court, probably the chief agent from the sound of this bill, and give evidence as to what took place. And if the bill remains the way it is, then despite whatever evidence that registered agent gives to the court there can be no penalty or punishment imposed upon that individual according to the terms of this bill, but only a fine not in excess of \$25,000 against the party. I am quite sure that a political party would not like that kind of publicity. I would feel extremely ashamed and embarrassed of the party I belong to if it reached a position where it violated this proposed section and its chief agent, or president, had to go to court and say, "Yes, Your Honour, we are guilty." That person would probably not be the chief agent the next day, or if he were the president he would not remain so very long. I just do not think the threat of adverse publicity that would accrue to a registered party as a result of violating the limitation imposed on it is sufficient deterrent, and neither did the government think it sufficient deterrent, because it was the government which proposed the potential \$25,000 fine in the first place.

The Standing Committee on Privileges and Elections spent hours and hours, week on end, during the past month or so, examining this bill in great detail, in fact in so much detail that it is almost impossible to follow the full reasoning by reading the committee proceedings. The committee would consider a particular subject matter, postpone further consideration of it to another day, and in the intervening time deal with another subject matter. One could not follow the flow of its consideration of a subject without jumping back and forth through the records of the committee proceedings. But having been a member of the committee, and remembering what went on previously, I was able to follow the flow. Anyway, the committee discussed this aspect for hours on end, and unanimously felt that the prospect of adverse publicity which would accrue to a party if it violated the limitation section was not sufficient, that there needed to be something else. The committee was unanimously of the view that something else needed to be the threat of a fine, not exceeding \$25,000, against a registered party. The committee did not consider the question of a jail term against the officers of the party, although I am sure a number of committee members thought about it. However, the committee did not examine that question in a formal way.

There are many other pieces of legislation to which we can look for guidance and for precedents in respect of this matter. The Foreign Investment Review Act which was passed recently by this House was the one from which I got this proposed section. Under that act, parliament said that if a corporation violated certain of its provisions, and

[Mr. Howard.]

if any officers or agents of the corporation acquiesced in, directed, authorized, assented to or participated in anything that led to a violation of some sections of the act, those officers were to be singled out as individual persons who would be liable to jail sentences.

There are other statutes with such provisions in them. I have not looked for them specifically, but in the committee I posed a question to Mr. Gibson, the chief of the draftsmanship section of the Department of Justice, about the Combines Investigation Act, and asked whether it did not include the possibility of both a fine against a corporation and a potential jail sentence for a corporation's officers or agents who violated the provisions of the act. My recollection is that he said this was so, and he also made reference to other acts such as the Corporations Act.

We are also entitled to wonder whether or not a jail sentence, or the threat of a jail sentence, is the proper potential form of punishment for violation of laws of this nature which, unlike sections of the Criminal Code, do not involve direct transgressions against persons or property. If you violate the Criminal Code by stealing something from somebody, you have violated his property. If you offend against the Criminal Code by assaulting somebody, you have violated or injured that person. The Criminal Code concedes that those offences of theft, murder, breaking and entering and invasion of persons and property in one way or another should carry a potential jail sentence within the discretion of the court. But in the area of violation of a law which does not directly impinge upon property or persons, we are entitled to ask whether the same concept of a potential jail sentence should apply. That would be a reasonable area to explore.

● (1440)

One could argue that point with respect to this amendment if it were dealt with in isolation, if that were the only area in the Canada Elections Act where a violation would result in a potential jail sentence, but it is not the only area. I do not want to go through the whole act but there are many offences, such as disorderly conduct, upsetting a public meeting, tearing down posters, carrying weapons on election day, appropriating, personation, voting in the name of another person, telegraphing I think it is called in Quebec, all these violations of the Elections Act—infringement upon the democratic right of those who are eligible to vote—all those offences carry either a fine or a jail sentence or both. Some judges put a combination of, say, a six-month sentence and a \$500 fine.

Because those penalties are in the Elections Act, and because we talk in terms of imprisonment for one year or two years or five years depending on the activity, we are not breaking new ground. We are not saying that we are seeking to do something unusual or different from everything else in the Elections Act. We are simply trying to carry forward the concept of potential jail sentences which exists already and apply it to another offence against the act which the government has determined is severe enough to carry with it a potential fine of \$25,000 against the party. We say that the officer or officers or agents of that party who acquiesce or take part in or who are responsible for that expenditure or violation should be punished in some way, a simple punishment of not exceeding one year. Of course, that is an arbitrary figure and it