

sufficient for the first offence, but if a merchant becomes an habitual offender, the law ought to reach him in a more drastic way. I would also suggest that there be inserted in the section some provision whereby it should be declared definitely and conclusively that the section in no way interferes with the provisions of the Criminal Code respecting false pretences, and I move that the section be amended to read:

61A. Notwithstanding the provisions of section 405 of the Criminal Code, any person who sells, delivers or causes to be sold or delivered anything by weight, measure or number short of the quantity ordered or purchased, shall be guilty of an offence and liable to a fine not exceeding \$25 for such first offence and \$100 for any subsequent offence under this section.

Mr. A. K. MACLEAN: I do not know that there is any objection to the amendment moved by my hon. friend, although I very much doubt the wisdom of expecting observance of the law by the imposition of an increased penalty for second and subsequent offences. I hardly think that frequent prosecutions and the imposition of excessive penalties would bring about the desired result, but if the public know that a dealer has been fined for delivering short weight goods, those practices would, I think, very soon cease.

Mr. PEDLOW: One of the first difficulties underlying this section is the possibility of a merchant being made responsible for the carelessness of an employee. Under the common law, an employer is at present held responsible for the actions of an employee.

Mr. McKENZIE: Not criminally.

Mr. PEDLOW: But under this measure, any person may at any time be subjected to petty annoyances. An instance has been cited this afternoon of a number of bags of sugar having been weighed up and exposed for sale, the weights not all being uniform. As the human element is not as exact as some mechanical device for measuring, if some customer of a merchant purchased one of those bags and it happened to be short weight, that particular merchant would, under this measure, be liable to a penalty of \$25. That is placing the merchant in a very unfair position, and it should not be the attitude of this Committee to place the mercantile community of the country in a position of this kind. I have many employees labouring for me distributing merchandise. How can I control all their actions? I employ the best help I can obtain, and I warn them

[Mr. Jacobs.]

to be careful in their actions as regards matters of this nature, but if they are careless, then I am not only held responsible, but subjected to the petty annoyance of being hauled up before a magistrate and exposed to the odium of being fined for their carelessness. They are not fined, but I am.

Mr. A. K. MACLEAN: Surely the consumer who has bought the goods and has paid for something he has not received is entitled to protection.

Mr. PEDLOW: As a matter of fairness to the mercantile community, the minister should insert in the first line of this section, after the word "who" the word "knowingly." Then, if a merchant knowingly permits a careless employee to continue distributing short weight or short measure, the section would be a good one. The section is not carefully enough framed, and in a subsequent paragraph the word "knowingly" is used, thereby giving some measure of protection in matters of this kind.

Mr. MACLEAN: If the section were to be amended as the hon. member suggests, there would be very little protection for the public. If a dealer has careless employees in his store and they grow accustomed to delivering short weight or short measure, that employer should suffer the penalty. Further, I do not think those in mercantile business will object to this section.

4 p.m. tion, because it is for the protection of the man who is careful and honest as well, in measuring or weighing the goods which he sells to his customers. My hon. friend would be surprised if he knew of the great quantities of goods delivered in this country which are actually short weight. It would be impossible to establish knowledge on the part of the principal, and it is not a difficult matter to deliver proper weights. The delivering of short weight or short measure is due to carelessness or dishonesty against both of which the public should be protected. If short weights were delivered by any merchant and that fact came to the attention of the officers of the department, the merchant would not be prosecuted for the first offence; he would be warned and consideration would be given to his reputation in the community, the character of his staff and so on. I quite agree with my hon. friend that the section might be abused, but I do not see how the public can be protected in any other way.

Mr. JACOBS: I might come to the assistance of the minister by pointing out