

Combines Investigation Act

the present legislation. I would like to deal more in detail with the few problems he has raised, if it is still possible, of course, although he did expound very well up to now several of the arguments I had put down about this bill.

Clauses 1 to 6 of Bill No. C-33 presented by the hon. member for Winnipeg North (Mr. Orlikow) deal with minimum jail terms for second offences. I feel there is no need to insist too much on the difficulties involved in the application of such legislation, were it adopted, especially for the following reasons:

1. Subsequent proceedings can hardly deal with an article of the same nature, as stated earlier by the hon. member for York South, in view of the fact that the courts decided a long time ago, as it should be, that each article had to be taken separately. For instance, in an industry which manufactures or sells electrical appliances, if proceedings are instituted with regard to a certain type of article, it is rather difficult to institute similar proceedings later on. That is why second offences, or at least prosecutions in this respect are a rare occurrence.

2. The people who are engaged in the handling or manufacture of those various products, or even the directors of those various companies, in the case of corporations, change regularly. We all know about the delays and extended periods between a prosecution and another; it can often take five, six, seven, and even eight years between two prosecutions. It would therefore be rather difficult to believe that the same individuals are performing the same duties in such a case.

Then, the application of such an amendment would be rather difficult especially since most of the time, as mentioned by the previous speakers, those proceedings are only instituted against corporations. It is difficult to sentence a corporation to a jail term.

[Text]

Mr. Orlikow: How about their officers?

[Translation]

Mr. Lachance: Mr. Speaker, I trust that I will be able to discuss this question of officers in a moment.

Section 7 raises problems of civil and criminal jurisdiction which give rise to a legal controversy so important that it would seem difficult to expect a solution, at least an immediate solution. Consequently, from the practical viewpoint, it seems to me that it

is of very little importance, all the more so as the injured party can always sue for damages before civil jurisdictional courts.

I do not think that the government authorities should interfere with the freedom of the individual to exercise his rights. The more so, since there is no appeal against the judgments of commissions while there is an appeal from the judgments of civil jurisdiction courts.

Clause 8 of Bill No. C-33 has certainly much merit, because I fail to see why section 38, paragraph 3 of the act itself does not apply to some offences. I know that the hon. member for York South mentioned the case and even quoted the jurisprudence concerning section 21 of the Criminal Code as regards collusion in cases of criminal offences.

He quoted jurisprudence concerning a person abetting another to commit an offence, or part of an offence. That may be the reason why I said earlier that section 38(3) only applies to certain offences, since section 21 covers those cases. Perhaps the various offences should be explained further, but I think that under the circumstances section 21 meets the requirements.

The hon. member for Winnipeg North would have made a better and more objective contribution had he suggested amendments so that minimum penalties, not only for habitual offenders, but also in the case of first offences, would be proportionate to the amount involved or the seriousness of the offence committed and also proportionate to the assets of individuals or companies found guilty.

The hon. member for Winnipeg North spoke earlier of minimum fines for certain large companies. It is true that those large companies can often afford to pay those fines and that sometimes they are not heavy enough. That is the reason why I suggest it might be advisable to levy fines in keeping with the seriousness of the offence committed or with the assets of individuals or companies found guilty. Then, if the offence involved a sum of, say, \$3 million, then the minimum fine would be 5 or even 10 per cent of this amount. I think that before breaking the law, those corporations or individuals would then think about it twice.

Moreover, Mr. Speaker, I am reluctant to approve of jail sentences for statutory offences.

[Text]

Mr. Orlikow: Especially for the rich.