

Criminal Code

to the judges, whose value systems may be an expression of the collective will as we experience it as people who are elected or who may be a discrepant group because of their training and experience and therefore may interpret those words in a way that is very different from what is in the minds of members of this chamber.

It seems to me that when one examines any piece of legislation which is dealing with the Criminal Code of Canada there is a sort of check list of concerns and of priorities that would run through one's mind. In some way I suspect that my check list of priorities is not the one that would immediately come to the minds of perhaps most members of the House, and certainly most members of Canadian society. It is because we have come to view our Criminal Code and our justice system from a certain perspective. When I lay out my priorities as to whether or not a particular piece of legislation affecting the Criminal Code will work, will be helpful, right at the top of my list is the concern for the victim. As a society, in a piece of legislation, in the systems we have in place, do we have adequate concern for the victim? That is at the top of my list. As one looks at the crime of rape and as one talks to people who are knowledgeable in that area and who work in rape crisis centres, they will tell you, with a great deal of clarity, that the rape which has been inflicted on the victim is bad, traumatic and very upsetting. However, far too often the treatment of the victim which follows from the rape is worse than the actual rape itself.

As we look at Bill C-53, we are trying to show some concern for the victim in the sense of trying to make the crime less potent in the vocabulary that we use—we now talk about assault rather than rape—we try to make it easier for the victim to go through the necessary process of testifying. That is quite an achievement, and one which members on this side of the House will support. It is equally important to recognize that the Criminal Code can be used to create a victim. From time to time the victim in our criminal justice system is someone who is unjustly accused.

In the area of a crime such as rape or sexual assault, we do have a tendency from time to time to accuse people unjustly. The minute that becomes public knowledge, they are a victim, whether innocent or not innocent. If they were unjustly accused of a crime of robbery of a small amount and the courts were subsequently to discover they had been unjustly accused, they would have been victims, but they would not be dealt with with the same sense of severity that will accrue to those who have been charged in a court of law with an offence of the kind that is identified in Bill C-53. Think of offences against children, sexual offences or child abduction. To be accused of any one of those is to create a problem to make a victim out of someone if, in fact, that person has not committed the offence.

As I read through the bill, is there not a fatal flaw in the fact that we are treating these kinds of concerns in the same way that we might treat a bank robber? We go immediately from some kind of police investigation to a formal charge in a court of law, to a criminal charge which is public. Yet we are

dealing with situations that, in many cases, are intra-family, that occur between family members. We are dealing with situations that occur between lovers, people who cared a great deal about each other at one point in time, and through some set of circumstances, create trouble for each other at another point in time. I wonder if we as a parliament would have the wisdom to start from a slightly different beginning point with the concern for the victim. If we have the wisdom to design a process which is more adequate and takes into account our concerns about these offences, a process which provides perhaps a more thorough investigation before charges are laid and provides a broader based professional group to do the investigating, rather than only police personnel, we can be sure, before going to the criminal justice process, that we have done the best we can do for all potential victims. In many cases everyone involved in the situation will turn out to be victims; their lives will never be the same.

● (2100)

Can we really get a clear handle on the protection of victims as the starting point for this piece of legislation? Can we get the witnesses we require? Can we dig inside ourselves for the wisdom to think somewhat differently and to create our law somewhat differently so that we will not risk the future of victims, whether they are innocent children or adults? I say to hon. members of the House that I hope we can approach it with that kind of spirit. Can we balance that? Do we have the wisdom to balance that with the need to protect future victims from the excesses of persons who are likely to repeat their crimes? Are we sure that we have included in this legislation the mechanism to convict people who really should be convicted? Have we included the mechanism to subsequently deal with them for long periods of time and in ways which are required, so that potential future victims do not become the victims of people who commit such crimes? The third priority should be the punishment priority or the rehabilitation priority, but that should be only the third priority, after we have dealt with the first two.

I should like to talk for a longer period of time, but the risk one runs in such situations is that one might provide such a large set of ideas that the ones one started with become obscured. In conclusion, I reiterate that we should have a decent process as we approach the bill. We should forget our party labels, work collectively and examine witnesses. We should examine thoroughly the problem which exists in society and all proposed solutions. Then, in a year's time we may be in a position to deal with the bill in third reading. We will have amended it quite a bit but with some sense of good feeling among hon. members that we have a good piece of legislation which will do a good job for Canada—adults and children of the future. I hope that is that spirit in which we approach this bill.

Some hon. Members: Hear, hear!

Hon. Bill Jarvis (Perth): Mr. Speaker, I support Bill C-53 in principle. I see many warts and many blemishes, none of which in my view are fatal, none of which are beyond correc-