

Young Offenders Act

period of time. To restrict it to two days might do a disservice to the community.

I hope that Hon. Members opposite will see the wisdom in adopting this particular amendment which was supported by a number of groups and individuals who made representations to the committee and to the Solicitor General.

The Acting Speaker (Mr. Charest): Is the House ready for the question?

Some Hon. Members: Question.

The Acting Speaker (Mr. Charest): The question is on Motion No. 10. Is it the pleasure of the House to adopt the motion?

Some Hon. Members: No.

Some Hon. Members: On division.

Motion No. 10 negatived.

Mr. John Nunziata (York South—Weston) moved:

Motion No. 11

That Bill C-106 be amended in Clause 28 by striking lines 38 to 46 on page 20 and substituting the following therefor:

"application of any person, make an order permitting any person to publish a report serving to identify any person in subsection (1), if the court is satisfied that, considering all the relevant circumstances, including the nature of the offence, the extent of community interest, the age of the accused, the prior criminal history of the accused, and the views of the young person or child involved and of the parent of the young person or child, the public interest would be best served by publication.

He said: Mr. Speaker, this amendment would amend Bill C-106 in Clause 38 by striking lines 38 to 46 on page 20 and substituting the following therefor:

"application of any person, make an order permitting any person to publish a report serving to identify any person in subsection (1), if the court is satisfied that, considering all the relevant circumstances, including the nature of the offence, the extent of community interest, the age of the accused, the prior criminal history of the accused, and the views of the young person or child involved and of the parent of the young person or child, the public interest would be best served by publication.

This is what I was referring to earlier. It would allow, not only a police officer but any person to apply for the permission of the court to publish information. However, it would provide for meaningful criteria. We are not suggesting that the court be given a blanket discretion to decide when and if a publication should be permitted in any particular case. What we are suggesting is that discretion be given to the presiding youth court judge, but that certain criteria be applied before the publication is made and before an order is issued.

The amendment prescribes the factors that a judge would have to consider in making such an order, including the wishes of the young person. If this amendment were adopted the judge would have to consider all the relevant circumstances, including the nature of the offence. It was argued by *The Citizen of Ottawa* and the Canadian Broadcasting Corporation that in certain cases, depending upon the nature of the offence, there is very little if any harm done to the best interests of a

young offender if there is publication. There are certain cases in which serious offences have been committed which would suggest that there not be publication.

It is also recommended that the extent of community interest be a factor or criterion that the judge should take into consideration, as well as the age of the accused. If, for example, an accused person is 17 years of age going on 18 years of age, then that should be a factor taken into consideration by the judge. For example, let us assume that an offence is committed by a young person before he or she turns 18, but prior to the final disposition of the particular case the person has his or her eighteenth birthday. In those circumstances the court might want to allow for the publication of the identity of this particular young offender who ceases to become a young offender because he or she reaches 18 years of age. So there are certain circumstances in which the court might want to allow for publication, considering the age of the accused.

This amendment would also require the youth court judge to consider the prior criminal history of the accused. If the young offender is a hardened criminal, so to speak, who has a long and unfortunate history of breaking the law, then the damage done to that person through publication is less than the damage done to a young offender who has never before committed a criminal act and who is being prosecuted for the first time. It was felt that if a person had a lengthy criminal record then the court might be inclined to allow for the publication of information that would lead to the identification of that particular accused.

This amendment would also require the court to take into consideration the views of the young offender involved. In this way the young offender could, through his or her lawyer, make submissions to the court as to why the court should not allow for the publication of information. The amendment also requires the court to consider the views of the parents of the young person who is the subject of the application.

In conclusion, Motion No. 11 would give limited judicial discretion to allow for the publication of certain evidence. It would require the court to consider certain factors. Above all, it would ensure that the court consider whether the public interest would be best served by publication. If there is no public interest in publication then the court should not allow for publication. However, if there is public interest, and the criteria are considered, then in our view the court should at least have the discretion to allow the publication of evidence.

• (1620)

The Acting Speaker (Mr. Charest): Is the House ready for the question?

Some Hon. Members: Question.

The Acting Speaker (Mr. Charest): The question is on Motion No. 11. Is it the pleasure of the House to adopt the motion?

Some Hon. Members: No.