

Criminal Records

situation under which a record is brought into being. The use which Parliament allows to be made of that record is also its responsibility.

In conclusion, Mr. Speaker, I would like to quote from Professor Gough's article in the *Washington Law Quarterly* as follows:

Most offenders do not remain criminals all their lives, and we should not treat them as if they do. It is manifestly not the purpose of the penal law to ascribe permanent criminality to a first offender, though that is largely its effect. This article is not intended as a panegyric for a soft-headed penology. It is rather an attempt to point up a serious flaw in our present legal system; the failure to provide means for redefining the status of the rehabilitated transgressor. It is submitted that an expungement process will not serve to hamper effective law enforcement, but will stand as an adjunct to the goal of the correctional law. It should provide a potent incentive to reformation, and should render our response to criminality less febrile and more effectual. At the very least, it is deserving of serious trial.

We would do well to bear in mind that it is a legal principle that correctional law is forgiving. Forgiveness is part and parcel of rehabilitation, whether of criminals or anyone else who has erred, or who has, in fact, what all of us have—the defects of being human.

Mr. Eldon M. Woolliams (Calgary North): Mr. Speaker, we are dealing tonight with Bill C-5, an act to provide for the relief of persons who have been convicted of offences. Basically, what we are trying to do here is, in certain circumstances—as the chairman of our Justice and Legal Affairs Committee has so ably put it—expunge the records of those who have been convicted. According to the *Oxford Dictionary*, “expunge” means to erase, omit or do away with.

First of all, I should like to say that we are very fortunate, I think, in the Committee on Justice and Legal Affairs, to have a chairman of such high calibre.

Some hon. Members: Hear, hear.

Mr. Woolliams: I would say to the minister in charge, through you, Mr. Speaker, that I adopt pretty well everything the hon. member said tonight. That is why my own speech can be brief. He has stated clearly that the bill before us is a great disappointment to anyone who has any knowledge of criminal jurisprudence, and that it will not do the job which the committee recommended to the minister before the measure was introduced in the House.

I now wish to deal with a subject mentioned by the hon. member for Welland (Mr. Tolmie) in a brief reference. I refer to the Criminal Code itself. When we talk about

[Mr. Tolmie.]

great reforms we should realize that the Criminal Code of Canada contains section 12, which states:

No person shall be convicted of an offence in respect of an act or omission on his part while he was under the age of seven years.

Then it provides—this is section 13 on page 10 of Tremear's Criminal Code—as follows:

No person shall be convicted of an offence in respect of an act or omission on his part while he was seven years of age or more, but under the age of 14, unless he was competent to know the nature and consequences of his conduct and to appreciate that it was wrong.

We are dealing today with a difficult situation. The Solicitor General (Mr. McIlraith) may close his eyes to it, but there is a problem facing us in many of our universities and high schools inasmuch as 50 or 60 per cent of the young people of this nation are, whether we like it or not, on marijuana or drugs.

The Code contains a section which provides that a person over the age of seven can be convicted of any offence while he is between the age of seven and 14, provided he knows the nature and consequences of the offence. In other words, we are faced with a situation to which I drew attention in the House of Commons some time ago, in which young men aged 15, 16, 17 and 18 across this nation, in urban centres where 80 per cent of Canadians will be living in the near future, are subject to the Narcotic Control Act and to the Food and Drugs Act, under which they could be incarcerated for more than two years. This would create for them a criminal record which would prevent, for example, their going to the United States.

The problem to which I refer is not confined to Canada and the United States; it is faced by all western countries. We are dealing with a most serious subject in an area in which the law has remained unreformed. Since I have been in the House I have on four occasions introduced a bill to amend this particular section of the Code with reference to the age at which a person may be convicted.

• (9:40 p.m.)

I have brought to the attention of the Solicitor General in the House of Commons cases of young men and women aged 15 or 16 who have been incarcerated in the penitentiary without being given any chance during that time to rehabilitate themselves and expunge their criminal record, thus enabling them to go if they so chose to the United States or any other country. That is the situation that exists today. In addition, once a