

Criminal Records

Third, the effect of the pardon as outlined in the bill is of little or no practical benefit to the applicant. What tangible good is it for an applicant to know that the government is satisfied that he has behaved properly and that the pardon granted should no longer reflect adversely on his character? Brave, noble and pious words—but of no practical benefit. The applicant is applying because he wants relief from not only the psychological effect of a record but from the economic consequences. He wants to be able to compete in the marketplace for employment on equal terms with his fellow citizens. This desire is the whole crux of this bill. He has paid the penalty; he does not want a conviction, in many cases incurred years ago, to haunt and taunt him when he seeks employment.

The statute should expressly set forth the effects of the order in restoring the civil rights of the redeemed offender, and it should expressly annul the conviction and the offence. In addition to specifying that the person will thereafter be regarded as never having offended, it should provide that in all cases of employment, application for licence or other civil privilege, examination as a witness and the like, the person may be questioned only with respect to arrests or convictions not annulled or expunged. A person might be questioned about his previous criminal conduct only in language such as the following: Have you ever been arrested for or convicted of a crime which has not been expunged by a competent authority? It is submitted that to restrict the questioning about his offence places the focus where it belongs, on the attitudes of society.

Mr. Solicitor General, there has been some indication—

Mr. Speaker: Order, please. I hesitate to interrupt the hon. member, but I would like to bring to his attention that his remarks should be directed to the Chair rather than to the Solicitor General.

• (9:30 p.m.)

Mr. Tolmie: There has been some indication that certain Crown corporations and government agencies no longer, in their employment application forms, ask questions about an applicant's record. The Solicitor General apparently favours this trend. Therefore, if such a clause pertaining to limited inquiry about records were placed in the statute, it would be crystal clear that all agencies over which the government has control would be

forced to comply with this new concept. This would apply to corporations such as the CBC, Air Canada and the CNR. It would also apply to the Armed Forces and the public service.

I am aware that constitutionally the government of Canada cannot, by legislation, force ordinary employers, individual or corporate, to restrict themselves to the limited inquiry rule. But I do know the Province of Ontario is interested in this type of legislation and I urge the Solicitor General to contact the Attorney General for the Province of Ontario and ask him to introduce similar legislation in Ontario, particularly in relation to limited inquiry about records by employers.

In the fifth place, I believe the principle of limited disclosure should be incorporated into this bill. We know there is a lively traffic in facts about all of us, particularly facts relating to such matters as criminal records. Consideration should be given to requiring that every person, agency and business which keeps records of criminal conviction, whatever may be their purpose, inform the minister of the existence of these records and, upon sealing, all such persons or agencies, other than perhaps the commissioner of the RCMP, should be directed to destroy them.

It should also be noted that Canada is not pioneering this type of legislation. Other countries including Russia, France, Turkey, Bulgaria, Spain, Belgium, Hungary and Italy have legislation aimed at eliminating the effects of a previous conviction. California has held extensive hearings on the question of sealing criminal records and is in the process of drafting a bill. I hope the justice committee will have available for its deliberations memos of this comparative law, which I feel would be most helpful.

Associate professor of law at the University of Santa Clara, Aidan R. Gough, has written a comprehensive and incisive article on the expungement of records, which may be found in the Washington University Law Quarterly, volume 1966, No. 2, April, 1966. I would recommend this article to members who wish to learn more about this important subject.

I do not think that the bill before us, or any revised bill, will cure completely the disability suffered by those with convictions. However, I do feel that such legislation will be of benefit to many decent Canadian citizens. Only when the public generally is educated to the point of view that once a man has paid his penalty, society should not exact further punishment, will the offender find the path to true rehabilitation. Parliament creates the