

*Criminal Code*

at least get into committee because, quite frankly, it will not be dealt with in any other way with all of the difficulties in federal-provincial conferences, with all the difficulties and pressures on the present Solicitor General. Unless we get this Bill to committee so it may be aired publicly, it will be an issue that will come back to haunt us again in Parliament in view of what is happening in the country. We will be doing a disservice to the country if we do not move this Bill to committee today.

I would be interested in restricting the provisions of the Bill in committee and eliminating the five-year provision. I am more concerned with the fundamental issue. I am talking about killers who have blood on their hands. Whether they try to justify it for political reasons or any other reason, they cannot justify it on the basic law that we all try to live by. If they have laws of chancery in England that are 200 or 300 years old which state that one cannot profit if one has dirty hands, at least this House should take one step forward and agree that the person with blood on his hands will not profit from any publication about an odious act.

**Mr. Roy MacLaren (Etobicoke North):** Mr. Speaker, one can understand the motives and the concerns of the Hon. Member opposite in bringing forth his Bill. I imagine that all Members of the House would share his basic concerns that a criminal not profit from his or her crime. However, as the Hon. Members for Ottawa Centre (Mr. Evans) and Broadview-Greenwood (Ms. McDonald) have already noted, we must take into account a number of factors, such as the constitutional jurisdiction of Parliament to enact legislation of the kind envisaged in Bill C-664. Serious consideration would also have to be given to the implications concerning the Charter of Rights and Freedoms. In addition, questions would arise about the practical effect that any action might have on the specific cases which have given rise to the real public concern so apparent at the present time.

Having noted such considerations, I should like briefly to turn to specific provisions of the Bill which give some concern. First, the provisions cast a broad net with respect to the category of convicted persons who would be brought within its terms. Similarly, it creates a broad definition for the kind of activities that are engaged in by those who would be affected by this legislation. Such individuals would be all those who have been "convicted of an indictable offence punishable by imprisonment for five years or more".

I wonder whether the Hon. Member is aware of the fact that the Criminal Code alone contains more than 200 offences falling into the category just mentioned. Many of these offences are, indeed, most serious, but I question whether the Hon. Member really intends that anyone convicted of—to pick a few random examples—defacing a mark on a piece of drift timber, neglecting to obtain assistance during childbirth, making a false statement in an extrajudicial proceeding, committing fraud upon the Government, committing assault causing bodily harm, or corruptly taking a reward for the recovery of goods or public mischief, should be subject to the kind of restrictions contemplated in the legislation.

What are those restrictions in practical terms? In effect, a reading of the legislation suggests that anyone convicted of any of the large number of offences contained in the category would thereafter be precluded from ever earning any money, unless a pardon were granted, by means of any kind of public commercial activity related in any general way to publication. The Bill explicitly makes the point that the subject matter of this publication need not bear any relationship whatever to the offence for which the conviction resulted. Thus, a member of the media, a writer or author, anyone active in radio, television, music, motion pictures or academia, who ever had any expectation of deriving a living from public appearances or participation in publications or broadcasts—no matter what the subject of those public appearances, publications or broadcasts—would have those earnings forfeited.

The obvious assumption lying behind this drastic penalty, it seems to me, is that the only possible explanation for such a person being able to derive an income from such activities is the notoriety which he or she derived by virtue of the publicity surrounding conviction for any of the hundreds of eligible offences contemplated in this Bill. This assumption is, to say the least, questionable. For example, an academic publishing a learned work in his or her field of specialization should, unless pardoned, be forced to surrender the earnings derived from that publication simply by virtue of the fact that he or she has been convicted of, say, public mischief.

One could go on to raise a number of other points or concerns with the approach taken in Bill C-664 related to its questionable constitutional validity: its Draconian effect on freedom of expression to the extent that its sponsor feels the need to employ a notwithstanding clause; its apparent retroactivity of effect, so as to apply to someone convicted of any eligible offence even prior to the passage of this Bill, and so on.

I understand that other Hon. Members wish to participate in this debate, so I shall conclude by simply reminding Hon. Members that there are several important issues and principles which must be taken into account in weighing the advisability of the particular approach suggested in this Bill. Whatever one's views as to the desirability of taking some action in respect of the publication of accounts of crimes by their offenders, the approach suggested in this legislation must be unacceptable.

The terms of the Bill are much too broad and Draconian in their effect. It may well be unconstitutional from the perspective of division of powers between the federal Government and the Provinces. It would employ, for the first time in federal legislation, a notwithstanding clause in order to overcome its obvious difficulties regarding the Charter of Rights and Freedoms. In effect, it is tantamount to automatic civil forfeiture imposed by law on a particular class of persons. It would deny such persons from earning a living through any kind of public activity, on the basis of a questionable assumption that the only reason such persons would be able to command earnings through such means is the alleged public notoriety that they have gained by virtue of a conviction for any of a broad range of offences.