

Private Members' Business

• (1930)

If there is an explanation for it we will hear about it in committee. If there is no explanation for it we should think about it because it is relevant, the person is not innocent. They have been found guilty but are judged not to merit the registration of a conviction against them.

In that circumstance we are not talking about an innocent person. We are not talking about someone who has been acquitted. There might be an instance where it would become relevant on a subsequent charge of which the person has been found guilty when the trier of fact and the imposer of the sentence are trying to decide whether the second time they have been found guilty it is appropriate to give an absolute or conditional discharge, whether there should be a conviction registered. It might be important for that judge to know that this person had received an absolute discharge at some point in time for the same offence and obviously did not learn his or her lesson and has now been found guilty a second time.

If that concern is not dealt with in this private member's bill might I just mention that perhaps there should be some consideration of that. Perhaps the record should be sealed as opposed to being absolutely destroyed, banned forever from use except upon a finding of guilt again another time.

It might be relevant to the judge who decides whether there should be another absolute discharge or a conditional discharge or a conviction. It might very well be relevant to the protection of the public whether that person had been given an absolute or conditional discharge.

I merely bring that to the mover's attention. There may be an explanation, I hope there is, but if there is not I hope it is considered in committee. I certainly think the intent is worthy of being moved along.

Mr. Arnold Malone (Crowfoot): Madam Speaker, the hon. member for Mississauga South has brought before us a piece of legislation that is thoughtful, well researched and worked over. I think it would appeal to members of all parties to recognize that there is an

obvious wrong done when a person has to bear the burden of a record throughout a lifetime and there was no further misdemeanour or offence by that individual.

That position was presented and received the agreement of the hon. member for Brant. We were then challenged by the hon. member for Scarborough West who brought before us the reflection that there may indeed be some reason to give some more thoughtful consideration to this matter because the judges themselves may very well be opting for a lighter sentence, or no sentence at all, on the basis that they believe a first offence did not warrant the criminal charge. His point was that the record should be there if there were subsequent offences so that it could be then considered in any subsequent offence.

Clearly the concern for members of the House is the criteria that trigger the dismissal of all records, or the timeframe or the combination of those two matters.

As I am persuaded by the member for Mississauga South and the member for Brant on the one hand and also that there is some logic in the caution expressed by the hon. member for Scarborough West, I move:

That the hon. member for Mississauga South withdraw his bill and that the subject matter be referred to the Standing Committee on Justice and the Solicitor General for study and a recommendation to Parliament.

Madam Deputy Speaker: The hon. member for Crowfoot has moved a motion. The House has heard the motion and we have the assent of the hon. member for Mississauga South. Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

Motion agreed to, order discharged and bill withdrawn.

[*Translation*]

Madam Deputy Speaker: It being 7.35 p.m., this House stands adjourned until 10 a.m. tomorrow, pursuant to Standing Order 24(1).

The House adjourned at 7.35 p.m.