

Criminal Records

and on the grounds that the perpetual retention of a criminal record impedes rehabilitation. In addition, this proposed legislation should endeavour to eliminate the real disabilities a convicted person suffers by the retention of his record.

It has been stated that we sentence, we coerce, we incarcerate, we counsel, we grant probation and parole, but we never forgive. There is considerable evidence to indicate that the failure of the criminal law to clarify the status of the reformed offender impedes the objective of reintegrating him with the society from which he has been estranged. The more heavily he bears the mark of his former offence, the more likely he is to re-offend.

The most troublesome disabilities to the reformed offender are the economic and social reprisals engendered by his brand as an adjudicated criminal. The vagaries of public sentiment often discriminate against persons with a criminal past. This is especially true in the vital matter of employment, which perhaps as much as anything else influences a man's concept of himself and his worth and accordingly influences the values which guide his conduct. The effects of criminal stigma are felt even more strongly in the area of licences and government-regulated occupations than in the sector of public employment. In many cases, employment in the public service, enlistment in the armed forces, employment where bonding is required, and licensed employment such as taxi driving, is refused absolutely or seriously curtailed.

Perhaps in particular the purpose of this bill should be to assist the thousands of Canadians who in their youth incurred a record for some petty offence and are now completely rehabilitated and law-abiding citizens.

Some hon. Members: Hear, hear!

Mr. Tolmie: The recent number of convictions of young people for marijuana offences illustrates how necessary this type of legislation really is. Many of these young people who have paid their debt to society will continue to be harassed and hurt emotionally and economically to their dying days. I should also add, if one needed further persuasion about the necessity for such legislation, that since the introduction of my private member's bill I have received numerous pleading, heart-rending letters from across Canada

[Mr. Tolmie.]

urging the early passage of legislation to provide for the sealing of records.

Without going into too much detail, because I hope this bill will go to the justice committee for close scrutiny, I would like to make a few remarks about the principle contained in the bill now before the House. Frankly, although as I have already indicated that I commend the Solicitor General for introducing this legislation, in my opinion in its present form it will not achieve the objectives this type of legislation should achieve.

First, instead of pertaining only to offences under an act of the Parliament of Canada or a regulation made thereunder, this bill should apply to all records under federal jurisdiction even though the offence was against a provincial statute. This certainly would broaden the scope of the act and give relief to many more people, which I presume is the intention of the bill.

Second, after the applicant applies, the act should not state that the Parole Board shall cause proper inquiries to be made in order to ascertain the behaviour of the applicant. People who are applying for the sealing of their records will in the main be those who suffered a conviction years ago and since that time have been living an ordinary life, with the public completely unaware of their past indiscretion. Any investigation would vitiate the very object and spirit of the legislation. This type of applicant would not want officials prying into his private life, asking neighbours if he is a decent citizen and arousing suspicion. It should be accepted policy that if the five-year period has elapsed without a conviction, he has rehabilitated himself and the expungement of the adjudication of his guilt should be made mandatory unless strong affirmative reasons exist for denial. In addition, any judgment denying expungement should be made appealable by the applicant.

The mechanics envisaged by this bill seem unduly tortuous and complicated. An application must be started, followed by a National Parole Board inquiry, followed by a favourable report to the Solicitor General of Canada, followed by referral of the recommendation to the federal cabinet, followed by cabinet consideration and government approval. This is a cumbersome procedure. I submit the application should be made to a competent authority, be it the National Parole Board or a board of convictions review in the Department of Justice, adjudicated upon with the right of appeal to the Governor in Council.