

Young Offenders Act

Mr. Speaker: The question is on Motion No. 3 standing in the name of the Hon. Member for York South-Weston (Mr. Nunziata). Is it the pleasure of the House to adopt the motion?

Some Hon. Members: No.

Some Hon. Members: On division.

Motion No. 3 negatived.

Mr. John Nunziata (York South—Weston) moved:

Motion No. 4:

That Bill C-106 be amended in Clause 18 by striking line 37 and substituting the following therefor:

“(g) or paragraph 20(1)(j) or (1), other than a violation of a treatment order which is a term of a probation order under paragraph 20(1)(j), and who”.

He said: Mr. Speaker, very briefly, this amendment exempts non-compliance with a treatment order, which is a term of a probation order from criminal prosecution. In our view no punitive measures should be taken for refusal to accept treatment, because treatment should be conditional upon consent of the young person.

As you know at times when a probation order issues with respect to a young offender a condition of the probation order is that the young offender obtain certain forms of treatment. What this amendment does is make it a criminal offence if a young offender refuses to accept the treatment under a probation order. It is felt by a number of experts in the field representing justice for children that treatment should be conditional upon the consent of the young person.

It would appear logical that if treatment is to work with young offenders, as an appropriate disposition, that one needs the co-operation of the young offender. If treatment is being imposed on a young offender contrary to his or her will then it is likely, almost inevitable, that the treatment would fail. We do not believe that failure to co-operate with a treatment program should result in a possible criminal charge similar to a criminal charge for a breach of any other condition of probation.

● (1550)

Mr. Speaker: Is the House ready for the question?

Some Hon. Members: Question.

Mr. Speaker: The question is on Motion No. 4. Is it the pleasure of the House to adopt the said motion?

Some Hon. Members: Agreed.

Some Hon. Members: On division.

Motion No. 4 negatived.

Mr. John Nunziata (York South—Weston) moved:

Motion No. 5

That Bill C-106 be amended in Clause 28 by striking line 39 on page 19 and substituting the following therefor:

“report, after proceedings have been commenced under this Act.”

He said: Mr. Speaker, Clause 28 is probably the most contentious clause of the Bill. It deals with the publication of information by the media that would lead to the identification of a young offender, a victim of a young offender or, for that matter, a witness.

At committee, we heard from representatives of the *Ottawa Citizen*, a daily newspaper in Ottawa. The publisher and the managing editor appeared before the committee and expressed some very serious concerns about the whole issue of the publication of information relative to young offenders. They pointed out that it would be in the best interest of society that in certain limited circumstances the media should be permitted to publish certain information with regard to a young offender, a victim or witness that would be appearing in a particular trial.

It was felt that Section 38 of the existing Young Offenders Act did not allow for sufficient discretion in the court to deal with this particular issue.

The Hon. Member for Burnaby (Mr. Robinson), speaking on behalf of his Party, indicated that he would not support giving the court added judicial discretion. I was convinced not only by the *Ottawa Citizen* but by representatives of the Canadian Broadcasting Corporation that there should be limited judicial discretion with respect to the publication of evidence. I felt it important that there be criteria in the legislation itself that would limit the nature of the judicial discretion.

One of the amendments that I proposed, which was ruled out of order because it does not comply with the rules of the House, would in effect give that discretion with stipulated criteria.

Motion No. 5 would amend Clause 28 of the Bill by striking line 39 on page 19 and substituting the words: “report, after proceedings have been commenced under this act.” Section 38 would read: “subject to this section, no person shall publish by any means any report after proceedings have been commenced under this act.”

The concern expressed by a number of individuals is that it is not clear under the existing legislation whether Section 38 would ban the publication of evidence before proceedings have commenced under the Young Offenders Act. For example, the police might be investigating a particular offence but the media would not be permitted to publish any information that might lead to the identification of the young offender, the victim or any witness. This amendment would clarify that the publication of reports prior to commencement of a proceeding under this Act is not prohibited. In effect, the media would be permitted to publish information prior to the commencement of a proceeding.