

*Prohibition of Inquiring into Arrests*

do not think the hon. member would really object to such a question being included in a questionnaire. I wish to assure the hon. member that there are a great many people in Canada who believe that no one should even be asked if they have been convicted of an indictable offence when completing a job application or any other type of application.

Evidence was recently presented to the Justice Committee when it was considering Bill C-5 which was designed to expand the provisions of the Criminal Code in dealing with pardons. The committee has been giving consideration to the problems which emanate from the resolution before us. The problem posed by penologists, the Solicitor General (Mr. McIlraith) and many others who are gravely concerned is simply this. Many men and women during their lives commit offences. Whether we call them criminal offences or otherwise, they are offences. Some of them are very serious, some are not so serious. Some are called indictable offences, some are called summary offences. Some are provincial offences, and some are federal. As I mentioned previously, there is a great deal which we can break.

• (4:30 p.m.)

This week the Justice Committee was informed that in Canada last year over 100,000 criminal records were opened. This does not mean that 100,000 people were convicted, but 100,000 people were the subject of criminal legislation. The commission of an offence has for years been a cross on the back of the offender. When these people have been dealt with by the courts and suffered the penalties imposed on them, there is always a feeling that they have, as the saying goes, paid their debt to society.

The real problem is that even though they have paid this debt, served their time, paid their fine, or whatever the penalty might have been, they never get a receipt for the payment, as do those who have paid their debts in civil life. I point out to hon. members that I am considering the more serious offences. The mark of a criminal offence is always there. Sometimes it is almost forgotten—the man moves from the community in which he committed the offence to another, and it never catches up with him. Sometimes it fades, depending on the seriousness of the offence and the reputation the man bears in the community. Sometimes, indeed, the mark is borne literally on his back all his life, since this country still tolerates corporal punish-

[Mr. Hogarth.]

ment, one of the most vicious forms of punishment ever used in a supposedly civilized society.

The professed object of contemporary penology—it is not the only object—is to rehabilitate the offender, to convince him, not that he is a man who must pay in conscience for what he has done for the rest of his life but that what he has done is not acceptable to the community in which he lives. Some persons take a great deal of convincing, as the committee learned in the course of its visits two weeks ago. In the case of some persons, it appears it can never be done. Yet, I was greatly heartened by the observation of Mr. Alan MacLeod, the Commissioner of Penitentiaries, that he will never accept the proposition that correction will never take place, leaving aside, of course, those who have the misfortune to suffer from mental illness.

Sometimes a small fine is sufficient, even in serious cases, bearing in mind the character of the man concerned and the nature of the situation in which the offence occurred. Sometimes even an appearance in court and the publication of the charge in a newspaper is punishment enough and sufficient deterrence. Sometimes probation in the sense of a suspended sentence is most successful, especially in dealing with young offenders. Unfortunately, it may be necessary to send the offender to prison. This may happen, unfortunately, more often than is really necessary from the viewpoint of rehabilitation.

But if ever the concept of punishment is completely removed and the whole emphasis is placed on rehabilitation and correction, certain consequences will follow. One is apt to forget that the whole system of criminal jurisprudence grew up not only to protect life and property but to place in the hands of the state the basic human and fundamental emotion of revenge which develops so often in the hearts of victims of crimes. What those who approach penology solely from the point of view of rehabilitation often forget is that the offender in some instances has committed a dastardly crime against some other person who is left to suffer for the rest of his life.

In one case with which I was familiar, a man waited until the murderer of his daughter was eventually released on parole from prison. There was a great deal of concern on the part of the authorities as to what this man would do. We must never forget that the aspect of penology is the removal from the community of the individual desire for revenge on the part of victims. Think of the