

*Private Members' Business*

To conclude my preamble, I will note that the imaginary criminal that I have described and every other Canadian whose deeds have led to a sentence being handed down by a court, including those who have been granted conditional or absolute discharge, will thereafter bear a criminal record.

• (1720 )

Furthermore, this record may not be limited to the record of an arrest or a transcript of a trial but may exist in many forms and in various locations.

In preparing for this debate, I tried to become familiar with the bill that the hon. member for Mississauga South has put forward and the legislation that has prompted his initiative. There is a lesson for all of us here. Legislation that has been duly considered, passed by this House, and promulgated with the best of intentions may in the passage of time prove to be imperfect.

The Criminal Records Act is an example of legislation that may have created certain inequities, anomalies and administrative difficulties and yet has endured for some 20 years without significant amendment. I would suggest that one of the amendments that is long overdue for consideration is the one proposed by the hon. member for Mississauga South.

Bill C-314 would correct an anomaly that apparently has led to undue hardship in a number of cases and would simplify the application of the provisions of the Criminal Records Act. As I have already implied, any efforts to simplify the area of criminal legislation would meet with my approval. Efforts to reform the Criminal Records Act should not, however, be limited to a single change, even if the amendment may address the most obvious or the most important flaw in the legislation.

Let me outline some of the other facets of the Criminal Records Act that have attracted suggestions for reform over the years.

Every pardon, however minor the crime for which a citizen has been convicted—including those non-convictions resulting in conditional or absolute discharge that are troubling our colleague—may only be granted through the concurrence of the Governor in Council. This approval is granted on the advice of the Solicitor General who has in turn relied on the agencies within

his ministry for their recommendation respecting each and every application for a pardon.

As an example of an area in which the opportunity for reform is obvious, removing the requirement of the Governor in Council to approve all pardons would reduce an administrative burden. Alternatively, a lesser degree of relief could be realized if the Governor in Council authority could be directed toward a more manageable group, such as the serious offences contained in schedule 15 of the Parole Act, while others could be in the jurisdiction of the Solicitor General.

To follow this line of reasoning further, another administrative shortcut that could be considered might be that the Solicitor General delegate the authority to the chairman of the Parole Board to grant pardons directly in certain circumstances. Although pursuit of these options would appear to entail only technical and procedural change, it would require legislative amendments to be brought before this House.

A number of issues and suggestions for reform have been presented during reviews of the Criminal Records Act that have been conducted over the last decade. These are now being studied by a committee of officials in the Ministry of the Solicitor General to determine their continued relevance. While these outstanding issues may not require action in the short term, they may continue to be supported by the groups that propose them and any limited legislative reforms which are brought before Parliament may result in renewed calls for more extensive reform from interest groups and the public.

Past suggestions for reform have included the following issues. What options might be entertained in the determination of those who would be eligible for a pardon under future legislation? Questions remain as to whether the eligibility period for a pardon should relate directly to the penalty imposed, to the nature of the crime itself or should be, as it now is in cases where pardon is granted, a standard period for all offences in each of several specified categories.

What consideration will need to be given to developing criteria to be used in determining an ex-offender's status as a law-abiding member of the community? To investigate loosely defined indications of character, as is now authorized by the Criminal Records Act, during community assessments may be contrary to modern concepts of the right to privacy and equality. It has been argued that