

Private Members' Business

which exists now, the arguable duplication procedure which exists now, and that at the end of the day we will have a good and fair procedure, one which is efficacious for the intended purpose.

Ms. Mary Clancy (Parliamentary Secretary to Minister of Citizenship and Immigration, Lib.): Mr. Speaker, let me begin by stating the obvious. There has always been crime in Canada. It is an unfortunate part of our society and of every society. Let us face it, there always will be an element within any population that disobeys the laws which govern the land.

[*Translation*]

However, we have the good fortune of being spared, for the most part, the violent criminal activity that goes on in other parts of the world. Despite what some newspapers and television shows would have us believe, we really are a peaceful and law-abiding people. But that does not mean that nothing bad happens here. Let us not delude ourselves, such incidents can occur and indeed already have.

Fortunately, we have a strong judicial system to deter crime. It is a system that I like to believe is impartial and fair. It is not perfect. Nothing is perfect in this world. But, in my opinion, the system works reasonably well.

[*English*]

Times do change. What may have been relevant 10 or 20 years ago may not be adequate to deal with the realities of the mid-1990s. New technologies are creating new types of criminal activity and new challenges for enforcement officials. The government recognizes that times change and that legislation must follow suit. Take, for example, the justice minister's proposed gun legislation. That is but one example of how the government is acting to curb crime. That is an example of good legislation; thoughtful legislation which weighs the pros and cons and comes up with a reasoned, rational and workable solution to a problem which faces us all.

It is with a similar intention that my hon. colleague and friend, the hon. member for Cambridge, has introduced his proposed legislation today. He is to be commended for his commitment to keeping the streets of his community and his country safe. No one here can doubt that his heart is in the right place. However, I cannot support the motion before the House today, for unlike the aforementioned legislation on gun control, Bill C-316 is not workable in its present form.

• (1410)

While on the surface some of its proposals may sound persuasive and may even make some sense in practice, they would simply cause more problems than they would fix.

We are all in agreement that we must deal firmly with violent criminals. We must deal firmly with those who come to this country to commit crime. Canada is a generous and welcoming place but we will not be used as fools. The Canadian government will protect Canadian citizens and institutions from becoming the target of foreign criminals.

When someone comes to our country and betrays our generosity and good nature with criminal activity we must not allow them to remain. The message is clear: Play by the rules or leave. However, Bill C-316 does not give us the tools we need to remove these people. If anything, it would complicate an already complex removal process.

First, the legislation raises some serious constitutional questions. The Supreme Court has established that deportation is not a form of punishment but rather an administrative decision taken by Canada. Bill C-316 seeks to change this. By making deportation a sentencing option, it suddenly becomes a criminal punishment. If this were to be the case, then there are no fewer than three constitutional clauses that could be used to argue against the sentence.

Section 15 of the charter is one example. It could be argued that two tiers of punishment would be available to judges if Bill C-316 came into effect, one for citizens, the other for non-citizens. There would be a case where people commit the same crime, yet the punishment would be more harsh for one than for the other. This goes against the fundamental idea that Canadian justice treats everyone fairly and equally.

It could also be argued that removal from Canada would represent a second form of punishment in addition to any other sentence. In effect, non-citizens would face the prospect of being punished twice for the same offence.

Finally, if deportation is seen as a criminal punishment, it could perhaps be construed as cruel and unusual punishment. It could be argued that removing a permanent resident from Canada is tantamount to denying for life that person's right to be with family and friends, to earn a living or to communicate freely in the course of daily living. This would put it in direct opposition to section 12 of the charter.

[*Translation*]

As you can see from this brief overview, the legislative provisions raise serious potential problems. If they are adopted, there is a strong possibility that even the most minor matter will give rise to constitutional free-for-alls that could last years and cost taxpayers hundreds of thousands of dollars, even millions.

Using measures that, in all likelihood, would slow down the enforcement of the law when the public is clamouring for better,