

The resolution as phrased is somewhat complicated in its wording. I appreciate that the complication is necessary to encompass various cases that the hon. member mentioned in his very splendid speech. It seems to provide that the federal government shall prohibit anyone from asking on a job application form whether a person has been charged with or arrested for a criminal offence. That seems to be the substance of the resolution before us.

I appreciate the hon. member's remarks with respect to mental institutions and the fact that this situation occurs in respect of citizenship applications and others which otherwise seem to have been corrected. It is interesting to note that it would also be applicable to a man standing before a magistrate in a court of law and applying for bail when he is accused of an offence. It would seem to prohibit the magistrate asking the person whether he had been charged with an offence in any other court. In that sense I think the resolution goes a little too far. I appreciate that legislation flowing from such a resolution would probably correct that error, but at the same time we have to consider these matters as they stand before the House.

For those of us who have been concerned with criminal jurisprudence, the question "Have you been charged or arrested?" has not come before the Standing Committee on Justice and Legal Affairs. I am not dealing with the incidental aspects. The main problem is whether an employer should be allowed to ask a prospective employee whether he has been convicted of an offence. I appreciate there is a marked difference between that which is in the hon. member's motion and the question as to whether he has been convicted of an offence.

It seems that the question as to whether he has been charged with an offence is relatively superfluous. I doubt very much whether it would be taken into really stringent consideration in many job applications. I agree that this particular phrase should not be there because charges under the Highway Traffic Act for speeding, failing to give the right-of-way, driving without due care and attention, charges under the game acts and charges under federal government regulations and statutes are somewhat trivial in so far as employment is concerned. Heaven knows that this and other Parliaments over the years, and other legislative assemblies, have laid down enough offences. It is very difficult for one to go through life without committing at

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least one offence under the Highway Traffic Act. I do not suggest this applies to the Criminal Code.

Dealing with the question of whether to ask about serious offences, why would the question "Have you been charged with an offence under the Criminal Code?" appear on an application form? It would hardly indicate, if a man had been charged with theft at one time in his life, that he was a thief—because time after time indictments are stayed. Even if he had been charged at one time with impaired driving, it might well have been dismissed or otherwise disposed of. The mere asking of that question would hardly be cogent on a job application, an application for a licence or anything else.

To that extent I am inclined to agree with the resolution put forward by the hon. member. I am most concerned about the extent of its practical application against private individuals. I have grave doubts whether the Parliament of Canada could prohibit a private individual asking such a question. I suggest, with respect, that would be a matter entirely within the provincial domain and I do not think it could be legislated by the federal government.

I think there are occasions when a person might be asked if he had ever been charged. For example, as the English law now stands, the fact that a man has been charged can often indicate that he committed the offence. There is a provision that he need not necessarily be found guilty, even though under the law applicable in Canada he would be found guilty. It is called a conditional discharge.

In all the circumstances I feel this is perhaps a proper question. I am inclined to agree in general with the resolution. I think in working out the legislation it is quite possible that the areas in which the question may be asked could easily be defined. The major problem is that we have before us from time to time in this Parliament—it is before us currently—the question of whether a person has been convicted. On job application forms, citizenship applications and the other applications which my friend has suggested, the question is asked in order to learn the character of the man. Whether he has been charged really has little to do with the character of the man. Whether he has been convicted has something to do with that aspect of the situation.

The resolution avoids the practical question before the Canadian people today, that is, can he be asked whether he has been convicted? I