

Government Orders

The federal government is committed to ensuring that Canadians are better served by the justice system. Bill C-54 is a part of that commitment. I ask the support of all members in the House in seeing that this bill is passed into law.

Mr. Derek Lee (Scarborough—Rouge River): Madam Speaker, I am pleased to rise today to debate second reading of the two proposed amendments to the Criminal Code.

I am moved to preface my remarks, following the eloquent statement made by the hon. member for Saint-Maurice, with the wish that every member in the House had an opportunity to express him or herself fully on the issue of national unity in these days. I will not be able to do it quite so eloquently as the member for Saint-Maurice, but I want to echo his words that all of us in this House care very deeply about the unity of our country and wish for the ultimate in success from the continuing negotiations in relation to the Meech Lake Accord.

Some Hon. Members: Hear, hear.

Mr. Lee: To return to what must surely appear to be more mundane matters, Bill C-54, as proposed by the government, proposes two changes to the Criminal Code. They are seemingly minor in nature, but they deal with very important issues in relation to the criminal justice field.

This is not the first or the last time this House in this Parliament will attempt to reform the Criminal Code and criminal procedure laws on a patchwork basis. I for one am uncomfortable with the history that has given rise to that. I feel that it is an inefficient, unfortunate piecemeal way to approach an issue that has relevance for all of us. It was only a couple of months ago that we had to address the reform to the foolish old section which described the arson offence.

• (1020)

In committee this week a number of members dealt with a miscellaneous statute law amendment act which included other relatively minor amendments to the Criminal Code as well.

The current section 589 which states the ability of the court or the policing authority to join counts basically prohibits the joinder of any count charging murder to any other offence. This reflects a state of the law which goes back many years. To paraphrase the quotes of a professor

at the University of Ottawa, this current state of the law "seems to violate the rule against absurdity".

The current state of the law has derived itself from a state of affairs many years ago when there were many more offences which called for the death penalty. I suppose, in a sense of British fairness, it was felt to be unkind and unfair to load an indictment with more than one offence when one of those offences could bring about the death penalty.

In any event, nowadays there are virtually no offences which call for a death penalty in this country. We believe we have the ability to deliver fairness in a better procedural way to our accused.

In a relatively recent, high profile case which occurred in the nation's capital, there was a murder offence and other offences committed at the same time. Those other offences involved unlawful confinement and assault and involved more than one accused. In that process, because of the state of the law the Crown could only proceed with the murder offence in one indictment. The factual circumstance giving rise to the charge involved a lot of people—authorities, civilians, military, and the like—and as a result it was extremely expensive to put together two trials: one for the murder and one for the other offences.

I believe it is important for the judicial system to respond to all offences committed. I do not think it is appropriate for the authorities to simply charge the indictment involving murder and walk away from all the other charges.

The amendment in the way it is worded now will permit joinder of the indictment charging murder with a non-murder offence where the non-murder offence arises out of the same factual circumstances. We have to address the issue of fairness because the issue of fairness was the reason for the old rule against joinder.

We have to point out two things: first, the law in relation to fairness dealing with an accused has developed considerably over the last few decades. The courts and the procedures by their nature lean toward fairness. There are principles of common law built right into the code which lean toward fairness to an accused. Also, we now have our charter. The accused in any circumstance