

Computer Crime

It is my hope that these proposed amendments will, if eventually passed, close the remaining loopholes in the Criminal Code, as well as ensure that people who commit computer crimes in the future are readily prosecuted in accordance with similar rules of evidence in other cases.

As I stated at the outset, we have many instances where technology has vastly outstripped the ability of the law to keep pace with changes. The rights of Canadians are very much in jeopardy here if we do not act today. I think it is essential that the Government not delay any further, and it is essential that it does not defer decisions. I think it is important that Canadians who have an interest in this particular field be given the opportunity to come before a parliamentary committee to state their point of view and to ensure that that is considered before legislation is brought down by the Government. Allowing this Bill to go to committee today would fulfill that purpose. It would also pave the way for the Government to introduce its own legislation and for it to act quickly before there is a serious problem arising from the Government's negligence.

Mr. Al MacBain (Parliamentary Secretary to Minister of Justice and Attorney General of Canada): Mr. Speaker, I know that the Minister of Justice (Mr. MacGuigan), if he were here this afternoon, would want to pay tribute to the Hon. Member for Wellington-Dufferin-Simcoe (Mr. Beatty) for the work he has put into the suggested amendments to the Criminal Code and to the Canada Evidence Act, and for the very thoughtful presentation to which I listened with interest this afternoon. Having said that, I know the Hon. Member for Wellington-Dufferin-Simcoe is concerned about the serious consequences that a poorly drafted or ill thought out Bill could have for individual freedom, the protection of confidential information and the free exchange of information and ideas.

The Hon. Member maintains that his Bill provides a balance, but I question whether that balance is present in the proposed Bill.

Western technological society, having passed through an agricultural and industrial society, is now evolving into a post-industrial society whose basic economy is information based. Information is rapidly taking prominence over raw muscle, power and energy. It is estimated that about one half of Canada's Gross National Product and more than half of the employment of its citizens is related to the production, processing, storage and use of information. This is according to Grant R. Hammond in his article in the 27 McGill Law Journal (1981) at page 48.

There will be two critical challenges to Canadian society in respect of information. The first relates to the ability to devise new legal, economic and social arrangements that will ensure both the creation and the effective and profitable utilization of new information and technology. The second challenges the liberal society to protect its basic political and human values from unwise applications or withdrawals and restrictions of that new knowledge. The fundamental issue is whether information should be treated as a proprietary commodity or as a resource in society or, if both, in what circumstances should the emphasis be, one or the other?

• (1740)

The Hon. Member for Wellington-Dufferin-Simcoe argues that he has maintained a balance as I referred to above, yet looking at his proposal, I see little in the way of balance, but rather a choice of one of a number of competing options. This choice is to treat information as property. I agree that the law must provide producers of information with legal protection. Producers and creators of information, new ideas, technologies, etc. may be reluctant to invest time and money in research and development if the results of their efforts can be freely appropriated by others. The Hon. Member made this point, and I agree with him. However, is the institution of property as defined in Section 2 of the Criminal Code, which the Hon. Member proposes to amend and which has a scope encompassing the entire Criminal Code, the best vehicle for assessing the challenges that I spoke of earlier?

Bill C-667 does not address the issue of circumstances in which the emphasis should be on the property approach as opposed to the resource approach. It wholeheartedly and solely adopts the property approach as an absolute concept. I am not saying that the institution of property may not be an appropriate vehicle. In some circumstances it may. However, it is difficult to conceive that all information in a computer could be property. Some of it may be knowledge that is already public, known and possessed by many in their own minds. Should it automatically become someone's property merely because he puts it into his computer? Why is it not property when it is in my head or in my own filing cabinet? How can it be property and thereby give the owner of the computer the exclusive right to possess it if the information is also possessed in the minds of half the population of Canada?

What if someone else independently creates the same information? Can it be said that this person has no right to possess or use the information so created? What if I access a computer without authority to check to see that personal information concerning myself which I have voluntarily given is correct? Have I committed theft of my own personal data? Bill C-667 might make that a crime. I am not sure. Clearly more study is required in this area.

Why is it only computer information that is proposed to be protected and not other types of non-computer information? What about information stored in filing cabinets, for example? What if someone misappropriates that information without taking the physical file? That does not seem to be addressed. The question is, should it be? Should all types of information be protected or only certain types, such as those to which reasonable efforts are made to maintain its confidentiality?

Maybe the inherent nature or quality of the information is a more crucial criterion than the manner in which it is stored, that is, in a computer or in a filing cabinet. Maybe property concepts are not appropriate for all types of information. This Bill proposes to protect only and all computer information and also to protect it regardless of its nature.

These are just a few of the conceptual difficulties and questions I see which the Bill inadequately addresses in its present form. I say this not in criticism of the efforts of the