

*Private Members' Business*

It is in responding to the needs and aspirations of these citizens that the role of the private member in identifying inequity and in proposing legislative solutions is so important.

My hon. colleague has fulfilled this most important obligation of the private member in the initiative before us today.

• (1710)

What is the problem he has identified? The member seized upon the issue when he became aware that a young man who had received an absolute discharge as a dispensation of case before the courts was nonetheless left with a criminal record. This person was required therefore to obtain a pardon to remove the record of the conviction.

I might add that simply getting a pardon is not necessarily always the end of the problem for someone in a case like this because, for example, if he were to cross over the international border between Canada and the United States many times, even though the Canadian authorities may have expunged the record and given him a pardon, it is not necessarily true that the American authorities have done that.

As the hon. member quite rightly points out, the purpose of granting an absolute or conditional discharge is to ameliorate the negative effects of the occurrence. My colleague points out that when the Criminal Records Act was proclaimed more than 15 years ago, it provided that the consequences of a finding of guilt which resulted in an absolute or conditional discharge should be dealt with as if a criminal record had been created although no conviction was registered.

My hon. friend displays his usual perception and acuity of thought when he notes that this provision of the act appears inconsistent with the implicit intent that the purpose of a discharge is to be less deleterious to the offender than if no discharge had been granted.

The decision to grant a discharge is made by a judge, having regard for the nature of the offence, the circumstances surrounding its commission, and a decision about the offender and whether his personal circumstances are such that he requires this exceptional treatment.

Arguably, being required to apply for a pardon for a crime that has not resulted in a conviction creates an anomaly which should be rectified. With no harm to the public safety, measures may be taken to redress this inequity. The hon. member has suggested one such way.

I know the member has informed himself on the history and development of the Criminal Records Act and will therefore be aware that the provision of immediate concern was put in the legislation as the only way to compel the sealing of the various and disparate components of their record, which will still exist even when no conviction is registered.

For instance, in our system which shares federal-provincial responsibilities for the provision of justice services, records of a sort exist at the police level, within the administrative mechanisms of our courts, under the authority of both federal and provincial officials responsible for corrections, and within the national police information data base named the CPIC system.

Regardless of the disposition, reference to the particulars of the case may exist in any of these locations and under the control of these various authorities. It was considered expedient and efficacious to treat the discharges as if a conviction had occurred, to expedite the sealing of these various records. In fact, at the time it was considered to be the only realistic mechanism to provide the protection to the ex-offender which the hon. member seeks today.

As successive governments benefited from the experience of administering the provisions of the act, this and several other unforeseen consequences of the legislative provisions were identified as requiring reform and the legislation was targeted for amendment.

The suggestions before us today pin-point two of those problems and seek to provide corrective solutions. While the problems have been well identified, I must tell my hon. friend that his suggested reforms are but one course of action among several which have been proposed.

In addition, if the House adopts the measures before us today, there would remain several additional issues requiring our attention. While it has been said that perfect is the enemy of the good, in this case I would suggest, with respect and deference to my friend's interest and hard work, that it may be possible to bring