

*Private Members' Business***PRIVATE MEMBERS' BUSINESS**

[English]

CRIMINAL RECORDS ACT

MEASURE TO AMEND

Mr. Don Blenkarn (Mississauga South) moved that Bill C-238, an act to amend the Criminal Records Act and the Criminal Code in consequence thereof, be read the second time and referred to Legislative Committee H.

He said: Madam Speaker, this is the same bill that was introduced in the last session of this Parliament as Bill C-314 and we had two days of debate on it. When I filed the bill again for this Parliament, and having had the bill drawn, the committee examining the bill wanted to know if it was an important bill. They decided in their wisdom for the second time that they believed this House ought to pass the bill.

Essentially this is a bill concerning criminal records. Before I continue with my remarks, I want to read into the House record the provisions of section 736 of the Criminal Code. The section states:

Where an accused, other than a corporation, pleads guilty to or is found guilty of an offence other than an offence for which a minimum punishment is prescribed by law or an offence punishable in proceedings commenced against him by imprisonment for 14 years or life, the court in which he appears may, if it considers in the best interest of the accused and not contrary to public interest, instead of convicting the accused by order direct the accused be discharged absolutely or on conditions prescribed in that probation order.

Then when you go on to section 3 it says that where the court directs under subsection (1) that an offender be discharged of an offence, the offender shall be deemed not to have been convicted of the offence, except the offender may appeal from the determination of guilt as if a conviction were in respect of the offence, and (b) the attorney general and in the case of summary convictions the informant, or the informant's agent, may appeal from the decision of the court, not to convict the offender of the offence as that decision were a judgment or verdict of acquittal of the offence or a dismissal of the information against the offender and the offender may

plead *a quattr' occhi* in respect of any subsequent charge relating to the offence.

The guts of the matter is very simple, you are not convicted. You may have done the act. You may have been wrong. You may have offended the principles of criminal justice but you are not convicted. The judge said that he is not going to convict you. You are absolutely discharged or if you do certain community work or whatever is in the order you are discharged if that work is done. There is no conviction.

Yet our bureaucrats in their great desire to keep records under the Criminal Records Act decide to keep records. We have to keep records on everybody and you know the cost of keeping records. Of what do they keep records? They keep records of the fact that the fellow was not convicted. Otherwise they keep records of convicts. They keep records of convictions. They keep records of sentences. They keep records of all the nasty things people do. And in this case they keep a record that he was not convicted. He was not convicted. Yet his record is kept.

What is the penalty? The penalty in most criminal convictions in my experience as a lawyer in a small town is in the long run not the fine or the jail term. It is not the conviction so much as the record because the record sticks like you-know-what to the blanket. There it is and it ain't lint.

I want to tell you that that is what the penalty is.

People not convicted suffer the same penalty as people convicted because in order to get rid of the record they have to apply to the National Parole Board to get off the hook, to get a discharge, to get a clean slate.

If you decided you were not going to convict somebody, but you decide they have committed an offence, so lots of us have committed offences. One was a member of our former cabinet but was not convicted. He was given an absolute discharge. A member of this House, very recently, was given an absolute discharge. Guess what? He has a criminal record. If he goes to a border point, maybe he has a criminal record and they will not let him in. It appears on the television screen. In the office they pump it out, they put your name in, and there is the record.