

Criminal Law Amendments

Mr. Crosbie: Mr. Speaker, some people cannot help but let their innate nastiness out.

In order to save time, I would suggest that Hon. Members look at the provisions which deal with computer systems. The legislation will bring the law up to date in that area. If the amendments are passed, it will be an offence under the Criminal Code to wilfully destroy, alter or interfere with the lawful use of data in computer systems. In addition, it will be an offence dishonestly and knowingly, without authority, to obtain a computer system service, intercept the function of a computer system, or use a computer system with the intent to commit any of the above-mentioned offences. That will correct an area of the law which is now lacking. As a matter of fact, a year or two ago there was a committee of the House which examined this area and recommended changes similar to the ones which are included in this legislation.

The legislation deals with the matter of search and seizure. I have already talked about the writ of assistance, but I would like to put on the record that a writ of assistance is a court order issued by the Federal Court under the Customs Act, the Excise Act, the Food and Drugs Act and the Narcotic Control Act. The writ empowers the officers named to search any place, including a dwelling or a house, at any time in the execution of their duties, to enforce the relevant Act. The writ empowers its holders to enter any place without requesting entry, to break open doors, chests, locks and containers. It is valid as long as the holders are officers under the Acts. Obviously, a very broad power is being removed. In removing the power of the writ of assistance, I believe we will have to replace the system with telewarrants. Telewarrants will be of some assistance to the police and the RCMP when they lose the right of issuing a writ of assistance.

I have already described telewarrants. The United States has been using telewarrants for 14 years. They have consistently withstood constitutional challenges. In other words, the system has been found to be in accord with United States law and the Bill of Rights. The system has been held to be a reasonable alternative to the conventional warrant. Telewarrants must be taken under oath and recorded by the justice who issues them. Research has been done in this area, mostly by civil liberties groups, and it has been found that there is broad support for this procedure in the legal community.

The Bill includes restrictions on publicity when searches are made. A search may be made on a certain premises, but there may not be any charges laid. It would seem to be unnecessarily harmful to the persons whose premises had been searched to have their names reported and publicized in the event that a charge is not laid. It could affect their reputations. The amendment would impose restrictions on publishing the facts of the search, unless the persons involved gave their consent or charges were laid.

Another area in the legislation deals with solicitor/client privilege. If documents are seized from the possession of lawyers and they claim that the documents are privileged, the documents can still be seized but they would be placed in a sealed packet and would only be made available to the pros-

ecution if a judge made the finding that the documents were not protected by the solicitor/client privilege.

There is a provision in the Bill which calls for the prompt return of seized property. We have all happened upon people who were quite annoyed because they had suffered a theft or a break-in and their property had to be used as evidence in court proceedings. It often takes months, sometimes years, before that property is returned to those individuals. The proposed amendments will require reviews to be made at each stage of the proceedings, and will require that such property be quickly returned to the owners.

As I mentioned earlier, there are two provisions in the Bill which will enable us to carry out our obligations pursuant to the International Convention on the Physical Protection of Nuclear Material and the Convention to Facilitate the Prevention, Prosecution and Punishment of Acts of Hostage Taking. Both of those conventions require changes in our criminal law.

Canada's jurisdiction over nuclear material offences will be extended to cover instances where crimes are committed in our territory, on board a ship or aircraft which is registered in Canada, where the offender is present in Canada but not extradited, or where the offender is a Canadian national. Although we are a party to that convention, we have not ratified it because the necessary amendments have not been passed.

With regard to the hostage taking convention, the Bill creates a specific offence for hostage taking which includes essential elements as defined in the convention. The legislation sets out a penalty which reflects the grave nature of the crime and gives the courts extra-territorial jurisdiction in connection with the offence and the offender, in accordance with the manner in which the convention sets it out. If the amendment is passed, we will be in a position to ratify that convention and to act in the event of hostage taking incident.

I mentioned earlier that there are provisions in the legislation which will provide more effective control over medical prescriptions which are issued by practitioners who do not observe the law. It will help in controlling the medical use of narcotics and controlled drugs, and people who seek narcotic prescriptions without telling the medical practitioner that they had obtained a narcotic prescription during the previous 30 days. I believe that these steps need to be taken and should be taken quickly. Another amendment in the legislation would clearly provide that the proof of commercial consideration is not an essential element of the offence.

There are a number of other amendments which are designed to improve the administration of justice. They deal with the jurisdiction of provincial courts, appeal procedures, preliminary hearings, the powers of judges at trials, credit card crimes, air safety and motor vehicle odometers.

There are two specific amendments that should reduce the backlog of cases and expedite trials: pre-trial conferences and the disposition of preliminary matters in the absence of a jury. Those amendments are very sensible. Pre-trial conferences would allow the judges to hold those conferences and to call in