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OFFICIAL REPORT (HANSARD)

**Wednesday, September 21, 2011**

Speaker: The Honourable Andrew Scheer

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## GOVERNMENT ORDERS

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### Safe Streets and Communities Act

**Ms. Kerry-Lynne D. Findlay (Parliamentary Secretary to the Minister of Justice, CPC):**

Madam Speaker, the safe streets and communities act fulfills this government's commitment, as noted in the June 2011 Speech from the Throne, to reintroduce law and order legislation to combat crime and terrorism. As highlighted by the Minister of Justice, the bill is in five parts

and brings together the criminal law reforms that were proposed in nine bills in the last session.

Amendments to the Controlled Drugs and Substances Act are found in part 2 of the bill, from clause 39 through clause 51 inclusively. These amendments are the same as those proposed in Bill S-10, which was introduced in May 2010, passed by the Senate last December and died on the order paper when Parliament was dissolved last March.

I also note that the government first introduced these amendments to address serious drug crimes as Bill C-26 in 2007 and again as Bill C-15 in 2009. We remain committed to enacting these reforms now included in the safe streets and communities act.

These amendments are not about imposing mandatory minimum sentences for all drug crimes. These amendments propose targeted, mandatory minimum sentences for serious drug crimes and ensure that those who carry out these crimes will be penalized. These amendments clearly send the message that Canadians find this type of criminal behaviour unacceptable.

A mandatory minimum sentence is the starting point for the judge's consideration of the appropriate jail term. Where a minimum sentence applies, the sentence imposed by the judge cannot be less. Presently there are no mandatory minimum penalties in the Controlled Drugs and Substances Act, or CDSA. The CDSA provides for maximum penalties based on the prohibited activity involved as well as on the substances involved. The maximum penalty for the most serious offences involving the most dangerous drugs is life imprisonment.

The most serious drug offences in the CDSA, as measured by their maximum penalty, are trafficking, possession for the purpose of trafficking, importation and exportation and production in respect of schedule I drugs. What are those drugs? They are drugs such as heroin, cocaine, methamphetamine and morphine, and schedule II drugs which are cannabis-related.

All of these offences involving Schedule I drugs are punishable by up to life imprisonment. The offence of trafficking and possession for the purpose of trafficking of cannabis in amounts over three kilograms is punishable by up to life imprisonment, as are the offences of importation and exportation of any amount of cannabis. The offence of producing cannabis is punishable by up to seven years imprisonment.

The least severe penalties in the CDSA for designated substances offences, up to 12 months imprisonment on summary conviction, are reserved for offences involving substances listed in schedules IV and V; that is, substances such as diazepam, or Valium, and secobarbital, Seconal. It should be noted, however, that most of the prohibited activities in the CDSA are legal if committed by someone possessing the proper licence, permit, or exemption.

There are some who do not agree with the drug-related amendments proposed in the bill. They are of the view that serious drug offences do not require a response such as that contained in this proposed legislation. However, serious drug crime is a serious problem in Canada and it requires a serious legislative approach. That is what we are bringing to this issue.

(1645)

Marijuana cultivation offences have increased significantly in the past several years. According to a study on marijuana grow operations in British Columbia, my home province, in 2003 approximately 39% of all reported marijuana cultivation cases, or 4,514, were located in B.C. Between 1997 and 2000, the total number of these cases increased by over 220%. Although the number of individual operations in B.C. levelled off between 2000 to 2003, the estimated quantity of marijuana produced has increased from 19,729 kilos in 1997 to a seven year high of 79,817 kilos in 2003, due to the size and sophistication of individual operations.

Investigations by BC Hydro indicate the existence of thousands of possible marijuana grow operations. The increase in the illicit production of marijuana has occurred not just in B.C., of course, but across all of Canada.

Available RCMP data indicates a rise in synthetic drug production operations in the last 10 years. The RCMP indicates that there were 25 clandestine labs seized in 2002. In 2008, 43 clandestine labs were seized across Canada. In 2009, 45 clandestine labs were seized by various Canadian police agencies. The majority of labs seized were methamphetamine and ecstasy labs.

It is in part because of the existence of these illicit activities that the Prime Minister unveiled Canada's national anti-drug strategy in October 2007. The national anti-drug strategy provided new resources to prevent illegal drug use, including illicit drug use by young people, to treat people who had drug addictions and to fight illegal drug crime.

The strategy comprises a two-track approach, one which will be tough on drug crime and the other which will focus on drug users.

The national anti-drug strategy includes three action plans: preventing illicit drug use; treating those with illicit drug dependencies; and combatting the production and distribution of illicit drugs.

The action plan to combat the production and distribution of illicit drugs contains a number of elements, including ensuring that strong and adequate penalties are in place for serious drug crimes. It is within this context that the drug-related amendments of this bill are to be viewed. Moreover, these amendments follow through on one of this government's key priorities, which is combatting crime and making our communities safer for all Canadians.

As I have mentioned, domestic operations related to the production and distribution of marijuana and synthetic drugs have dramatically increased, resulting in a serious problem in some regions of Canada. The situation has reached such a point in some parts of Canada that law enforcement agencies are overwhelmed.

Illicit drug production can pose serious health and public safety hazards to those in or around them. They can produce environmental hazards, pose cleanup problems and endanger the lives and health of whole communities. They are lucrative businesses, and I use that term loosely, and attract a variety of organized crime groups. Huge profits are available with little risk to operators and these profits are used to finance other criminal activities.

The penalties for drug-related offences and the sentences imposed on offenders are considered by many to be too lenient and not commensurate with the level of harm imposed on communities by such operations. The reforms that the government is pursuing in this bill are meant to deal with these concerns.

As members are undoubtedly aware, the Controlled Drugs and Substances Act contains a complex offence and penalty structure. Penalties depend on the nature of the prohibited activity and on the type of substance involved. The most problematic and dangerous substances are listed under schedules I and II and the most serious offences involving these substances attract the severest penalties, up to life imprisonment. As I have noted, the CDSA does not currently contain any minimum penalties. The drug-related amendments of the safe streets and communities act propose to enact such minimum penalties for specific offences.

The offences being targeted are: trafficking, possession for the purpose of trafficking, production, importing, exporting and possession for the purpose of exporting drugs.

(1650)

The drugs that would be covered are schedule I drugs, such as cocaine, heroine and methamphetamine, and schedule II drugs, such as marijuana.

The drug-related mandatory minimum penalty scheme proposed in the bill is based on the presence of specific aggravating factors, most of which are commonly present in serious drug crimes. The scheme would not apply to possession offences or to offences involving drugs such as diazepam or valium.

As I noted at the beginning of my remarks, the drug-related proposals contained in the bill reflect a tailored approach to MMPs for serious drug offences. Some further details about the targeted or tailored regime will assist hon. members in understanding the approach and supporting speedy passage of the bill, we believe.

For schedule I drugs, and that is heroine, cocaine, or methamphetamine, the bill proposes a one year minimum sentence for the majority of the serious drug offences if there are certain aggravating factors. The aggravating factors exist where: the offence is committed for the benefit of, at the direction of or in association with organized crime; the offence involved violence, or threat of violence, or weapons or a threat of the use of weapons; or the offence is committed by someone who was convicted or served a term of imprisonment for a serious drug offence in the previous 10 years. If youth are present or the offence occurs in a prison, the minimum sentence is increased to two years.

In the case of importing, exporting and possession for the purpose of exporting, the minimum sentence would be one year if the offence is committed for the purpose of trafficking or the person, while committing the offence, abused a position of trust or authority or had access to an area that is restricted to authorized persons and used that access to commit the offence. The penalty will be raised to two years if the offence involves more than one kilogram of a schedule I drug. Again, these are drugs such as heroine, cocaine, or methamphetamine.

A minimum sentence of two years is provided for a production offence involving a schedule I drug. The minimum sentence for the production of schedule I drugs increases to three years where aggravating factors relating

to health and safety are present. That is where: the person used real property that belonged to a third party to commit the offence; the production constituted a potential security, health or safety hazard to children who were in the location where the offence was committed or were in the immediate area; the production constituted a potential public safety hazard in a residential area; or the person placed or set a trap.

For schedule II drugs, such as marijuana, cannabis resin, et cetera, the proposed mandatory minimum sentence for trafficking, possession for the purposes of trafficking, importing or exporting and possession for the purpose of exporting is one year if certain aggravating factors such as violence, recidivism or organized crime are present. If factors such as trafficking to youth are present, the minimum is increased to two years.

For the offence of marijuana production, the bill proposes mandatory penalties based on the number of plants involved: production of six to two hundred plants and if the plants are cultivated for the purpose of trafficking, six months; production of 201 to 500 plants, the penalty, one year; production of more than 500 plants, two years; and production of cannabis resin for the purpose of trafficking, one year. The minimum sentences for the production of schedule II drugs increases by 50% where any of the aggravating factors relating to health and safety, which I have just described, are present.

It is important to note that the drug-related proposals of the bill are not limited to creating minimum sentences. Amphetamines, as well as the date rape drug GHB and Rohypnol would be transferred from schedule III to schedule I, thereby allowing the courts to impose longer sentences for offences involving these dangerous drugs.

The maximum penalty for producing marijuana would be increased from seven to fourteen years imprisonment. That is the maximum penalty, speaking about the other end of the scale now.

(1655)

Last, I wish to point out that this legislation is not just about punishing drug offenders by enhancing the sentence provisions. The proposed legislation would allow the courts, including drug treatment courts, to exempt an offender from the mandatory minimum sentence that would otherwise be imposed where the offence involved no other aggravating factors other than a previous conviction for a serious drug offence, and the offender successfully completes a treatment program.

The proposed reforms to the Controlled Drugs and Substances Act also require that within five years after the coming into force of these provisions, a committee of the Senate or of this House or a committee of both places undertake a comprehensive review of these provisions and their operation, including, my friend opposite will be pleased to hear, a cost benefit analysis of the minimum sentence provisions.

It is a fundamental principle of the Canadian sentencing framework that a sentence should be proportionate to the gravity of the offence and the degree of responsibility of the offender. The Criminal Code provides that the purpose of sentencing is to impose sanctions on offenders that are just in order to contribute to the respect for the law and the maintenance of a just, peaceful and safe society, something we all want.

Accordingly, the objectives in sentencing are to denounce unlawful conduct, deter the offenders and others from committing crimes and separate offenders from society where necessary, as well as to assist in rehabilitating offenders, have them accept responsibility for their actions and repair the very real harm that they have caused to victims or the community.

I would submit to members of the House and to Canadians in general that the proposed drug related mandatory minimum penalties contained in this bill meet these requirements. These are strong measures but they are reasonable and they are meaningful, and a meaningful response to a problem that is increasing in and plaguing our cities.

The manner in which these minimum penalties would apply is intended to ensure that they do not result in grossly disproportionate sentences being handed down.

As parliamentarians, we are this country's lawmakers. It is incumbent upon us to see that our laws provide appropriate and adequate measures to address this very serious problem.

Some members of the House may be of the view that serious drug offences do not require a response such as the one contained in the bill. However, serious drug crime is a growing problem in Canadian cities and in smaller towns, and a serious legislative response is required.

The government has made tackling crime a priority in order to make our streets and our communities safer. This bill is a reasonable, balanced and narrowly structured approach which the government is taking toward realizing this goal.

I am certain that we will have the support of the majority of the members of the House for these measures. I ask everyone to please consider them carefully.

(1700)

[*Translation*]

**Ms. Christine Moore (Abitibi—Témiscamingue, NDP):**

Madam Speaker, currently, only one out of five prisoners has access to anger management programs or to drug and alcohol abuse programs. Right now, these prisoners are released without having had access to treatment, which increases their risk of reoffending. This bill will send even more people to prison, which will increase pressure on the limited resources for these programs.

How can the government introduce a bill that will send even more people to jail, when existing prisoners do not even have access to the rehabilitation treatment they need?

[*English*]

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**Ms. Kerry-Lynne D. Findlay:**

Madam Speaker, the government does not create offenders. We are not in that business. We are in the business of dealing with offenders when offences have been committed and standing up for victims of crime.

With respect to the issue of the mentally ill in prisons, we are aware of that. It is a serious problem. It is one the Canadian Bar Association has identified and it is one we continue to work on with our partners in the provinces who are primarily responsible for treatment and those kinds of health issues. However, that does not make the suffering of a victim any less and it does not make their recovery any shorter.

**Mr. Scott Simms (Bonavista—Gander—Grand Falls—Windsor, Lib.):**

Madam Speaker, I have a different concept of what harm reduction is. To me, harm reduction has less to do with the penalty phase in drug offences and more to do with the abuses that are caused by drugs, trying to

rehabilitate and the programs that we have, which is more of an international concept.

I do want to speak to the issue of the mandatory minimum as it serves as a deterrent to crime. Now I ask this honestly. I am not infusing any opinion at this point. I would like to hear the hon. member's opinion. The hon. member says that in order to make the streets safe, we are imposing a mandatory minimum. We have heard from my NDP colleague who spoke passionately about mandatory minimum records around the world and, in many cases, it did not live up to what was expected.

In this particular situation, if a mandatory minimum is imposed, will it actually deter the crime that is being spoken about here? Will it actually make communities that much safer?

I would like the hon. member to explain reducing crime and reducing the number of future victims as a concept of mandatory minimums.

**Ms. Kerry-Lynne D. Findlay:**

Madam Speaker, would that I had a crystal ball and I could determine ahead of time just what all the effects would be both of crime and the impact on victims.

What we do see in the 2008 Department of Justice study is that the victims of crime bore 83% of the cost of crime in that year in Canada, which was over \$99 billion. Costs include costs to property, costs to time off work and costs of injuries. There are so many costs borne by the victims.

When we speak of minimum sentences, we are also trying to achieve some consistency of sentencing across Canada. As the hon. member may know, there are vast differences in sentencing from province to province with respect to very similar circumstances. We are trying to target that as well.

(1705)

**Mr. David Wilks (Kootenay—Columbia, CPC):**

Madam Speaker, as a retired police officer and one who has conducted countless cannabis-marijuana operations and was qualified as an expert for the Supreme Court of British Columbia in relation to grow-ops and the amounts that are required for the purpose of trafficking, I applaud this act coming forward as it would give the police officers, who work on the streets

on a daily basis, the knowledge that something will be happening when they lay a charge.

Could my colleague please further explain how this bill would instill confidence to the public, something that Canadians have asked us to do?

**Ms. Kerry-Lynne D. Findlay:**

Madam Speaker, even though my colleague sits on the other side, we are on the same side with respect to where we actually sit in the House.

I appreciate what the hon. member said. We are trying to give law enforcement the tools it needs to deal with what is, as evidenced by my earlier remarks, a growing problem. My home province and the hon. member's home province of British Columbia particularly know the damage and costs caused by large grow-op operations, the connections to organized crime, the use of these operations and their products as currency in other crime, and it escalates from there.

This gives law enforcement some better tools to deal with those situations.

**Mr. Randall Garrison (Esquimalt—Juan de Fuca, NDP):**

Madam Speaker, I listened with great interest to the speech by the parliamentary secretary. I have had occasion to meet her a couple of times outside the House. I have always found her to be very reasonable and rational. I think we will have to say that we simply disagree on the efficacy of mandatory minimum sentences.

I would like to ask the hon. member about another provision of the bill, which she did not touch on, which was the international transfer of prisoners. I think this is very much a public safety issue.

Would the member not agree that it would be better for almost all of those international prisoners, rather than completing their sentence abroad and coming back to Canada with no notice to Canadians and with no supervision, to be transferred back here and, on their release, be subject to our monitoring and parole system?

**Ms. Kerry-Lynne D. Findlay:**

Madam Speaker, with respect to that particular aspect, that is under public safety. As I am Parliamentary Secretary to the Minister of Justice, it is

not directly under my ministry. We do recognize that this is an issue when are incarcerated in other countries. It is something that the minister needs to consider when agreeing with transfers. There are inter-jurisdictional issues that come into play. In other words, it depends on the country, our relations with that country, how the rule of law is seen in that country and what that country's laws are.

However, we are aware that this is something we need to be vigilant about.

**Ms. Elizabeth May (Saanich—Gulf Islands, GP):**

Madam Speaker, I would like to ask the hon. parliamentary secretary if the government would give any consideration to allowing this House to consider these individual bills as individual bills and not as an omnibus bill. The omnibus bill does present difficulties for many of us who would like to see amendments to some sections, approval of others and so on. However, as a package, this presents problems.

**Ms. Kerry-Lynne D. Findlay:**

Madam Speaker, I am aware that the member is new to this House, as I am in this session, and, therefore, may not be aware that all of these bills have come before the House before, as mentioned in my early remarks, some going back several years. With respect to the trafficking provisions, it is the fourth time this has come before the House. These will be studied in committee, as all bills are. They will be looked at clause by clause, discussed and witnesses will be heard, but they are being put forward as a comprehensive package. That is what we promised the voters. We are committed to protecting victims of crime. We told the Canadian public that and we will honour our commitments.

(1710)

**Mr. Kevin Lamoureux (Winnipeg North, Lib.):**

Madam Speaker, does the member not see the value in terms of investing more resources into things that would prevent crimes from occurring in the first place? I am talking more about crime prevention type of programs by investing in young people so they have alternatives to hanging around the streets. Does the member see the merit in that and would she support those types of initiatives just as enthusiastically as--

**The Deputy Speaker:**

Order, please.

The hon. parliamentary secretary has about 40 seconds to respond.

**Ms. Kerry-Lynne D. Findlay:**

Madam Speaker, in my role as parliamentary secretary and also as a mother of four, I always applaud initiatives that help youth to keep themselves busy, active and engaged in our communities. Politics is a good place to start.

Of course this is all about protecting communities and protecting youth. A lot of these provisions are targeted at helping youth and helping youth get away from this kind of activity. I would always applaud initiatives that help youth.