

*Proceeds of Crime*

He said: It gives me great pleasure to rise once again to speak to Bill C-61 which has been recognized as fundamental to law enforcement efforts against enterprise crime, especially drug trafficking. It is now recognized that it is long overdue. The Bill is designed to ensure that offenders are not allowed to profit from their crimes. Bill C-61 will provide effective but fair measures to ensure that crime does not pay.

At this time, I would like to commend the legislative committee that reviewed Bill C-61 and has now presented its report to the House. It is obvious that all members of the committee recognized the pressing need for this legislation, given the growth of enterprise crime in recent times. They have obviously carefully considered both the need for the new measures in the Bill and the safeguards contained therein which ensure that the interests of the accused person and the innocent third parties are protected.

Regarding the principles of the Bill, I refer Members to my remarks during second reading. Allow me to review briefly some of the major aspects of the legislation. The courts have been empowered to authorize seizure and restraint of assets upon the undertaking of the Attorney General to provide such compensation as the court deems appropriate where the case for forfeiture cannot be made out and losses to the owner or third parties are suffered. A process of immediate judicial review of these powers, upon application by the persons concerned, has been provided for and includes an opportunity for an accused person to claim the payments of reasonable living, business, and legal expenses out of the seized or restrained property.

I must point out that these types of safeguards are unprecedented in Canadian law. In addition, the rights of third parties are recognized throughout the entire process of seizure, restraint, and forfeiture. The legislation has balanced an effective forfeiture mechanism with the constitutionally protected right to counsel in a manner that is characteristic of the Government's approach to criminal matters and avoids the criticisms that have been levied at similar American legislation in this area.

*[Translation]*

The Bill also provides that a court may order the payment of a fine when forfeiture is impossible either because the offender has hidden his illicit gains or has removed them from the jurisdiction of Canadian courts.

Aside from the power to order the forfeiture of property on conviction, when the prosecution has established beyond a reasonable doubt, following a hearing, that the property in question is proceeds of crime, the Bill provides that the court may order forfeiture of the goods when the offender has died or absconded to another country.

Madam Speaker, in this regard the legislative committee has passed an amendment allowing this procedure to be applied if the offender has fled to a country that refuses to

extradite him to Canada where he would stand trial in criminal court.

I think that this is a useful amendment that complies with the spirit of the act.

*[English]*

In recognition of the sophisticated attempts that are made to disguise the tainted sources of proceeds of crime and to invest them in so-called "legitimate" enterprises and other forms of property, the Bill creates a new offence of "laundering" that will be punishable by up to 10 years imprisonment.

In recognition of the need for assistance to law enforcement agencies in their efforts against organized and enterprise crime, the Bill has created a protection against liability for any person, such as a bank employee, who reports to the authorities activity related to proceeds of crime on condition that the belief is reasonably held. Also, a provision for access to income tax records to assist in the investigation of drug related offences has been proposed. This will only be available upon court authorization to ensure that confidentiality of these records will be protected as much as possible. All members of the committee recognized the need for special rules regarding income tax information.

These are the principal elements of Bill C-61. In conjunction with Bill C-58—which has just received third reading—concerning mutual legal assistance in criminal matters, Canada will be fulfilling her international commitment to combat organized crime, especially in the area of drug trafficking.

In this regard I find it most appropriate that at this very time officials of my Department, as well as of the Departments of National Health and Welfare, External Affairs, and the Ministry of the Solicitor General, are in Vienna, Austria, with other officials from all countries of the United Nations finalizing the *Draft Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* which is expected to be concluded this fall. That document specifically calls for an undertaking on behalf of signatories to implement proceeds of crime legislation.

Bill C-61 represents, together with Bill C-58, Canada's commitment to the international fight against drug trafficking. I ask that Canada be allowed to join the ranks of such nations as the United Kingdom, Australia and the United States that have all recently passed similar legislation.

● (1650)

Let me point out once again that this Bill has finally proceeded to third reading. I trust it will be accepted by the other place and made the law of the land. Similar attempts have been made by previous Governments to bring in legislation in connection with forfeiture of illicit proceeds of crime. This Bill is the synthesis of much consultation by Members of Parliament, in particular the Hon. Member for Etobicoke—Lakeshore (Mr. Boyer) and others who have been of great assistance to me with the legislation.