

*Private Members' Business*

James M. Kingston, chief executive officer of the Canadian Police Association stated:

Please be advised that the Canadian Police Association strongly endorses the intent of your private members' bill. We trust you will secure the necessary support to pass it into law.

I have been advised that I must amend the bill regarding the question of parole. Therefore, if adopted, I would amend the bill to allow parole for any sentence beyond the new minimum mandatory of five years.

I have also been advised that if this amendment is not made this bill might infringe section 12 of the charter of rights which states that everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

Some even argue that the bill, as amended as I have suggested, might still be contrary to section 12 of the charter. However, I think the bill is justified under section 1 of the charter.

As former Chief Justice Brian Dickson said in *The Queen v. Oakes*:

The rights and freedoms guaranteed by the charter are not, however, absolute. It may become necessary to limit rights and freedoms in circumstances where their exercise would be inimical to the realization of collective goals of fundamental importance. For this reason section 1 provides criteria of justification for limits on the rights and freedoms guaranteed by the charter.

Some people say that the charter forbids any mandatory minimum sentences in the light of the Supreme Court's 1987 decision striking down the mandatory minimum sentence of seven years for the importation of narcotics. To the contrary, Mr. Justice Lamer, in writing for the majority, said the following:

A minimum mandatory term of imprisonment is obviously not in and of itself cruel and unusual. The legislature may, in my view, provide for a compulsory term of imprisonment upon conviction for certain offences without infringing the rights protected by section 12 of the charter. For example, a long term of penal servitude for he or she who has imported large amounts of heroin for the purpose of trafficking would certainly not contravene section 12 of the charter. Quite the contrary.

Here we have two justices of the court who clearly say that we can have minimum mandatories. There is nothing wrong with that as long as it fits the crime. I would suggest this does.

My bill proposes a mandatory minimum sentence to deal with a problem that has as much, if not more, potential to cause serious physical harm and/or death

than importing drugs. That is the criminal use of firearms. I have nothing against tough sentences against drugs. In fact I would like to see them even stronger. I think the sentencing against the criminal use of firearms needs to be strengthened, and that is the purpose of my bill.

Therefore we should not argue that mandatory minimums are *ipso facto* contrary to the charter. My argument, and it would appear two Supreme Court justices might agree, is that the punishment must fit the crime.

Mr. W. R. Crampton of metropolitan Toronto has provided me with some truly alarming statistics of four different offences committed with a firearm within metropolitan Toronto. Let me give these four sets of statistics.

Murder committed with a firearm from 1989 to 1991, for those three years, increased by 557 per cent. Armed robberies of small businesses with a firearm for the same three years increased by 234 per cent. Bank robberies where a firearm was clearly visible increased by 313 per cent from 1989 to 1991. Assault with a firearm increased 537 per cent from 1980 to 1989, over that 10-year period. Further, robberies with a firearm in my own region of Waterloo in the province of Ontario have increased 420 per cent from 1987 to 1991, over a four-year period.

Every one of these is 300, 400 or 500 per cent. And what are we doing? We are sitting on this offence of one year only. I challenge those who are going to get up later, argue against this bill and talk it out to answer those statistics, to give us their clear reasons. I challenged them to answer what the chief justice of the court has said, to answer what Justice Lamer has said, to give me good reasons and not just a speech of 10 minutes worth of words, and to start saying something real that will speak to those facts.

Let us remember also what we are talking about in this bill. We are talking about about a conscious, deliberate decision to take a gun along in the commission of a crime. It includes a second deliberate decision: to load that gun. That gun does not load itself. That gun does not put itself in the man's pocket. He puts it there. That gun does not come out of his pocket and into his hand when he is committing another offence. He takes it out. Let us remember that when we consider the content of this bill.