

Parole and Penitentiary Acts

decides in its wisdom that a particular inmate presents a threat to society, then the decision as to whether or not to release that inmate on mandatory supervision, or to keep that inmate incarcerated, should rest with the court. Since the sentence was originally imposed by the court, it should be only the court which deprives an individual of his or her liberty.

After an individual has been sentenced in Canada and after having served two-thirds of his or her sentence, that individual must be released, by operation of the law, unless, under this legislation, the Parole Board decides to issue a detention order. In such a case the inmate is detained for a further period of time. The decision to issue a detention order is reviewable on an annual basis. It is my submission that the original decision and any review thereafter should ultimately be done by a court of law.

My friend, the Hon. Member for Burnaby (Mr. Robinson), has indicated that the board cannot predict violent behaviour. He has pointed out that there is no way of predicting with any degree of accuracy whether or not a particular inmate might be violent if released into the community. I agree, in part, that one cannot predict with complete accuracy whether or not an individual may be violent. However, in my view that is no reason not to at least try to predict the violent nature of an offender, since the whole purpose of incarceration, as I pointed out earlier, should be the protection of society, and then there should be the concept of general deterrence and specific deterrence. Those should be the reasons for which individuals are incarcerated.

At the initial stage, the trial stage, after hearing evidence in order to satisfy itself beyond a reasonable doubt that a particular person has committed a crime, a court must then decide what form of punishment should be issued as a result of a particular breach of the Criminal Code. The court takes into account a number of considerations, including the nature of the crime, the prospects of rehabilitation, general deterrence, specific deterrence, and so on. The court sentences an individual who has committed a violent crime, as best it can. The court is given considerable discretion under the Criminal Code. Indeed, there are few offences which carry a mandatory prison term. For the most part the court has the discretion either to incarcerate an individual or not, or to fine an individual or issue a community service order. For example, we know that with the crime of murder on a conviction of either first or second-degree the court has no discretion but to incarcerate an individual. As well, the court has no discretion on the issue of parole in terms of a conviction of first-degree murder. As well, the court has no discretion when an individual has committed a second drunk driving offence.

I can see that you are indicating that my time has expired with respect to this particular motion, Mr. Speaker. However, I would like to reserve the right to continue my submission on this particular subject after we have dealt with the next motion.

Mr. Alan Redway (York East): Mr. Speaker, we have dealt with a great many important pieces of legislation in the House of Commons since November, 1984. However, in my view if there is one especially important piece of legislation it is Bill C-67.

I say that bearing in mind that we are now dealing with the most important sections of the Bill. They are the ones which relate to the right of the Parole Board to review and refuse to allow the automatic release of someone who is incarcerated. They are unlike the present provisions of the law as it now stands which provide that after serving two-thirds of a sentence meted out by a judge the prisoner serving time in a penitentiary or prison much automatically be released, whether that prisoner is considered to be violent or to have any violent tendencies, or whether there are any problems of that sort. The legislation which we are considering and the provisions about which we are now speaking deal specifically with that area of the law. The Parole Board will be allowed to refuse to release a prisoner if in its opinion there might be some violence, or if the offender is potentially violent. In my view that is something which is long overdue. It is an area of the law, and an area of criminal justice, which has most put the criminal justice system into most disrepute.

For the last many years we have seen case after case reported in the press dealing with offenders having been released and then committing violent crimes. It is because of that that members of the public feel that they are not safe in their own homes or in walking down their own streets. It is because of that that many people feel that we should have a provision in the Charter of Rights and Freedoms not only guaranteeing equality but guaranteeing our right to be safe on our streets and in our own homes. The provision with which we are dealing is the most important in that respect.

The Hon. Member for York South—Weston (Mr. Nunziata) indicated that he is not happy with the state of the law as it now stands, as did the Hon. Member for Burnaby (Mr. Robinson). I share their concerns. I think we should take a very close look at the whole subject of mandatory supervision. I am not happy with the way it is working generally and I think perhaps we should consider scrapping it all together and instituting something different in its place, something that works unlike the system we now have. However, this is obviously not the time to do this. This is the time to deal with a specific provision that will improve the system that is now in place.

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We could consider throwing the whole thing overboard but that would set the process back a year or two or maybe even five years and perhaps we would never solve this problem. We have to deal with the problem that is at hand and give the National Parole Board the right to refuse to release people under certain circumstances in order to protect society.

The Hon. Member for York South—Weston mentioned giving this power to the courts rather than the National Parole