Measures Against Crime

Turning to another aspect of Bill C-83, the government shares the public's very proper concern for greater protection against offenders who perpetrate acts of serious personal violence. This bill contains provisions to enable the courts to order an indeterminate separation from society for criminals whose propensity to violent conduct constitutes a serious and continuing physical threat to other people. Both the report of the Canadian Committee on Corrections, the Ouimet report of 1969, and the Senate report "Parole in Canada", the Goldenberg report of 1974, recommended that the habitual criminal and dangerous sexual offender provisions of the Criminal Code be replaced by new "dangerous offender" legislation.

The Ouimet report criticized the habitual offender provisions on the grounds that almost 40 per cent of those sentenced to preventive detention had never been convicted of a serious offence against the person. The provisions had been applied to a substantial number of persistent offenders who were perhaps a "grave social nuisance" but who did not constitute a serious threat to personal safety. Those offenders who indeed were dangerous were often excluded from the application of the legislation because of the requirement of three previous convictions for serious indictable offences. The same report also noted that a dangerous sexual offender is only one class of dangerous offender, and concluded that it would be preferable to enact legislation that would encompass dangerous offenders generally. In this way, account would be taken of the violent nature of the crime and not simply its statutory classification.

The provisions of Bill C-83 mirror the remarks of those who reported. This bill, therefore, makes provision whereby a person who is convicted of what is defined as "a serious personal injury offence"—a crime of personal violence carrying a sentence of ten years or more, and including certain sexual offences—may, under appropriate circumstances, be found by the court to be a "dangerous offender" and consequently subject to an indefinite sentence of incarceration. Because of the gravity of this type of sentencing mechanism, the government has been careful to surround the provisions with a number of safeguards for the offender.

The application for a sentence of indeterminate detention may be made by the crown attorney only with the consent of the provincial attorney general. The offender can call any relevant evidence, including that of a psychiatrist, psychologist or criminologist. The court may seek additional evidence by remanding the offender for medical observation for a limited period. The indeterminate sentence must be reviewed within three years of the sentence, and every two years thereafter, by the National Parole Board.

These safeguards reflect my concern to strike the kind of balance I referred to earlier in my remarks. They weigh the protection that must be provided to law-abiding citizens against the protection of the rights of even the most dangerous among us. In addition to these safeguards, the Solicitor General has indicated our concern for developing more adequate treatment facilities in which to place persons found to be dangerous offenders.

I am satisfied that indeterminate sentencing should no longer be used against criminals who do not pose a continuing and serious threat to the life, safety and well-being of others. This type of sentencing, however, is a necessary mechanism to protect society against dangerous criminals where it is virtually impossible, at the point of sentencing, for a judge to determine the appropriate length of sentence to be imposed. The advantage of the indeterminate sentence lies in the fact that it postpones the decision on a proper release date to the point where the authorities can more accurately judge the readiness of the dangerous offender to resume a normal life in the community without constituting a continuing threat to others' safety and well-being.

One of the most serious concerns people have about threats to their personal security relates to the number of persons accused of violent crimes or imprisoned for such offences who a short time afterwards are out on the streets and often committing further crimes. To this concern the government is responding now. Bill C-71, which has already been passed by this House, contains provisions which, until they have been proven guilty, make it more difficult for certain types of accused persons to obtain release on bail pending trial.

In addition, the Solicitor General has announced a series of administrative measures respecting the containment of prisoners who constitute a continuing threat to society and the supervision of inmates released during their sentence. For example, he has indicated prison construction measures that involve phasing out some institutions and replacing them with smaller facilities better suited to controlling specific groups of inmates. These will be particularly important in ensuring proper custody for long-term inmates. Regional custodial centres will be constructed both for secure custody and for the treatment of offenders. As another example, in the case of offenders convicted of offences involving violence who have a history of violent behaviour, they will now not be eligible for parole consideration until they have served one-half of their sentence, or seven years, whichever is the lesser. At present, they are eligible after one-third of the sentence is served.

On the legislative side, Bill C-83 increases the penalty for escape or attempted escape from prison from five to ten years. It also repeals the right to statutory remission of sentence, thus eliminating any automatic shortening of the time an inmate must serve in prison. Instead, inmates must earn all remission. The fact that all remission must be earned, that none will be automatic, that it will be subject to forfeiture for misconduct and cannot be restored, will place a greater onus on the inmate to earn, by good behaviour and participation in prison programs, the earliest release date possible. This should promote better conditions within institutions.

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The National Parole Board will be increased from 19 members to 26, and provision is made for the establishment of provincial boards of parole for those provinces which wish to do so. This will allow for fuller consideration of each case in the parole decision-making process and make the system generally more effective. With respect to temporary absences without escort, the period to be served before such privilege may be granted will be lengthened and the authority to grant leave will be transferred from the penitentiary officials to the Parole Board.