

the court could hear representations from the potential beneficiary of a compensation order.

● (1730)

As a general rule, the court must consider a pre-sentence report before passing a prison sentence on a violator who has never been detained. The contents of the pre-sentence report has been widened to include more complete information from all relevant sources, including the violator's school, his employer or other community groups. When imposing a prison sentence, the court must state its reasons, which are noted in the record or put down in writing.

Those proposals ensure that the judge has all relevant information available on the violator and on the potential non-prison penalties before considering the whole gamut of relevant penalties in the circumstances.

As I said, one of the principles that the court must follow before meting out a sentence is that it must consider the range of penalties as a hierarchy, from the least to the most severe one. The scale of penalties proposed by the Criminal Law Reform Act widens the existing penalties and introduces new, efficient and creative ones without prison terms. Each proposed penalty can be imposed alone, or with another one. The least serious penalty under the new proposals is release, with or without parole. That penalty could apply to all the accused, excepting business corporations and persons pleading guilty or found guilty of a crime for which the law provides a minimum penalty or a 14-year or more prison term.

Mr. Speaker, the second option would be a conditional penalty. The offender would take a commitment to good conduct or adhere to other relevant conditions. The conditional penalty would be a regular one, but could only apply to violations for which the law provides no minimum penalty for offenders other than business corporations.

The third option would be probation. Under the proposed amendments, probation would be a regular penalty with mandatory surveillance, and could be imposed in addition to any other penalty.

The proposed amendments widen and encourage the use of compensation as a penalty. Compensation includes both the replacement of property and financial restitution to the victim by the offender. Penalties also include special and exemplary damages for property losses and other financial losses and damages for bodily harm. In addition, the victim or the victim's representative can appeal to the court respecting the loss or damage sustained.

Those proposals require the court to consider factors affecting the offender's ability to pay. This would prevent useless compensation orders.

Moreover, fines would be more frequently used. The current restrictions would be removed to enable the court to impose a fine for any offence, except in causes where minimum penal-

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ties are provided. The maximum fine for a summary conviction offence would be raised from \$500 to \$2,000 for an individual and to \$25,000 for a business. The maximum fine for criminal acts would be set by the court.

Once again, Mr. Speaker, the court should be advised about the ability to pay of the offender before imposing a fine. In addition, jail terms for default of payment would be restricted to cases where default is voluntary and without any valid reason. Nobody would be jailed because he is unable to pay. The same would apply in the case of compensation. In the past, it has been suggested that most native people were jailed for default of payment. In any case, those proposals will guarantee that nobody will be jailed for being truly unable to pay a fine or to comply with a compensation order.

The proposals also officially recognize the alternative solutions to the fine for those who are unable to pay. Another possible penalty would be an order of compensatory work. Those orders would be an important alternative to incarceration which could be useful to the community in two ways. First, the community would save money on jail costs and secondly, the offender would take part in an activity of immediate benefit to the community. Such orders could be imposed for punishable offences on summary conviction as well as for crimes subject to a maximum of 400 hours. Voluntary default could entail a jail term of up to two years for criminal acts and a minimum of six months for offences punishable on summary conviction.

To ensure the effectiveness of penalties other than prison terms, the legislation provides a detailed mechanism of amendment and enforcement. The offender should give a satisfactory excuse in case of non compliance. If the court decides that there is voluntary default, it can alter the terms and conditions of the first penalty and in the case of fines and compensation, it can seize the salary or the property of the offender or, as a last resort, impose a jail term.

The combinations being offered provide an incredibly wide range of sanctions. There is nothing to prevent a creative judge from imposing sentences appropriate both to the offence and to the offender. Resorting to incarceration will be discouraged, but this sanction will always be available when circumstances justify.

The Government shares the concerns of the Hon. Member with respect to native persons and the traditional system, and it has taken steps to improve the situation. The Government is to be congratulated on the proposals contained in Bill C-19 on criminal law reform, which restate the law on sentencing, expand the range of sanctions and reflect the basic principle of our criminal law, namely, that we should always resort to the minimum amount of intervention required and justified by the circumstances.

[English]

Mr. John McDermid (Brampton-Georgetown): Mr. Speaker, thank you for recognizing me. Although I am not the