

harm in circumstances which, while amounting to illegal driving behaviour, may not amount to criminal negligence or manslaughter. That is a bit of a tortured way of explaining it but, as Hon. Members know, law and the legal system often require tortured language to try to explain what is being done. We are creating these new offences to apply in circumstances where there has been illegal driving behaviour but it is not perhaps criminal negligence or manslaughter.

There are three reasons for considering whether steps should be taken to increase sanctions against unlawful driving that causes death or bodily harm. First, it is an anomaly that driving offences should explicitly condemn conduct that creates a grave risk to public safety but fails specifically to condemn the conduct when the risk results in bodily harm or death. Second, an alarming proportion of deaths and grievous injuries involving motor vehicles, vessels and aircraft are caused by negligence or dangerousness which can be attributed in large measure to impairment. Third, public opinion is changing with respect to how we perceive criminality and unlawful driving that causes death or bodily harm, especially where impairment is a significant factor.

The opinion of the public is changing. The public no longer regards drunken driving to be merely some kind of offence that can happen to any of us and for which we might all be guilty and therefore should not be punished too severely. That attitude is changing.

In recent years we have seen many organizations of people who are concerned about the rights of victims. I am continually receiving correspondence from organizations or people whose relatives had suffered terrible injuries in automobile accidents caused by an impaired driver and from organizations whose families have had someone die as a result of impaired driving. They are forming groups and organizations and demanding that we do something about this. We are attempting to do that.

In addition, we are proposing that a new offence of driving while disqualified be enacted. We all know dozens of cases of people whose licences have been lifted by the provincial authorities but who drive and are picked up again. We will create a new offence of driving while disqualified. We expect that the wording of the new offence will rectify the problems that were presented by the Supreme Court of Canada decision in the case of *Boggs versus The Queen*, where the Supreme Court ruled that the current offence of driving while disqualified was *ultra vires*, "beyond our power", because the criminal sanction could be imposed for the violation of a provincial licence suspension pursuant to a conviction for a non-criminal highway traffic offence.

In order to get around that, the new offence will apply only to violations of a new judicial order of prohibition which is contained in this legislation, upon which I will expand later, and violations of provincial licence suspensions that are imposed pursuant to a criminal driving offence. That will get around this difficulty that the Supreme Court of Canada found.

Criminal Law Amendments

I propose that the penalty for dangerous driving be increased from the present maximum of two years to a maximum of five years. If one is convicted of dangerous driving after this legislation is passed, one can be sentenced for up to five years.

I am also proposing that the offence of criminal negligence in the operation of a motor vehicle be repealed. The distinction between negligent and dangerous driving has troubled the courts for many years. In a nutshell, the controversy arises from the need to distinguish driving that shows wanton or reckless disregard from driving that is dangerous to the public. That has been the problem. The repeal of criminal negligence in the operation of a motor vehicle will eliminate these difficulties.

There is no substantive reason why the criminal law should provide for negligent and dangerous driving as separate offences. They are variations of a single concept of risk creation. The offence of dangerous driving is a broader concept and includes instances where liability could be imposed for negligent driving. Increasing the penalty to five years, which was the previous maximum for criminal negligence when you operated a motor vehicle, will give the courts the discretion to impose heavy sentences where the circumstances warrant. I hope the House will support that.

Research shows that the typical drinking driver appears to be male, single, less than 50 years of age and coming from a bar, and driving a car as opposed to a truck or other vehicle. Let me emphasize the fact that the typical drinking driver is male, single, less than 50 years of age, who is coming from a bar and is driving a car. It is likely that the offender has committed other non-criminal traffic violations, and approximately one-quarter of offenders have previously been convicted of drinking and driving offences under the Criminal Code. This suggests that the penalties imposed on these offenders have not worked in the past. That is an argument for increasing the penalties now. Ninety per cent of the offenders are now fined and the fines for impaired drivers range between \$100 and \$300, above the mandatory minimum of \$50 but well below the maximum fine of \$2,000 for a first offence.

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Fines appear to vary somewhat by offence and in different parts of the country. They are usually higher in western and Atlantic Canada than they are in central Canada. I do not know why that is but it is a fact. The courts are now prepared to impose fines substantially above the average where circumstances warrant. Depending on the province, 25 per cent to 40 per cent of all Criminal Code matters—and this is interesting, Mr. Speaker; I know this is a bit turgid and heavy—

Mr. Waddell: And fascinating.

Mr. Crosbie: Is the Hon. Member for Vancouver-Kingsway (Mr. Waddell) fascinated?

Mr. Waddell: Yes.