

*Government Orders*

The bill includes provisions that allow the provinces to establish programs of alternative measures for individuals charged with an offence. Included in the bill at the express request of the provinces, these provisions are based on similar provisions in the Young Offenders Act and are intended to draw on the provinces' experience in developing and administering programs of this type.

[English]

Among the fundamental purposes of this bill is to codify and legislate for the first time in Canadian law a statement of the purposes and principles of sentencing.

• (1515)

Until now, as hon. members know, the sentencing process has been guided and determined by principles developed only by the courts. While the common law system has produced cogent statements of those principles by judges across the country, the commissions, the committees and the authorities to which I referred at the outset have all recommended for years that those purposes be legislated by Parliament for the purpose of uniformity.

In this bill Parliament is given the opportunity to declare the key purposes of sentencing, to put before judges a list of factors to be taken into account, to provide direction to encourage uniformity so that the purpose of the process can be properly understood and so that it might be rendered more predictable than it is at present.

What are those purposes and principles? They are spelled out clearly and in plain language in the statute. The sentence would reflect the seriousness of the offence. There would be similar sentences for comparable crimes. Those who contravene the criminal law must face punishment. They should be separated from society where appropriate. Rehabilitation should be one of the objectives to be achieved. Similarly in passing sentence the court should take into account factors that either aggravate or mitigate the sentence such that they are fairly considered in the process.

Let me touch briefly on some of the main elements of Bill C-41 as I believe it improves the sentencing process in place at present.

First of all, let me touch upon the perspective of the victims of crime. In relation to victims, I refer to the changes to section 745 of the code, a section which has achieved some fame in this Chamber as a result of challenges to its continued existence.

That section provides that where someone is serving a sentence with a period of parole ineligibility longer than 15 years, after that period they can ask a court to permit them to apply for parole notwithstanding the extended parole ineligibility. The change in that section contemplated by C-41 would obligate the court on

such an application to hear from the family of the victim so that they have an opportunity to have an impact on that process.

Bill C-41 also broadens considerably the rights to restitution in the criminal law so that victims and the rights of victims to compensation become a regular part of the sentencing process. Compensation for victims will now be dealt with as part of the normal process of sentencing rather than requiring special application.

The restitution provisions in Bill C-41 would allow the enforcement of a restitution order for the benefit of the victim in the regular civil courts. The making of a restitution order would in no way limit the right of the victim to sue for damages.

Bill C-41 also improves the present process with respect to the payment of fines when fines are imposed as a penalty in the criminal process. The fact is that today there are too many people taking up space in jails and prisons because of the non-payment of fines. It simply does not make sense to spend more to keep them there than the state would have gained upon the payment of the fine imposed.

This bill ensures that the court will determine in advance of imposing a fine the ability of the offender to pay. It provides that if the person cannot pay, alternatives such as requirements to perform community service will be considered and imposed. It also provides for the use by the provinces of their own mechanisms, since each of them have them in place, to collect fines that the court assesses. It provides that instead of jailing someone for not paying a fine. Provinces may exercise powers to withhold licences or privileges to encourage or require the person to pay what the court has ordered. As a result of all of the measures which I have just summarized, prison will be a last resort for the non-payment of a fine.

• (1520)

Another of the areas in which Bill C-41 achieves improvement has to do with probation as a sentence, a very common sentence in Canadian criminal law. Bill C-41 lays out a process to ensure that the courts have access to more and better information at the time when they are imposing that sentence, information by way of pre-sentence reports which will tell the judges and the courts more about the offender.

Bill C-41 provides for an increase in the penalties for breach of a probation order. It provides for greater clarity and cogency in the conditions which apply to probation.

Another innovation in the bill is the introduction for the first time in the context of adult sentencing of alternative measures. By providing for this instrument, the federal government is responding to requests made by the provinces themselves. Each province will have the right to set up and administer its own process of alternative measures.

For offenders who are before the court for the first time, never before having committed an offence and are facing charges of a