

*Government Orders*

Moreau feels that the accused should be tried in adult court as "at that age he is conscious of what he has done".

These young people are tired of being painted with the same brush as those who are doing the offending. They are fed up with losing close friends to violence. They are sending a very clear message to us in this House that they demand change.

We have received correspondence from parents who are terrified to send even young children to school because of threats from older students, typically 10 to 12-year-olds. They would bully, set up vigilante parties and generally make it impossible for their targets to function in the classroom, hallways or schoolyard. The assault is often so subtle that it is many months before parents or teachers are aware there is anything wrong. By definition these bullies are young offenders and should be held accountable.

One failing of the age parameters corresponds directly to the situations I have just outlined. The police are very reluctant to become involved in answering calls involving children under 12 years. The result is that the schools and parents are left to deal with such behaviour with little community resources available to them. The offenders are therefore left to wreak havoc until their 12th birthday, when they are often firmly entrenched in antisocial behaviour.

Parents cry for help but receive little satisfaction. The case of Michael Smith has been mentioned in this House before. He is the 11-year old who has stolen over 30 cars and stands defiantly dedicated to continue to do so until he turns 12. Michael is quite literally an accident going somewhere to happen as he careens through the streets of the Vancouver area. His mother has publicly denounced his behaviour in the press identifying him and his actions but authorities are powerless to help her. More tragically, our system is unable to help Michael. He is desperately crying out for limits to be set and under the Young Offenders Act and now under Bill C-37 we stand unable to provide those limits. He is not a young offender by definition.

The Liberals speak so eloquently that the causes of violent crime are patent, and they are poverty, and they are dysfunctional families, and they are abusive children and it is hopelessness. I am sure Bonnie Hartwick, Michael's mother, is not pleased that the minister has so glibly packaged and labelled her life in one line of rhetoric. That her pleas are falling on deaf ears is ample proof that this government really has no clue about the reality of ordinary people's lives. I suggest that the hopelessness she feels is a direct result of the age limits the minister is unwilling to change.

The minister announced highlights of the bill which merit a focused response even at second reading. Increased sentences for teenagers convicted of first and second degree murder in

youth court are increased to ten and seven years respectively from the former five years maximum.

• (1655)

In reality for first degree murder within the maximum 10-year total sentence Bill C-37 provides six years of custody followed by four years of community supervision. Only by exception after a hearing can a judge choose at the automatic annual court reviews of custody sentences that an offender can be kept in custody another year rather than receive community supervision. It can only be done if the offender if released is likely to commit an offence causing death or serious harm. The maximum, no minimum stated, combination sentence of jail and community supervision is 10 years for the individual murder offence. Second degree murder brings a maximum seven years, a four and three combination.

There is enough inherent discretion and flexibility in the adult system for individual circumstances to be taken into account for the adult consequences to generally apply to youths 16 years and over. The age of operation of the YOA remains unchanged at 12 to 17 inclusive under Bill C-37, rather than to the desired 10 to 15 inclusive.

An adult convicted of first degree murder is liable to jail for life without eligibility for parole for 25 years, section 742(a) of the Criminal Code, but may apply for judicial review of the period of ineligibility after 15 years, section 745 of the Criminal Code. A person convicted of second degree murder is liable to jail for life without eligibility for parole for a period between 10 and 25 years, section 742(b) of the Criminal Code.

Bill C-37 expands the consequences for murder within the Young Offenders Act. Therefore, by this greater accommodation it will be less likely that youth murderers will be transferred to adult court. The result may bring about a softening of the law as more murderers will remain under the Young Offenders Act and then be released earlier instead of being transferred to the adult court under the former provisions.

The bill highlight also mentions that 16 and 17-year-olds charged with serious personal injury offences can be transferred to adult court unless they can show a judge that public protection and rehabilitation can both be achieved through youth court. For this new category the onus is on the offender to demonstrate. Previously it was the crown which had the onus to demonstrate, as it still does on all other transfers to adult court applications.

Currently a young offender must be 14 years old to be eligible for transfer to adult court and must have committed an indictable offence, section 16 of the YOA. Bill C-37 additionally says that those 16 and 17-year-olds who commit murder, attempted murder, manslaughter, aggravated sexual assault and aggravated assault will have the onus on them to show they should not be transferred.