

Government Orders

crimes committed by young offenders and still maintain a section for rehabilitation.

As I indicated, the Department of Justice is not the only department that has that responsibility. Communities, parents, regions, provinces as well as hon. members in the House have a responsibility to contribute in a positive way.

Mr. Forseth: Madam Speaker, on a point of order. I wonder if I may have the unanimous consent of the House to ask just one brief question of my colleague?

The Acting Speaker (Mrs. Maheu): Does the hon. member have the unanimous consent of the House?

Some hon. members: Agreed.

Mr. Paul E. Forseth (New Westminster—Burnaby): Madam Speaker, can my colleague advise the House on behalf of the government if aboriginal young offenders need special attention for those likely to receive a custody sentence? Is the required denunciation of custody different for native young offenders?

Ms. Blondin—Andrew: Madam Speaker, I believe there is equal application of the law for young offenders. Because of the rate of recidivism and the higher rates of incarceration for aboriginal people generally, as I indicated, the rate of incarceration exceeds the population for men in particular. I am not sure that pertains to young offenders but I would venture it would be very close.

Having said that, I do not think there is any special treatment. If there is any special treatment it is to create equality not to create inequality. There are such inconsistencies and such marginalization right now that there is definitely a constitutional disadvantage applied to young aboriginal people.

• (1640)

[Translation]

Mr. Antoine Dubé (Lévis): Madam Speaker, I welcome this opportunity to speak to Bill C-37 as to Opposition critic for Training and Youth. Two principles are set out in the first clause of this bill which are worth repeating first, crime prevention is essential to an orderly society and second, young persons should not be held accountable for their behaviour as adults, but must nonetheless bear responsibility for their actions. These principles go along the same lines as points made by other Official Opposition members.

Bill C-37 refers to crime prevention, yet it contains nothing but repressive measures. It would seem that rehabilitation for young offenders is dependent upon coercion and imprisonment. Transferring to adult court 16- and 17- year olds charged with serious crimes is not in keeping with the stated principle that

young persons should not be held accountable as adults. Yet this transfer procedure is a major feature of Bill C-37.

Amendments are introduced in clauses 3 and 8, whereby 16- and 17- year olds charged with criminal offenses causing death or serious injuries would systematically be proceeded against in adult court. The onus is on the young person to apply to be tried before a youth court judge.

Also, 16- and 17- year olds charged with assault causing severe bodily harm will have to convince the court they should be proceeded against in youth court, or else they will be tried in adult court. It used to be up to the Crown to decide whether to transfer the young person or not. A transfer procedure is now in place for young people aged 14 and up, and it is up to the Court to demonstrate that adult court is the only court qualified to hear serious cases.

So different age groups are treated differently by the courts. Those between 12 and 15 will not be treated the same as 16- and 17-year-olds if they commit serious crimes. Some lawyers will undoubtedly argue that this violates the right to equality before the law as provided for in Section 15 of the Canadian Charter of Rights and Freedoms.

Now on to psychological and medical considerations. Clause 4 of Bill C-37 would allow the courts to direct that teenage repeat offenders undergo psychological or medical examinations. At the present time, such examinations are allowed only if the court has reasonable grounds to believe that a young person may be suffering from a psychological disorder. Young repeat offenders are regarded as mentally ill rather than as normal human beings damaged by their living conditions. This clause also has a legal dimension. Requiring a person to undergo a psychiatric assessment based on their criminal record may violate basic rights in the Charter.

This measure is troubling because some provinces like Alberta, Manitoba and Saskatchewan do not have a system to look after young people in trouble. Youth custody conditions and their administration come under provincial jurisdiction. These young people may be the victims of some provinces' lack of supervision resources and end up spending more time in adult jails.

It is not normal for a court to bypass the reasonable grounds prescription to send a young person to a psychiatric institution for assessment. These psychological reports could be disclosed to third parties, which may violate the principle of confidentiality for teenagers' records.

This disclosure of records is expanded upon in Bill C-37, which calls for a better exchange of information on young offenders between the various police forces, school authorities and social workers involved. We must ensure that this exchange of information is restricted, because the public and the media are getting more and more interested in young offenders, so that