

Act, is further amended by adding thereto the following subsections:

"(6) Every one who drives a motor vehicle on a street, road, highway or other public place recklessly, or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition, and use of the street, road, highway or place, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on such street, road, highway or place, shall be guilty of an offence and liable

(a) upon indictment to imprisonment for a term not exceeding two years or to a fine not exceeding one thousand dollars or to both such imprisonment and fine; or

(b) on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred dollars or to both such imprisonment and fine.

(7) Where any person is convicted of an offence under the provisions of subsections one, two, four or six of this section the court or justice may, in addition to any other punishment provided for such offence, make an order prohibiting such person from driving a motor vehicle or automobile anywhere in Canada during any period not exceeding three years.

(8) Every one is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred dollars or to both such imprisonment and fine who, whilst disqualified from driving a motor vehicle or an automobile by reason of the legal suspension or cancellation in any province of his permit or licence to drive therein, or by reason of an order made under the provisions of subsection seven of this section, drives any motor vehicle or automobile anywhere in Canada."

Hon. Mr. HARDY: Honourable senators, I think there is a disproportionate penalty provided in at least one, if not more, of these subsections. It seems to me that the provision for imprisonment "not exceeding two years" or a fine "not exceeding one thousand dollars," or a combination of "both such imprisonment and fine," is altogether excessive. Experience has shown that when penalties are too severe there is more likelihood of guilty persons being acquitted. I realize that the magistrates and judges have some discretion in the matter, but I think the maximum limits of the penalty are altogether too high. Compare them with the penalty provided by section 15, which we have just passed. Under that section, if a person is guilty of a hit-and-run offence he is liable to a fine of not more than \$500 or to imprisonment for a term not exceeding six months. Yet under this section 16 a man convicted of reckless driving, even though no accident had occurred, could be given a much heavier sentence. Under subsection 8 another very heavy penalty is provided for a person convicted of driving when his licence is suspended: he may be sentenced to prison for a term not exceeding six months, or fined not more than \$500,

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or made to serve the term and pay the fine as well. Of course I realize that some serious instances may arise where it is necessary to deal severely with a person who drives when his licence is suspended, but if some thoughtless young person whose licence has been cancelled decides to drive and run the risk of being caught, he may be placed in jail for six months along with hardened offenders. To my mind these penalties are atrocious, barbaric.

Hon. Mr. CALDER: What penalty is inflicted upon parents whose child is killed by a reckless driver? That is something far worse than anything to which my honourable friend has referred. In my opinion this amendment is an attempt to take care of a situation that has become simply dreadful.

Hon. Mr. HARDY: I realize that.

Hon. Mr. CALDER: Severe penalties must be provided if this situation is to be improved. The man or woman or boy who drives a motor-car recklessly should be made to understand that that sort of thing must stop.

Hon. Mr. MURDOCK: Hear, hear.

Hon. Mr. CALDER: The toll of death resulting from reckless and inefficient driving, all over this continent, is terrible.

Hon. Mr. DANDURAND: And I may say to my honourable friend that the provinces are wide-awake to the seriousness of the situation. They are moving ahead of us in the matter of increasing penalties. For a second offence Ontario has already provided as severe penalties as those proposed in this amendment.

Hon. Mr. MURDOCK: Justification for penalties of this kind is surely to be found in the fact that for the last ten years an average of more than 40,000 persons a year have been killed by automobiles in the United States.

Hon. Mr. BEAUBIEN: Yes.

Hon. Mr. MURDOCK: And in Canada during the last ten years there has been an average annual death toll from automobiles of 1,150. Can laws possibly be too severe in the face of a situation like that?

Hon. Mr. HARDY: In England, where the penalties are heavier than here, motor accidents and deaths therefrom have been increasing right along. I have known of instances of merely thoughtless driving—not what could be called reckless driving—where motorists have had their licences cancelled for two or three years. For what we might regard as a