

*Young Offenders Act*

## Motion No. 1

That Bill C-106, be amended by adding immediately after line 45 on page 5 the following:

"(9) Subsection 11(1) of the said Act is repealed and the following substituted therefor:

"11.(1) A young person has the right to retain and instruct counsel without delay, and to exercise that right personally, at any stage of proceedings against the young person and prior to and during any consideration of whether, instead of commencing or continuing judicial proceedings against the young person under this Act, to use alternative measures to deal with the young person.""

and by renumbering the subsequent Clauses accordingly.

**Mr. Gordon Towers (Parliamentary Secretary to Solicitor General of Canada):** Mr. Speaker, the amendment to Section 11 of the Young Offenders Act is required as a result of a ruling by the Manitoba Court of Appeal to the effect that young people are considered incapable of directly instructing legal counsel. Rather, that court has held that young people can only instruct counsel through a parent or guardian.

This is obviously in conflict with the principle that adolescents are responsible for their behaviour and should be held accountable for their illegal acts. It also contradicts many of the expressed provisions and other principles of the Young Offenders Act. The ruling is the source of potentially disastrous impediments to the reasonable and proper administration of the juvenile justice system.

While this amendment was beyond the scope of the committee's power to act, it was nevertheless generally supported and recommended as a measure that would provide a ready and clear direction to the courts in Manitoba and elsewhere. The amendment itself is a simple one, but one of immediate importance as a clear expression of Parliament's intent that young people dealt with under the Young Offenders Act independently and personally instruct defence counsel.

**Mr. Svend J. Robinson (Burnaby):** Mr. Speaker, I rise only to indicate that I am pleased that the Government has put this amendment forward. I raised this issue during the hearings of the legislative committee on Bill C-106. I indicated that this particular provision should have been included in the legislative package. We received representations from a number of witnesses on this point. I believe that the argument put forward by the Parliamentary Secretary to the Solicitor General (Mr. Towers) is an important one. Young people should in fact have the right to retain and direct their own legal counsel. While the Manitoba Court of Appeal decision was being appealed to the Supreme Court of Canada, I believe it was an erroneous interpretation of the Young Offenders Act.

• (1530)

That being said, it was felt that it was important to clarify this matter and I am pleased that by virtue of the creativity of the Chair we have been able to achieve that important objective.

**Mr. John Nunziata (York South—Weston):** Mr. Speaker, on behalf of the Official Opposition I too would like to express support for this provision. I concur fully with the submissions

made by the Parliamentary Secretary and the Hon. Member for Burnaby (Mr. Robinson). I am also appreciative of the fact that the Chair found a way of allowing this amendment to come forward.

**Mr. Speaker:** The question is on Motion No. 1 standing in the name of the Solicitor General of Canada (Mr. Beatty). Is it the pleasure of the House to adopt the motion?

**Some Hon. Members:** Agreed.

Motion No. 1 agreed to.

**Hon. Perrin Beatty (Solicitor General of Canada)** moved:

## Motion No. 2

That Bill C-106, be amended in Clause 19

(a) by striking out line 41 at page 14 and substituting the following therefor: "19.(1) Subsection 27(1) of the said Act is".

(b) by adding immediately after line 14 at page 15 the following

"(2) Subsections 27(3) to (5) of the said Act are repealed and the following substituted therefor:

"(3) In any province where the youth court is a superior court, an appeal under subsection (1.1) shall be made to the court of appeal of the province.

(4) In any province where the youth court is a county or district court, an appeal under subsection (1.1) shall be made to the superior court of the province.

(5) No appeal lies pursuant to subsection (1) from a judgment of the court of appeal in respect of a finding of guilt or an order dismissing an information to the Supreme Court of Canada unless leave to appeal is granted by the Supreme Court of Canada within twenty-one days after the judgment of the court of appeal is pronounced or within such extended time as the Supreme Court of Canada or a judge thereof may, for special reasons allow."

**Mr. Gordon Towers (Parliamentary Secretary to Solicitor General of Canada):** Mr. Speaker, this amendment would adjust the Section references in Section 27 of the Act to accommodate changes which have been introduced. The amendments are technical drafting matters but serve to ensure that the appeals process under the Act is not open to interpretation difficulties or rendered inoperative because of technical problems.

**Mr. Speaker:** The question is on Motion No. 2 standing in the name of the Solicitor General of Canada (Mr. Beatty). Is it the pleasure of the House to adopt the motion?

**Some Hon. Members:** Agreed.

Motion No. 2 agreed to.

**Hon. Perrin Beatty (Solicitor General of Canada)** moved:

## Motion No. 3

That Bill C-106, be amended by adding immediately after line 2 at page 30 the following:

"38.(1) Subsection 60(1) of the said Act is renumbered as section 60.

(2) Subsection 60(2) and (3) of the said Act are repealed."

and by renumbering the subsequent Clauses accordingly.

**Mr. Gordon Towers (Parliamentary Secretary to Solicitor General of Canada):** Mr. Speaker, this amendment would alter the provisions affecting the testimony of young people and,