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## SAFE STREETS AND COMMUNITIES BILL

Second Reading of Bill C-10—Debate Continued

Speech by:

The Honourable Larry W. Campbell

Thursday, December 15, 2011

## THE SENATE

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### SAFE STREETS AND COMMUNITIES BILL

#### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Runciman, seconded by the Honourable Senator Stewart Olsen, for the second reading of Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts.

**Hon. Larry W. Campbell:** Honourable senators, I rise today to speak on Bill C-10, the safe streets and communities act, specifically the sections pertaining to drug crime.

The passage of Bill C-10 will increase the maximum penalty for the production of marijuana from 7 years to 14 years. It will reduce the use of conditional sentencing and mean harsher sentences for youth offenders and tougher pretrial detention laws. It will create a number of mandatory minimum sentences for serious drug offences, including a one- or two-year minimum, depending on aggravating factors, for possession for the purpose of trafficking in marijuana. It will also result in an incredibly disproportionate six-month mandatory minimum sentence for individuals who grow as little as six marijuana plants. These parts of the bill are deeply flawed. They are based on ideology rather than sound evidence and do not address underlying issues behind drug use in Canada.

I do not believe this proposed legislation is in the best interest of Canadians, so I cannot and do not support its passage in its current form for the following reasons.

First, mandatory minimum sentences remove judicial discretion for sentencing. It is judges, not politicians, who are in the best position to assess individual cases and decide whether a six-month or a two-years-less-a-day prison sentence is a just consequence for a crime committed or whether it will simply make a career criminal out of a young person who has made bad choices.

I was thinking about this and I remembered that I was once in North Vietnam and was taken to a prison that had been set up by the French government. They brought people from all over Vietnam who were against the French and had planned a revolution. This included Ho Chi Minh and General Giap. None of these people knew each other but met in prison. Through these meetings, actions were formed, the French were forced out of Vietnam and the war with the United States took place. The person I was with stated that the French thought they were building a prison, when in fact they were building a university.

Experience dictates that prisons are incredibly efficient at taking in desperate and misguided individuals and turning out hardened criminals. Furthermore, the specifics of the mandatory minimums proposed in this bill are particularly senseless. Exactly what is the empirical evidence indicating that growing

five marijuana plants could be punishable by a fine, while growing six demands six months served in jail?

I have some experience in the field of drug enforcement. It would be a complete waste of time and energy for me to “sit” on six plants in an attempt to build a case. In fact, in the majority of cases, no charges are ever laid because of the lack of evidence to support the charge. It could be due to the location of the grow-op outside or the people inside — usually immigrants who rent but have nothing to do with the grow-op — or a lack of substantial evidence.

These crimes should be investigated thoroughly and punishment should be determined by a court of law based on the nature of the crime as a whole and not on an arbitrary number of plants or, indeed, any arbitrary number at all. It is entirely possible that someone could be convicted of possession for the purpose of trafficking with fewer than six plants.

It should never be a number or quantity but, rather, evidence gathered by the police and presented to a court that should determine guilt or innocence. In answer to Senator Tkachuk’s query, I admit that I would be hard-pressed to state that anything over 100 plants would be considered personal. However, from seizure to court requires proper investigation. After all, I am from British Columbia, where the marijuana trade is estimated to be worth up to \$7 billion. I could go off on a tangent and relate the benefits of regulating and controlling marijuana, but I will leave that for another time.

Second, this bill is not cost-effective. Whenever one looks at a bill, a cost benefit analysis must be done. Is it worth the effort to put out certain actions? Will the result be beneficial and worth more than the money and time you spend? This is not true for this bill, in particular for our provincial governments. They will carry the burden of these huge incarceration costs. With the implementation of these mandatory minimums, a large number of six-month and one-year sentences will be meted out. As honourable senators know, any sentence less than two years is to be served in a provincial jail rather than a federal jail.

According to an article yesterday in *The Globe and Mail*, federal government documents estimate that the price tag for the changes to legislation related only to young offenders will be \$717 million over a five-year period. Provincial governments are expected to pay for half that cost, and I suggest to honourable senators that it will be much more than half that cost. The Quebec Ministry of Public Security recently estimated that it will cost Quebec an extra \$294 million to \$545 million to expand prisons in order to accommodate the increase in prisoners. Already we have heard some provinces state that they refuse to foot the bill for the cost of this proposed legislation, which, obviously, they do not see as value for money.

If we continue on this path, an ever-increasing amount of taxpayers’ dollars will be spent on mega-prisons, which will be filled endlessly. We will find that, like the United States, we will have a burgeoning trade in building prisons. Honourable senators, think of it. It is like building a Holiday Inn and never having to worry about someone coming and staying, because your

occupancy rate is guaranteed and the money you receive for it is guaranteed. These tough-on-crime tactics defy common sense and are not sustainable.

Third, our prisons are becoming overcrowded already with disproportionately high numbers of Aboriginals, females, poor and mentally ill prisoners. Bill C-10 will only make things worse.

**An Hon. Senator:** Oh, oh.

**Senator Campbell:** That is right; it is already bad. I totally agree. This bill will make it worse because we do not have the place to put the people whom we will be sentencing. This bill will not accomplish its intended goal of cracking down on gangs and other organized crime rings.

• (1610)

The war on drugs, which prompts this legislation, will only waste money and worsen the situation for our most vulnerable citizens, all the while benefiting crime bosses, druglords and high-end gang members.

Inevitably, more poor, addicted, mentally ill and Aboriginal Canadians will cycle through the prison system, instead of receiving desperately needed help. Our own Correctional Investigator, Howard Sapers, recently said that this bill will only exacerbate problems related to population-specific overcrowding that currently exist in our prison system. The Canadian Psychiatric Association recently stated that this bill will only worsen an already bad situation in which mentally ill Canadians are being warehoused in prisons as a last resort when treatment is not available to them.

The Manitoba Grand Chiefs are urging the government to stop this bill, as they believe it will negatively impact First Nations in their province and does not address the real problems many Aboriginal communities currently face.

Honourable senators, why has the Conservative government ignored the voices of these and other marginalized groups? There is simply not enough empirical evidence to support this legislation. In fact, the evidence demonstrates the opposite: It will fail to reduce drug use.

Recently retired senior adviser at the Department of Justice, David Daubney, spoke out against the legislation, stating in an interview that when it came to crime policy,

It was clear the government was not interested in what the research said or in evidence that was quite convincingly set out.

We have seen the disastrous effects that mandatory minimums and longer sentencing has had in the United States. This government cannot continue to ignore these facts nor, in fact, the pleas from conservative experts in the southern United States, who urge us not to make the same mistakes they did.

Honourable senators, this tactic has been tried, tested and, in the United States, amended. With the implementation of a shockingly similar “tough on crime” stance in Texas, their megaprisons became highly overcrowded and their court systems overloaded, and their crime rates did not drop. However, since they reversed these policies completely and focused on treatment programs and probationary measures, crime rates and crime-related costs have fallen. In the five years directly after the Texas government made a 180-degree turn in their policy, the rate of incarceration in Texas dropped by 9 per cent, and the crime rate dropped by 12.8 per cent.

Honourable senators, we cannot afford to move in the wrong direction for years before we finally learn the same lesson.

What is more, contrary to what this Conservative government is saying, Canadians are not fearful of their streets and communities. According to a poll referenced in *The Globe and Mail* on December 12, 93 per cent of Canadians feel safe from crime. The article goes on to ask an excellent question: “Why, then, spend billions of dollars to go backward?”

I would like to address this idea of fear. For over 40 years, as a member of the RCMP and the British Columbia coroner’s service, and as mayor, I have dealt with the fear of others. In the beginning, I tried to dismiss these fears as irrational. I realized, however, that fear is real, regardless of reality. Fear can only be dealt with by timely, factual information. It is the responsibility of a government to address fear, not to create it. While this bill may calm the fears of the 7 per cent, it does nothing to, in fact, make Canada a safer or less dangerous place.

With virtually all forms of crime dropping, we should be looking at the causes of the decline and working toward ensuring it continues. We need to work towards solving the underlying issues that are the driving force behind crime in our country, instead of throwing harsher punishment and jail terms at our most vulnerable populations.

This bill will capture those at the bottom. This bill will capture the young. This bill will capture, yes, the stupid. This bill will capture the wannabes. This bill will not capture druglords. This bill will not capture those who are sending the drugs overseas, and this bill most certainly will not stop cultivation in this country.

We have to look at new ways of solving old problems: harm reduction strategies, community-based strategies, youth programs that deal with high risk sectors of the population, and scientifically sound solutions. These are the only ways to improve this situation.

Honourable senators, the sections of Bill C-10 that attempt to crack down on drug use are simply not good policy. In its current form, this bill will not accomplish its intended goal, which is to create safe streets and communities. It will only fill prisons, overload courts and burden taxpayers with ever mounting costs.

I strongly oppose this bill.