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—
Chair

Mr. Art Hanger

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• (0905)

[English]

The Chair (Mr. Art Hanger (Calgary Northeast, CPC)): I'd like to call the Standing Committee on Justice and Human Rights to order, pursuant to the order of reference of Wednesday, October 4, 2006, regarding Bill C-18, An Act to amend certain Acts in relation to DNA identification.

We'll be going through clause-by-clause as a committee this morning. We have witnesses on standby: Mr. Bird, senior legal counsel for the Royal Canadian Mounted Police; and from the Department of Justice, Mr. Greg Yost.

I believe everyone has the agenda before them as well as any explanations dealing with many of the clauses. I see there was an additional information form passed around on Bill C-13 and Bill C-18, as to how they are connected to one another, should anyone have any further questions.

I'm not sure if there are any questions or comments on the bill, but to date, no amendments have been received by the chair.

I would ask if the committee members wish to vote on all clauses at once, given the fact that there are no amendments.

Mr. Ménard.

[Translation]

Mr. Réal Ménard (Hochelaga, BQ): Mr. Chairman, I would be in favour of not having a recorded vote for each clause. In order for us to do our work as lawmakers properly and to be above reproach, perhaps we can ask the department to recall for our benefit the clauses over which the court has no possibility of exercising its judicial discretion and those situations where its response should be automatic.

I read the documents yesterday and the clauses pertaining to mental disorders weren't clear to me. Could you enlighten me on this score?

These are the two pieces of information that would be helpful to me. For everything else, I would be happy to go with one vote, if that's what my colleagues want.

Mr. Greg Yost (Counsel, Criminal Law Policy Section, Department of Justice): Just give me a few seconds to find the relevant provision in Cournoyer.

Bill C-13 adopted by the previous Parliament created 16 offences of such an egregious nature that the judge has no choice but to make on order. Subsection 1(5) on page 2 of this bill lists these primary

designated offences of an egregious nature: living off the avails of prostitution of a person under the age of eighteen years; murder; manslaughter; attempt to commit murder; causing bodily harm with intent — firearm; causing bodily harm with intent — air gun or pistol; administering noxious thing with intent to endanger life or cause bodily harm; overcoming resistance to the commission of an offence; assault with a weapon or causing bodily harm aggravated assault; unlawfully causing bodily harm; sexual assault with a weapon, threats to a third party or causing bodily harm; aggravated sexual assault; kidnapping; robbery; and extortion.

These are the 16 designated offences for which there would be no judicial discretion to refrain from making a DNA order.

Mr. Réal Ménard: So then, if I understand correctly, in the case of so-called secondary designated offences, the accused must show cause that a DNA order could be prejudicial to him.

Mr. Greg Yost: I'd like to clarify something here.

There are several different primary designated offences. For example, if the person is a member of a criminal organization, the onus is on that person to convince the court.

In the case of secondary designated offences, the Crown must make the request of the judge. The latter will decide, in keeping with the sound administration of justice and based on the person's criminal record, the circumstances surrounding the offence, etc.

That's how it works. There are three categories: the 16 most egregious primary designated offences, other primary designated offences and secondary designated offences.

Mr. Réal Ménard: I have one last question. Could you clarify for us the scope of the bill's provisions with respect to obtaining retroactive orders?

Mr. Greg Yost: The scope of Bill C-13 has been broadened to add to the list murder and one of the sexual offences. For example, all persons having dangerous offender status are included in this list. Manslaughter has also been added.

The bill also adds to the list attempted murder and conspiracy to commit murder.

Under the current act, the person must be serving a two-year sentence for the offence in question. The legislation only says that the person must be in the process of serving the sentence. These sentences are only rarely handed down, in fact, there are only about twenty cases. Overall, the offender may be serving a 15-year sentence for kidnapping or some other crime, and three sexual assaults. However, the judge will only add one year to the sentence for each sexual assault. This individual will now be subject to the new regime.

With Bill C-18, approximately 200 more people will now be subject to the retroactive provisions of Bill C-13, which is already in effect and which targeted 4,000 individuals.

[*English*]

The Chair: Are there no other questions?

Seeing no other questions or debate, I'm going to ask the committee if they're willing to go quickly through the bill, clauses 1 to 52.

• (0910)

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Mr. Chair.

The Chair: Mr. Comartin.

Mr. Joe Comartin: I want to be recorded as voting against.

The Chair: The bill?

Mr. Joe Comartin: Yes.

The Chair: Okay. On division.

Mr. Joe Comartin: Thank you.

(Clauses 1 to 52 inclusive agreed to on division)

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Agreed to on division.

Shall the bill carry?

Some hon. members: Agreed.

The Chair: Agreed to on division.

Shall the chair report the bill to the House?

Some hon. members: Agreed.

The Chair: Agreed to on division.

Thank you all. That was very quick.

I would ask that the committee remain. We have some quick business to attend to.

Thank you, witnesses, for appearing this morning.

[*Proceedings continue in camera*]

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