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Chair

Mr. Mike Wallace

Standing Committee on Justice and Human Rights

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• (1530)

[English]

The Chair (Mr. Mike Wallace (Burlington, CPC)): I call this meeting to order.

This is meeting number 69 of the Standing Committee on Justice and Human Rights. Pursuant to the order of reference of Wednesday, September 24, 2014, we're dealing with Bill C-587, an act to amend the Criminal Code (increasing parole ineligibility). We are dealing with clause-by-clause today.

We are joined by John Giokas from the Department of Justice, in case there are any questions.

John, thank you for coming.

We are going to do clause by clause, but just before we get going, the bells will soon start ringing, and if we have some time after this is done, I have some things to discuss about what we will next Wednesday and for the rest of today.

Pursuant to Standing Order 75(1), consideration of clause 1, the short title, will be postponed.

(On clause 2)

The Chair: Madam Boivin.

Ms. Françoise Boivin (Gatineau, NDP): Actually, I have a general question for Mr. Giokas.

My only preoccupation with regard to Bill C-587 is whether anybody from your services has reviewed the impact that Bill C-53 could have on part of Bill C-587. Is there any possibility of conflict between the “life means life” and this kind of *facultatif* power to the court to push the *libération conditionnelle* for up to 40 years.

I am just wondering, because some crimes mentioned in Bill C-587 could be seen in Bill C-53. I just want your thoughts on this, because I'm kind of afraid that the courts might have a problem at some point in time when facing a conflict between two conflicting dispositions.

Mr. John Giokas (Counsel, Criminal Law Policy Section, Department of Justice): Thank you for the question.

We have studied it. Let me just say at the outset that, as you know, the murder sentencing provisions have become a bit complicated over the years, and for about 10 years there have been calls for another review of the sentencing provisions of the Criminal Code in order to look at exactly these issues. That hasn't been done, but we are aware of them.

Bill C-53 and Bill C-587 do criminalize the same conduct. Under Bill C-53, people who engage in the conduct that is referred to in Bill C-587 could be caught in two ways. The first way would be under the mandatory aspect of Bill C-53. If somebody commits a sexual assault and/or a kidnapping—let's just say they commit a sexual assault and a kidnapping and a murder in the same criminal transaction—and the murder were planned and deliberate, they would be subject to a mandatory sentence of life imprisonment without parole eligibility.

If “planned and deliberate” could not be proved, the person would nonetheless be subject to a life sentence of imprisonment without parole eligibility on a discretionary basis, based on the same test that is used in the Criminal Code with regard to second degree murderers and multiple murderers, which is the same test that Bill C-587 proposes.

If they were not subject to a discretionary life sentence of imprisonment, they could still be subject to the measures that Bill C-587 proposes if there were three convictions entered. That's one of the differences between what Bill C-587 does and what Bill C-53 does.

Under Bill C-53, we follow the standard Criminal Code procedure, which is that in this type of situation the only conviction that needs to be entered is for the murder, and then the elements—in this case the sexual assault and kidnapping—would need to be proven beyond a reasonable doubt—

• (1535)

Ms. Françoise Boivin: You mean that they were planned and deliberate.

Mr. John Giokas: —but you would not need to enter a conviction.

Generally crown counsel prove the murder and the sexual assault or the kidnapping, but not both. However, in a case such as that of Luka Magnotta, the actual murder contained enough evidence of the elements, so it wouldn't have been hard to prove all three and to get convictions for all three. That is not normally what prosecutors do.

My long answer to your short question is yes, there is some overlap, but the distinguishing characteristic of Bill C-587 is that it requires three convictions, not one.

Ms. Françoise Boivin: I always appreciate it when somebody calls my questions short.

Some hon. members: Oh, oh!

Ms. Françoise Boivin: Members of the committee will know about that.

Your answer is pretty clear to me legally, but aren't you afraid it might create problems in the court, because they might not read your answer before they start arguing and trying...?

That's also my problem with all of those bills, because we are stepping inside certain venues sometimes that are so similar that it will start creating all types of problems for that very important type of justice, which is criminal law.

Therefore, I wonder if Bill C-587 should be set aside on that aspect, if you're absolutely and unequivocally sure, without question, that it will be seen as clearly as you just explained it.

Mr. John Giokas: I can't predict how the courts will see things. I see it clearly, because I've been living with these issues for a year and a half, and I'm intimately familiar with them.

I'm afraid I can't answer. I'm sorry.

Ms. Françoise Boivin: Okay, that's an answer.

Thank you.

The Chair: Thank you very much.

Are there any other questions on clause 2?

(Clause 2 agreed to on division)

(Clauses 3 and 4 agreed to on division)

The Chair: Shall the short title carry?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Shall the title carry?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Shall the chair report the bill back to the House?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: We don't need a reprint, because there were no changes.

We're done with this particular meeting. Now we will move in camera to talk about the drafting instructions for a report.

Thank you very much. Thank you for coming here and for those answers.

[Proceedings continue in camera]

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