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Undebated crime bill to change Canadian justice system

On the evening of Monday, December 5, Bill C-10, known as the 'omnibus crime bill,' or the Safe Streets and Communities Act, passed its third reading in Canadian Parliament with 157 'yeas' and 127 'nays'. The Bill will now go to Senate, and once the process is complete, it will bring significant changes to the Canadian justice system.

Canadian criminal legislation has historically focused on rehabilitation at least as much as punishment, and sometimes even on the removal of causes and contributing factors of crime. However, a common thread through this bill is an increase in punishment, particularly incarceration, as well as some removal of rights of the accused, and the facilitation of revenge by victims.

Details of the Bill

Bill C-10 is actually a collection of nine pieces of legislation that deal with the *Criminal Code*, but also the *Young Offenders Act* and anti-terrorism legislation. The Bill creates new penalties for sexual predators of children, drug dealers, organized crime, violent young offenders, and better protection for victims of human trafficking.

Increased minimum penalties for growing marijuana plants (particularly small quantities) are justified by linking this activity with organized crime. The proposal called 'Ending House Arrest' will eliminate conditional sentences for minor offenders and send them straight to jail.

There will be no more pardons, only 'record suspensions'. The Bill also gives government additional power to transfer Canadian offenders back to Canada from foreign countries, and will permit victims of terrorism to sue terrorists, including countries deemed to support terrorism.

Passage Through Parliament

Although there are some uncontroversial aspects of the Bill, the Conservative strategy to bundle so many changes into one giant piece of legislation and then refuse to debate the details has made it very unpopular.

Justice Minister Rob Nicholson said that the Conservatives intended to keep their election promise to pass the *Act* within the first 100 sitting days of Parliament. Critics have called this a bullying tactic.

In defense of their shutting down of debate, the Conservatives used the fact that parts of *C-10* are from past parliaments. However, some parts of it received no previous study by Parliamentary Committee, while other sections were studied before and changed, but brought back in their original form.

Saanich-Gulf Islands MP Elizabeth May tabled 50 amendments, some of which would hand some measure of control back to judges. The Criminal Lawyers' Association welcomed the amendments, saying they are 'deeply troubled' by the removal of judges' discretion in sentencing.

May also asked for a transparent, annual review of the changes, so that both legal experts and the general public could analyze the impacts of *C-10* on Canadian society.

All amendments, by any MP, were turned down with one exception: the 'Lawful Access' (Online Spying) portion of the Bill was removed in September, amid intense public opposition to warrantless cyber-surveillance.

Just before the Monday vote to adopt *C-10*, Liberal MP Ted Hsu presented a petition signed by Canadians asking for the Bill to be separated into its component pieces to be voted on individually. In November, more than 100,000 Canadians signed petitions or sent messages opposing *Bill C-10*. These messages have been largely ignored by the majority government.

Bob Rae, interim leader of the Liberal Party, commented, 'The Conservatives' bundling together of nine bills that warranted independent discussion, their shutting down of debate in committee, and their rejection of all amendments while arrogantly labeling others as supporters of criminals and not victims, undermines Parliament and democratic process. They have rammed through the House of Commons a law and order agenda that is poorly thought-out, rushed and demonstrates the Conservative commitment to governing by ideology instead of facts and evidence.'

Philosophy of Punishment

The Canadian Bar Association, representing 37,000 lawyers, published a ten-point critique of *Bill C-10*, emphasizing the fact that crime rates are dropping in Canada, and decades of

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research show that putting more people in jail does not equal safer streets.

'Judicial discretion allows sentences to reflect the particular circumstances of the offender, the offence, the community and the victims,' said representative Michael Spratt. 'The evidence shows mandatory minimum sentences do little to prevent crime or make our communities safer.'

Minister Nicholson said Canadians gave his party a 'strong mandate to crack down on child sexual offenders and on dangerous drug dealers'. While this is commendable, it is unclear how new, mandatory minimum sentences for non-violent crimes will achieve this, when the evidence shows that incarceration often leads individuals deeper into crime.

On November 24, Canadians donned cowboy hats and gathered at the constituency offices of over 120 MPs to call attention to the fact that Republican Texans warned Canada not to repeat their mistake by focusing on mandatory and harsh sentences to reduce crime. Texas' 'tough on crime' policies proved a costly failure, and the state is now investing in proven and cost-effective crime prevention and rehabilitation strategies.

'I believe that this bill has deep and far-reaching

consequences and will send Canadian justice in the wrong direction,' said Julia Pope, coordinator of an action in Penticton. 'Bill C-10 will cost taxpayers billions of dollars and will erode public safety by creating a massive, incarcerated population and eliminating the ability of judges and prosecutors to divert non-violent offenders.'

Cost to Taxpayers

The costs of the federal legislation will be partly paid for by the provinces, with criminals being housed in provincial jails. The Parliamentary Budget Officer estimated it will cost the federal government \$5 billion over five years, and the provinces and territories between \$6-10 billion. Ontario and Quebec have said they may refuse to pay the costs of some of the measures that will be downloaded to them.

In BC, activist groups Avaaz and Leadnow teamed up to deliver three petitions asking Premier Christy Clark to refuse to pay for the Bill's approach to criminal justice. She has said she will support C-10. The petitions also call for the creation of a Citizens Assembly for Canadian Justice to create a new plan for 21st century justice in Canada.

In 2011, 65 cases were thrown out of BC courts for delays. Will more offenders now go free because our courts do not have the capacity to deal with the rising number of offences that will be created by *Bill C-10*? ☞