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TOUGHER PENALTIES FOR CHILD PREDATORS BILL

Bill to Amend—Second Reading
of Bill C-26

Speech by:

The Honourable Larry W. Campbell

Tuesday, May 12, 2015

THE SENATE

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BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Plett, seconded by the Honourable Senator Fortin-Duplessis, for the second reading of Bill C-26, An Act to amend the Criminal Code, the Canada Evidence Act and the Sex Offender Information Registration Act, to enact the High Risk Child Sex Offender Database Act and to make consequential amendments to other Acts.

Hon. Larry W. Campbell: At the outset, honourable senators, I have to state that all members of the other place and this place share the same view: Protection of children must be a priority. Sex crimes against children are repugnant and everything should be done to prevent victimization. Where we differ is how we go about this.

Bill C-26 recycles many of the same failed Conservative policies — minimum sentences, reduced judicial discretion and relaxed privacy standards — that have attracted so much recent scrutiny.

So said Michael Spratt.

While I realize that the Conservatives in the other place dislike science, the fact is that there is little or no empirical evidence that provides support for minimum sentences in reducing crime or making communities safe.

Albert Einstein once said “insanity is doing the same thing over and over and expecting different results.”

How many times does this government have to be reminded by the Supreme Court that there are rules? How many times do we have to see supposedly “Charter-cleared legislation” struck down by the courts? When will they learn that the Criminal Code has a “totality principle”? It states that an individual’s overall sentence should not be overly harsh or crushing. The Constitution bans “cruel and unusual punishment.”

While some may welcome this harshness, given the abhorrent nature of the crimes, there have to be stopgaps in place. The Conservative government will have none of that. The fact is that this Conservative government does not like or trust judges. They appoint them but they don’t trust them. When will they ever learn, as a song once went, or will we continue the revolving door of legislation followed by rejection from the courts?

The problem is that prison sentences without some kind of treatment means that the problem does not go away. You can lock people up, but without help they will become more criminal and more dangerous.

For a government that prides itself on running efficiently — ignore the unemployment, the stagnating economy, the loss of jobs, et cetera — stacking sentences is not cost-effective. Incarceration without treatment or help is expensive. With treatment and help, recidivism drops. People can and do reintegrate into society.

This bill would also create a database of high-risk sex offenders. Who will operate this database? The RCMP will. Members of the RCMP have testified that they are not able to perform their duties now because of increasing workload. Six hundred members were transferred to anti-terrorism from organized crime. Where will the members come from to run this data bank? I fear that we’re putting so much pressure on the RCMP, our national police force, that it will collapse under the weight.

Bill C-26 limits judicial discretion. It mandates that sentences in certain situations be served consecutively. The rationale for judicial discretion was succinctly put by Sopinka J. in *R. v. McDonnell* (1997), 1 S.C.R. 948, where the Supreme Court held:

... the decision to order concurrent or consecutive sentences should be treated with the same deference owed by appellate courts to sentencing judges concerning the length of sentences ordered. The rationale for deference with respect to the length of sentence, clearly stated in both *Shropshire* and *M. (C.A.)*, applies equally to the decision to order concurrent or consecutive sentences. In both setting duration and the type of sentence, the sentencing judge exercises his or her discretion based on his or her first-hand knowledge of the case;

In other words, let the punishment be based on evidence.

Mr. Harper is quoted as saying:

We do not understand why child predators do the heinous things they do and, in all frankness, we don’t particularly care to.

We should all care — every single one of us. Prevention, treatment and penalties to fit the crime would result in less rather than more child sex offences because, as I said at the start, these bills are classic examples of Einstein’s insanity proposition.

I hope that these issues will be explored in committee. Without changes or amendments, I will not support this bill.

Hon. Donald Neil Plett: I’m wondering whether the senator would take a question.

Senator Campbell: Absolutely.

Senator Plett: Thank you. You talked about Conservatives being deniers of science, and I’m certainly no scientist, but I can do some math. Would you agree that if a child predator is in prison for 24 years rather than 2 years he has less of an opportunity to prey on children?

Senator Campbell: I would agree with you on that. But I don’t want to be around in 24 years when you let him out, and you will have to let him out. That’s the issue that I have. There are instances where, as far as I’m concerned, you can lock them up and throw away the key. There are crimes that are simply so bad and so horrible that we cannot take a risk of having somebody back out on the streets. But the fact of the matter is that that’s not

the majority. The fact of the matter is that before we get to that point we should be looking at some way of doing something to prevent this from happening again.

Now, if we do the 24 years on this guy and we have treatment ongoing, perhaps he won't come out as a beast. But I personally wouldn't want to take a risk on that.

Senator Plett: What would you say to the fact that we still, even after treatment, have a recidivism rate of over 50 per cent with child predators?

Senator Campbell: I don't believe that.

Senator Plett: Statistics. Thank you.
