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Congressional Record S. 2242 - Gun Control

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tences are to be imposed against felons carrying firearms during the commission of Federal crimes. A separate and additional penalty would apply to the mere act of carrying a firearm—separate from and in addition to the underlying crime itself.

In the case of a second offender it is truly a mandatory sentence. For using or carrying a firearm during the commission of a crime the criminal must serve up to 25 years and that sentence cannot be suspended by the court nor can probation be granted nor can the sentence run concurrently with the sentence for the underlying crime.

It should be said that certain leeway was preserved in the case of first offenders. Its preservation lay not in the fact that first offenders who carry guns should be treated with any leniency. At the time that this provision was adopted, it was urged that the trial court deserved to retain leeway in the case of first offenders essentially because of the deplorable state of this Nation's prisons. In short, penal institutions serve mainly as criminal breeding grounds. To confine a first offender in every case means that there is no hope of rehabilitation. By permitting courts to retain some discretion in sentencing first offenders there is provided an opportunity to mete out a penalty that is more likely to result in rehabilitation than is the case with compulsive imprisonment. To be sure, many first offenders deserve nothing short of prison. To safeguard society, they must be confined. But there are those who do deserve another chance. There are those for whom there is hope. And until these institutions are made capable of providing rehabilitation, a chance for some first offenders—not all—must be preserved. For a subsequent offender there is no chance. For him there is only prison.

This is not to say that by preserving in the trial court a degree of latitude, sentences stiffer than those imposed should not be sought. And as an added tool for the Nation's Federal prosecutors, I am preparing legislation that will give the prosecutor the right to have the trial courts sentence reviewed by the appellate court with a view to imposing an even stiffer sentence.

My bill, if adopted, will provide a sentence of from 5 to 10 years in the case of a first offender gun carrier.

In the case of subsequent offenders the sentence will run from 10 to 25 years and there will be no leeway granted, no probation, no suspension, and it will be served separately. In both cases, the sentence imposed may be appealed by the Federal prosecutor should a stiffer sentence be in order.

If and when this sentencing measure becomes law, I will seek to see that its use by the courts is closely monitored to the end that this Nation's gun criminal is put on notice once and for all that the use of firearms for crime will be tolerated no longer.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, may I now be recognized?

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

GUN CONTROL

Mr. MANSFIELD. Mr. President, in the past, I have endeavored to determine the Government's experience in using the mandatory sentencing sections of the gun crime laws, specifically under the 1970 provision I sponsored to the Omnibus Crime Control and Safe Streets Act dealing with stricter sentences against criminals who choose to carry weapons. Under that law stricter sen-

Mr. McCLELLAN. Mr. President, now I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, as the distinguished senior Senator from Arkansas has stated, the Democratic conference unanimously last week urged Senator JOHN McCLELLAN to introduce again the Omnibus Criminal Victims Act that consists of sections dealing with compensation for victims of crime, a special insurance incentive program for public safety officers, the injury benefit plan for police officers, and the extra remedies provided for victims of racketeering. Senator McCLELLAN has, today reintroduced the omnibus crime control bill, and it now rests on the Senate Calendar.

The bill, on final passage, was passed by a vote of 74 to 0 on September 18, 1972—less than 5 months ago. Every Senator is on record in favor of each provision of the bill.

Every feature of this proposal has undergone exhaustive Senate committee investigation and consideration.

The hearing record consists of 1,112 pages of testimony, exhibits, and supporting documents, including cost projections.

Forty-three witnesses appeared in person or submitted statements in support of one or all of the various features of the bill. Not one appeared to testify or submitted a statement in direct opposition to the bill as a whole.

The shooting of Senator STENNIS has brought into focus the urgency of proposals such as this. It is not that Senator STENNIS is personally unable to provide for himself, for his medical attention, for his family, or for any loss of earnings while he is recovering. Because of violent crime and its effects, however, there are many victims in society who simply cannot pay the bills. Perhaps even more important are the features in this proposal that encourage individuals to take the risks that law enforcement officials are compelled to take. The law officer, just as the victim, deserves special consideration in our system of justice, and while the victim would be compensated under this proposal, the police officer would be singled out for special attention when it

comes to injuries he receives in the line of duty and when it comes to obtaining insurance against such injuries.

In short, it appears to me that every reason exists to pass this bill as expeditiously as possible. The Committee on the Judiciary has considered it in great detail. The Senate passed it unanimously. It would be my hope that the Senate should be given the opportunity to face up to it again as quickly as possible, and this is one means, if the Senate agrees, of so doing.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I rise to express my complete and full accord with the suggestion for proceeding with this matter with all possible dispatch. I have no objection to the bill's being placed on the Calendar. Such action on the provisions of the bill and its component parts is not only timely; it is urgent and it is also highly desirable. I support its being placed on the Calendar so that it will receive consideration and so action can be taken.

It should be noted, however, that there is some difference of opinion and there are some misgivings as to one, and possibly two, of the titles that are involved; and further, that there are now pending several bills individually stating and treating of the several titles that are included in the omnibus bill.

I find myself in full agreement with the statement by the Senator from Arkansas that no further hearings are necessary on this measure, but I would suggest that a report be written by the committee on the bills that are before it, that that be done at an early time, and the Senator from Nebraska will cooperate fully with the expediting of the matter, so that those who are interested in expressing their differences of opinion on those parts of the omnibus bill in which they have an interest will have an opportunity to do so. It would not entail any delay.

Again, the Senator from Nebraska wants to pledge his support to expediting the matter, as a member of the subcommittee which is headed by the Senator from Arkansas, as well as the members of the full Judiciary Committee that will report the other bills to the Senate.

So, with that explanation, Mr. President, I say I have no objection to the omnibus bill's being placed on the calendar, with the understanding that this timely fashion and this timely schedule will be complied with.

Mr. McCLELLAN. I thank the Senator.