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(HANSARD)

Thursday, March 1, 2012

The Honourable NOËL A. KINSELLA
Speaker

This issue contains the latest listing of Senators, Officers of the Senate and the Ministry.

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THE SENATE

Thursday, March 1, 2012

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

[*Translation*]

ROUTINE PROCEEDINGS

EXPORT DEVELOPMENT CANADA

CANADA ACCOUNT OPERATIONS—
2010-11 ANNUAL REPORT TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the report by Export Development Canada on Canada Account operations for the fiscal year 2010-11.

[*English*]

CANADA-CHINA LEGISLATIVE ASSOCIATION
CANADA-JAPAN INTER-PARLIAMENTARY GROUP

GENERAL ASSEMBLY OF THE ASSOCIATION
OF SOUTHEAST ASIAN NATIONS
INTER-PARLIAMENTARY ASSEMBLY,
SEPTEMBER 18-24, 2011—REPORT TABLED

Hon. Joseph A. Day: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-China Legislative Association and the Canada-Japan Inter-Parliamentary Group respecting its participation at the Thirty-Second General Assembly of the Association of Southeast Asian Nations (ASEAN) Inter-Parliamentary Assembly, held in Phnom Penh, Cambodia, from September 18 to 24, 2011.

QUESTION PERIOD

VETERANS AFFAIRS

DISABILITY PENSION PROGRAM

Hon. Robert W. Peterson: Honourable senators, my question is to the Leader of the Government in the Senate. Once again, the issue of handling veterans' disability claims has surfaced with the nation's ombudsman for veterans harshly criticizing the federal department for failing to properly explain why some soldiers have been denied disability coverage and for making it almost impossible to appeal the decisions. Unfortunately, the handling of benefits for disabled veterans by this government has been an ongoing controversy in Canada, which has led to a class action suit against Ottawa by former soldiers.

This is partially a result of Veterans Affairs' failing to properly advise the most severely injured soldiers about the financial support available to them. The ombudsman's office has stated that even their staff cannot understand government letters denying soldiers benefits. This is just not right.

Will the minister encourage the Minister of Veterans Affairs to move quickly in dealing with the recommendations in the ombudsman's report, starting with the recommendation that reasons for all disability coverage decisions should be written in plain language with a clear explanation of how the individual assessment was made? Each letter should also include a notice of the right to appeal.

Hon. Marjory LeBreton (Leader of the Government): I thank the honourable senator for the question. I wholeheartedly agree with what the honourable senator said. The government accepts the report and the recommendations of the veterans' ombudsman, which covers the period over the past decade.

Most people can attest to the fact that often letters from the government can be rather confusing and hard to understand, so I can totally sympathize with these veterans. It is important to point out, honourable senators, that the Minister of Veterans Affairs, Mr. Blaney, has stated publicly that he accepts the ombudsman's report. He agrees with the recommendations and has instructed the Department of Veterans Affairs not only to write their responses in clearer, more concise language and give reasons that are understandable but also to point out to veterans their right to appeal the decision.

AGRICULTURE AND AGRI-FOOD

CANADIAN FOOD INSPECTION AGENCY

Hon. Terry M. Mercer: Honourable senators, Mr. Bob Kingston, National President of the Agriculture Union, has called for increased food inspection of food imports. He told a February 28 news conference in Vancouver that 2 per cent of all foods imported to Canada are currently inspected — 2 per cent, honourable senators. Meanwhile, 30 per cent of the food we eat is imported — 30 per cent. I quote Mr. Kingston:

> The Canadian Food Inspection Agency is not presently inspecting these products to determine what insecticides, pesticides or cosmetic treatments have been applied in the source countries. The Agency is well aware of this growing problem. However, its request for greater resources for import inspection will likely fall on deaf ears, as the Conservative government seems intent on cutting overall food safety funding by 10 per cent in the upcoming federal budget.

• (1340)

Honourable senators, we therefore need more inspection of imports, but the government is cutting the budget of CFIA so one would assume there will be fewer inspectors.

How does the Leader of the Government expect Canadians to feel safe about their food when the government's own agency does not have the resources to do so?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, Mr. Bob Kingston is not the most objective person to rely on. He has been very critical and often has a significant amount of misinformation.

Budget 2011 included an additional $100 million over five years to enhance food safety. We are moving forward with all 57 recommendations of the independent investigator in the Weatherill report and have provided the Canadian Food Inspection Agency with a net increase of 733 inspection staff. A report on OECD countries recognized Canada's superior food safety system and it ranks us as the best in the world on food recalls.

I am well aware of Mr. Kingston's ongoing criticism of the government. I do not think it is fair or valid, and the facts speak for themselves.

Senator Mercer: Mr. Kingston has a role to play as the National President of the Agriculture Union. That is his role to play and I respect that.

Honourable senators, the answer that the leader gives does not make me feel any safer because we know the axe is about to fall and, when the axe falls, there will be fewer inspectors. No matter what they promised, at the end of the day there will be fewer people inspecting our food.

One of the things about this and many other issues is that many of the problems with food inspection are preventable. Responding to a crisis rather than preventing one seems to be how this government operates.

What happens when Canadians fall ill because of the government's neglect? So often the government forgets the human impact of the cuts it is making. Does the Leader of the Government agree that it is only safer and cheaper in the long run to prevent tragedies rather than to deal with the fallout from one?

Senator LeBreton: Honourable senators, I do not answer hypothetical questions. There is no reason to believe the honourable senator's characterization of what may be coming down the road.

The government has and will continue to make food safety and the safety and security of Canadians a top priority. Clearly, the adding of members to the inspection staff is a demonstration of our commitment. Clearly, we would not be reported by the OECD as having the best food recall system in the world if we followed the path that we are accused of by Senator Mercer.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Fred Wah, Parliamentary Poet Laureate of Canada.

On behalf of all senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Agustin Lage, Member of the National Assembly of the Popular Power of the Republic of Cuba and Chair of the Cuba-Canada Parliamentary Friendship Group.

Again, on behalf of honourable senators, welcome to the Senate of Canada.

Hon. Senators: Hear, hear.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table the answer to the oral question asked by the Honourable Senator Sibbeston on February 1, 2012, concerning natural resources: regulatory reform.

ENVIRONMENT

REGULATORY PROCESS

(Response to question raised by Hon. Nick G. Sibbeston on February 1, 2012)

Resource-based projects are an important driver of job creation and long-term economic growth for Canada. Over the next 10 years, more than $500 billion is expected to be invested in Canada's mining and energy sectors.

To fully capture the benefits of Canada's natural resource sector for all Canadians requires a renewed and modern regulatory system that enables growth and investment, protects the environment, and ensures socially-responsible development.

Improving the performance of our regulatory system has been a priority for this government from the beginning. In recent years, important changes have been introduced, including the creation of the Major Projects Management Office in 2008 and targeted amendments to the *Canadian Environmental Assessment Act* introduced in Budget 2010. However, more fundamental changes are required to meet Canadians' objectives of jobs growth and protection of the environment.

We will bring forward comprehensive legislative and regulatory changes to address these concerns and modernize the federal regulatory system for project reviews. These

changes will position Canada for job creation and long-term growth, ensuring that our resource sector continues to be an attractive place to invest.

The Government has been listening to issues and proposals raised by stakeholders through venues such as the Energy and Mines Ministers' Conference and the recent Parliamentary Review of the *Canadian Environmental Assessment Act*.

We have heard that unnecessary delays are jeopardizing the economic viability of major projects and harming Canada's reputation as an attractive place to invest. Beginning-to-end timelines for all review process would avoid long delays, without compromising environmental protection.

We also heard that the Government needs to focus its resources where they matter most, on major projects that potentially have the greatest impact on the environment as opposed to small, routine projects that pose little risk.

Finally, we know that federal and provincial regulatory review processes need to be better aligned and that new measures are required to facilitate a more seamless integration across jurisdictions.

All governments have indicated an urgent need to act in an efficient and cooperative manner. Our collective goal is simple: one project, one review.

Timely and responsible development of our natural resources in all regions of Canada will benefit Canadians through jobs, growth and the revenue needed to support important programs like health, education and pensions.

[*English*]

SAFE STREETS AND COMMUNITIES BILL

PRESENTATION OF PETITION

Leave having been given to revert to Presentation of Petitions:

Hon. Jane Cordy: Honourable senators, I have the honour to present a petition from Canadian citizens concerning Bill C-10, the proposed Safe Streets and Communities Act. The petition states that Bill C-10 ignores proven crime prevention strategies in favour of ideological policies which were shown to fail in other jurisdictions, while placing a substantial burden on taxpayer funds. Therefore, the petitioners call on all senators to vote against Bill C-10, the proposed Safe Streets and Communities Act.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, pursuant to rule 27(1), I would like to inform the Senate that when we proceed to Government Business, the Senate will address the items in the following order: first, Motion No. 31, time allocation; second, debate on the adoption of the Ninth Report of the Standing Senate Committee on Legal and Constitutional Affairs; then, Bill C-10, followed by all other items according to the order in which they appear on the Order Paper.

[*English*]

The Hon. the Speaker: Honourable senators, I remind you that pursuant to the rules the time for debate on the following motion is two and a half hours; the time limit for the respective leaders is 30 minutes and for all honourable senators it is 10 minutes.

[*Translation*]

SAFE STREETS AND COMMUNITIES BILL

ALLOTMENT OF TIME FOR DEBATE— MOTION ADOPTED

Hon. Claude Carignan (Deputy Leader of the Government), pursuant to notice of February 29, 2012, moved:

> That, pursuant to rule 39, a single period of a further six hours of debate, in total, be allocated to dispose of both the report and third reading stages of Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts;
>
> That, if debate on report stage comes to an end before the expiration of the six hours, the Speaker shall put forthwith and successively every question necessary to dispose of report stage in accordance with rule 39(4);
>
> That, if debate on third reading comes to an end before the expiration of the six hours, the Speaker shall put forthwith and successively every question necessary to dispose of third reading in accordance with rule 39(4); and
>
> That at the expiration of the six hours of debate the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively all questions necessary to dispose of report stage, if not yet disposed of, and third reading in accordance with rule 39(4).

He said: Honourable senators, I am pleased to rise to explain the importance of the time allocation motion in relation to the debate on Bill C-10.

First of all, I would like to thank all members of the standing committee that examined this bill. The committee heard from a number of witnesses and Senator Wallace has reported on the amendments that were made. The committee worked diligently to produce this excellent report. Thus, it would be fair to say that many honourable senators have already spent hours and hours reflecting on each clause of the bill.

Furthermore, we should remember that Bill C-10 contains a series of measures that we have debated in this chamber recently. These measures have been put together and added to others that will improve Canadians' safety.

Canadians gave us a clear mandate by electing a strong majority government last May because they believe that we are committed to ensuring their safety. We promised Canadians that we would pass this bill within 100 days. As in other matters, we will deliver the goods.

• (1350)

Keeping our promises is the best way to prevent people from becoming disillusioned with politics. The best way to protect public safety and make the justice system fairer and more effective is to pass Bill C-10. Today, we are taking great strides in that direction.

That is what Canadians expect of us. They have waited long enough.

Therefore, let us adopt this motion to prove that we have understood the message they sent last May. Let us keep our promise to make Canada a safer and fairer place. It is our duty as parliamentarians. I am asking you to join me in supporting this motion so that we can move through all the stages leading to the passing of this long-awaited law.

[*English*]

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, this is not the first time — and I suspect it will not be the last time — that I will speak on a time allocation motion moved by this government. I readily acknowledge that there may be circumstances in which proceeding in this way is justified, for instance when a deliberate filibuster drags on and on, or where there is some public urgency for the legislation in question. However, that is not the case with Bill C-10.

Following its second reading, the Senate asked its Committee on Legal and Constitutional Affairs to examine Bill C-10 so that we in this chamber could better focus our debate and consideration of the legislation. Our committee heard from over 100 witnesses during almost 60 hours of testimony. It then presented its report containing a number of amendments, as well as some observations that were unanimously agreed to by its members.

Our committee did what we asked it to do, but yesterday, after less than an hour of debate on its findings — really just an explanation of the amendments and observations by the chair and a few comments from me — the government had heard enough. Senator Carignan gave notice of this motion to limit further debate.

Not only did he give his notice of motion with unseemly haste, but he also then gave us only the very minimum time allowable for any additional discussion.

Rule 39(2) states that "the motion shall provide for at least . . . a single period of a further six-hours debate, in total, to dispose of both the report and the third reading stages of a public bill."

That is exactly what Senator Carignan's motion gives to us all — six hours, not a minute more.

After barely 30 minutes of debate on an omnibus bill containing more than 200 clauses, the government decided there would be only six more hours of debate. The government had the option of giving more time under rule 39. It could have given 12, 10, or even 7 hours, but that is not what it chose to do.

We have exactly six hours to debate and discuss this omnibus crime bill before it is brought to a final vote — six hours, 360 minutes, not a minute more.

An Hon. Senator: That is after six years.

Senator Cowan: Each senator, apart from the two leaders, will be permitted, under our rules, to speak for a maximum of 15 minutes after the committee's report is brought forward for debate later today. Twenty-four senators speaking for the maximum allowable time will mean that almost 80 of us will have no opportunity whatsoever to participate in the debate.

An Hon. Senator: Shameful.

Senator Cowan: With this motion, Senator Carignan is telling almost 80 of his colleagues that the government has absolutely no interest in listening to what they have to say.

Senator Cordy: Shame.

Senator Cowan: As I say, Bill C-10 is an omnibus bill. It combines nine bills that were previously brought by the Harper government in different sessions and in different Parliaments, none of which were passed into law and many of which were never examined in this chamber. It will enact significant amendments to some eight statutes, create an entirely new act, and make consequential amendments to even more statutes.

I do not believe that any committee member brought to the hearings the briefing book prepared by the Department of Justice. It was simply too massive to carry. The legislative summary prepared by the Library of Parliament ran to over 150 pages.

Honourable senators, omnibus bills are inherently dangerous creatures. They allow dangerous clauses to be buried, as we in this chamber have discovered on several occasions in recent years. They do not allow interested Canadians and others with serious knowledge of particular issues to be heard. Witnesses frequently find their voices lost on large panels. Other potential witnesses are left out in the cold, prevented by so-called time constraints from testifying altogether.

Let us not lose sight of the content of this bill. It proposes amendments that will result in many more Canadians being sent to prison. Honourable senators, if any bill deserves careful scrutiny and debate, it must be a bill that will deprive our citizens of their liberty.

We all know that this bill is contentious, and we have all received hundreds of emails and other communications from very concerned Canadians —

An Hon. Senator: Thousands.

An Hon. Senator: Thousands.

An Hon. Senator: Thousands.

Senator Cowan: Asking us — pleading with us — to reflect carefully on the proposals in this bill.

How insulting to these people to then invoke closure, to shut down debate, to limit it to the maximum degree possible, and to do so immediately, after the briefest of explanations.

The Canadian Bar Association said:

> The CBA Section is of the view that bundling several critical and entirely distinct criminal justice initiatives into one omnibus bill is inappropriate and not in the spirit of Canada's democratic process.

I agree. This is not the right way to craft the best laws for Canadians, particularly ones dealing with the Criminal Code. This is not how our legislative process was designed to work.

Mr. Harper understood that — at least he did when he was in opposition. In 1994, he stood in Parliament and vehemently imposed the use of an omnibus bill in, as he put it, the interests of democracy.

Unfortunately, since becoming prime minister, he appears to have had a change of mind, as well as a change of heart. He has presented so many omnibus bills of such astonishing and unprecedented breadth and length that our former colleague Senator Murray once suggested that there could come a day when the Harper government would table only one bill in Parliament — a super-bill encompassing the whole of its legislative agenda for the year.

An Hon. Senator: Good idea.

Senator Cowan: As I said when I began my remarks, I have some sympathy for a government that finds it needs to move forward more quickly with a piece of legislation because of a pressing public need. However, with Bill C-10, there is no such pressing need. The real reason for the supposed urgency is nothing more than the Conservatives' election pledge to pass this omnibus bill within the new Parliament's first 100 days.

Why 100 days, honourable senators? Why 100 instead of 75 or 90 or 190? Nothing in the bill demands that it be passed within 100 days. Indeed, many provinces and territories have been begging the federal government not to bring all parts of the bill into force too quickly as they are simply not prepared and equipped to deal with the aftermath.

We were actually told by officials, on the last day of our committee hearings, that Bill C-10 will in fact be phased in over the months ahead.

Because of an absolutely arbitrary election commitment, we have found ourselves, in this place, unable to do the complete and proper study that this bill requires. Far too many eminent Canadians with deep knowledge of the issues in the bill could not be heard by our committee. These are people like Anthony Doob, the highly respected criminologist, who has devoted his life to these issues, and David Daubney, the former Progressive Conservative MP, chair of the Justice Committee in the other place, who went on to work with the Justice Department on sentencing issues. These are just two of the witnesses I would have wanted to hear from on this legislation.

Those witnesses who did appear had to present their submissions on this massive bill in five to seven minutes. How do you sum up views of all of these diverse parts, these far reaching provisions, in just five to seven minutes? Senator Wallace was ever polite and tried to allow as much latitude as he could, but repeatedly we had to end sessions before all senators could ask their questions.

The two federal ministers who appeared, Justice Minister Nicholson and Public Safety Minister Toews, did so very briefly. Several senators, including our colleague Senator Nolin, did not get to ask any questions before the ministers had to run from the committee room, apparently for a vote.

One would have hoped that on such an important, far-reaching bill they could have found time to return, but that was not to be. Now, of course, this debate is being shut down.

• (1400)

Honourable senators, submissions from witnesses and groups who were unable to appear because of the artificial time constraints have continued to come in, long after the committee completed its study of the bill. We all have binders of submissions — hundreds and hundreds of pages of transcripts. If we are to do our job as legislators, each of us should carefully study them and weigh the arguments presented before we vote on the bill.

Have all senators who were not on the committee been able to read all the material? Will this truncated debate be sufficient to inform them of all the complex implications of this mammoth bill? I doubt it. We should be very clear: We are not being allowed to do our job as parliamentarians with this bill. That alone should give each and every one of us pause before we vote on this motion.

The Canadian Bar Association gave us excellent advice in its submission when they stated:

> The politics of criminal justice should not trump the evidence and knowledge as to what are the most effective criminal justice policies and the best use of public resources.

In this case, honourable senators, politics has trumped good legislating. There was no legitimate reason to restrict the witness list. There was no valid reason for restricting the Senate from doing what it does best: engaging with Canadians through its committees; and there is no legitimate reason to cut off this debate today.

We saw what happened in the other place because of the government's unseemly haste to ram this bill through. In committee, my colleague Irwin Cotler proposed a number of reasonable, evidence-based amendments designed to improve the bill. Every one was voted down by the Conservative majority on the committee — almost always without even an attempt to present any argument why the amendment was ill advised. Apparently, it was enough that it was proposed by a Liberal.

We all know what happened. After the committee concluded its voting on the clauses, the government realized, suddenly, that some of the amendments proposed by Mr. Cotler would really improve the bill. Then they tried to reintroduce them at report stage, but they were ruled out of order by their Speaker on procedural grounds. So they had to be introduced in our committee.

Thank goodness for the Senate, but what a waste of time — precious time — had this bill actually been urgent for Canadians.

Honourable senators, there simply is not the time for each of you to read all the transcripts, let alone the many thoughtful submissions that Canadians and, indeed, eminent international authorities have sent to us. Let me urge you to read at least the submission prepared by the Canadian Bar Association.

The CBA, as many of you know, is a non-partisan group representing Crown prosecutors, defence attorneys, jurists and law professors across the country. I found their brief carefully and thoughtfully prepared, and it covers pretty much the entire bill. I wish you could read all of the submissions — but, if you only have time to read one, I recommend that one.

If I had to pick a single article to read, it would be the important one that appeared recently in the *National Post*. Its three authors are among the most knowledgeable people on our criminal justice system: the Honourable Roy McMurtry, former Attorney General of Ontario in the Progressive Conservative government of former Premier Bill Davis and the former Chief Justice of Ontario; Edward Greenspan, a highly respected and experienced criminal lawyer; and Anthony Doob, Professor Emeritus of Criminology at the University of Toronto. The article appeared on February 14 and was entitled, "Harper's incoherent crime policy." They argue that in all the talk about Bill C-10, it would be easy to miss the real significance of Prime Minister Harper's crime policy. They say that the issue should not be this provision or that — six or nine months in prison for growing six marijuana plants, et cetera. They say:

> The more fundamental issue that crime policy should address is basic: How do we, as Canadians, want to respond to those who have committed crimes?

They then state some basic facts — simple truths as they put it — that they say need to be considered in making sensible crime policy. It is things like the following: Many young Canadians commit relatively minor offences — drug possession, breaking and entering, shoplifting — that could see them imprisoned. As people get older, they become dramatically less likely to commit offences. In many cases, if someone avoids reoffending for five to fifteen years, their odds of committing a crime again become the same as the segment of the population that had never offended. There are known, effective ways to reduce crime. Changing criminal laws alone will have little if any impact on crime.

McMurtry, Greenspan and Doob argue that:

> The Harper crime policy is less than the sum of its parts because it does not add up to a crime policy that addresses, or even acknowledges, these basic facts. It squanders resources that could be used to reduce crime. . . .
>
> But the Harper crime policy is more than the sum of its parts because it tells us that the government is committed to ignoring evidence about crime, and does not care about whether the criminal justice system is just and humane.

The writers conclude:

> The Tories are right that their incoherent crime plan is a major shift in Canadian justice policy. But this shift will not serve us well.

Honourable senators, the government has ignored the evidence in drafting its incoherent crime policy, and now it is doing its utmost to prevent us from even reading the evidence in assessing that policy. Instead of allowing us, as legislators, an opportunity to consider and debate what Canadians are telling us about the omnibus crime bill, the government, through Senator Carignan's time allocation motion, has brought in the guillotine.

Honourable senators, this is wrong. This is not how laws should be made in this country. This is not what Canadians expect of their legislators. This is a bad day for all of us.

[*Translation*]

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, the motion moved by the Deputy Leader of the Government would limit debate on the omnibus crime bill at the report and third reading stage. I find it hard to believe that the members of this government, who proudly boast that they defend freedom of expression, would use any means available to them to limit the opposition senators' right to speak, particularly when no government senator has been able to provide a reasonable explanation as to why such a time allocation motion is necessary in this case.

Honourable senators, Canadians expect Parliament to carefully examine every bill that is introduced. Bill C-10 is a patchwork of nine bills grouped into one gigantic bill, and it contains legislative measures with very serious repercussions. How can we fulfil our responsibilities to all Canadians in a limited time period of six hours? Honourable senators, this is totally unacceptable.

[*English*]

Honourable senators, it has been stated before that one cannot justify bad policy through the repetition of a mantra about a mandate. "Safe streets and safe communities" are the shared aspiration of all Canadians and the common objective of all parliamentarians and parties. No political party can claim that it alone speaks for or cares for the safety of all Canadians. I have received literally thousands of emails from citizens in my home province of Alberta who are worried about the provisions of Bill C-10.

Since we last considered Bill C-10 in this place at second reading, much study and analysis has taken place. The Standing Senate Committee on Legal and Constitutional Affairs has done a remarkable job in examining this massive piece of legislation in a very short period of time. I would like to express my gratitude to the committee's chair, Senator Wallace, and its deputy chair, Senator Fraser, for their admirable management of this challenging undertaking. I also thank all committee members for the enormous amount of time they have put in. That said, I must say I find it disappointing that at the report stage of this bill we do not see a piece of legislation that reflects the evidence heard during the extensive hearings of the committee.

• (1410)

I would like to read just a few excerpts of testimony by witnesses at the committee hearings for this bill. The Honourable Daniel Shewchuk, Minister of Justice of Nunavut, before the committee on February 2, stated:

> Bill C-10's emphasis on incarceration through its mandatory minimum sentencing provisions will guarantee an influx of prisoners into our territorial jails, which are already overcrowded and unsafe, and will create an even larger backlog in our courthouse. . . .
>
> Bill C-10 will divert the financial resources that we require to address the root causes of criminal behaviour and to fund rehabilitation programs to support a punishment model that will add further stress to our already overburdened corrections infrastructure and courts.
>
> . . . I ask that the implementation of this bill be put off to allow adequate time for the Government of Nunavut . . . to develop the necessary infrastructure to accommodate this new burden on our justice and corrections system.

Honourable senators, evidence heard but not heeded.

The Assembly of First Nations, before the committee on February 20, stated:

> First Nations are of the view that Bill C-10 will result in compounding the already unacceptable overrepresentation of our people in the criminal justice system.

Honourable senators, evidence heard but not heeded.

The Association for the Treatment of Sex Offenders, before the committee on February 21, stated:

> If our goal is to reduce crime and to reduce recidivism and to do that through mandatory minimums, through registration or through eliminating different types of structured releases into the community, the evidence from other countries, particularly the United States, is not promising that these are indeed effective. . . . in terms of efforts to reduce recidivism, there is nothing to point us in that direction.

Honourable senators, evidence heard but not heeded.

The Centre for Addiction and Mental Health, before the committee on February 23, stated:

> One of the first things we know is that for low level or less serious offending, mandatory minimums and harsher sentencing actually increases overall rates of recidivism. If the intent is to reduce recidivism rates, we will go a little in the opposite direction that we intend.

Honourable senators, evidence heard but not heeded.

Randall Fletcher, Sexual Deviance Specialist for Correctional Services of the Government of Prince Edward Island, before the committee on February 21, stated:

> There is a large body of Canadian research indicating that treatment and rehabilitation programs for people who commit all categories of criminal offences, including sexual offences, are effective at reducing re-offence rates, while punishment on its own has been found to have either no effect or, in the case of more severe punishment, a negative effect of increasing rates of reoffending.

Once again, honourable senators, evidence heard but not heeded.

Much has been said about the ideological agenda of this government. The question of this chamber's mandate and role, and this government's respect for that function, has also been discussed at length. Today, with the government's much-lauded "tough-on-crime" agenda, I feel we are seeing one of the most troubling examples of this chamber being dictated to by the other place and the agenda of the majority party in that place.

My colleague Senator Di Nino, whom I hold in high regard, spoke about this concern in this place on October 23, 2003, when he said:

> Too often, particularly in the past 10 or so years, this place has been dictated to by the other place. . . . We should not be denied the ability to fully, in good time, analyze the issues. . . .
>
> I have not often spoken on this issue, but frankly, I cannot it defend it.

[*Translation*]

Honourable senators, just yesterday a former justice of the Supreme Court, the Honourable Louise Arbour, stated that this government is making a grave mistake by establishing mandatory minimum sentences in Bill C-10.

The Global Commission on Drug Policy, a group of international leaders that includes Kofi Annan, former secretary general of the United Nations, Fernando Cardoso, former president of Brazil, and Paul Volcker, former chair of the U.S. Federal Reserve, announced that Canada is on the threshold of continuing to repeat the same grave mistakes as other countries, moving further down a path that has proven immensely destructive and ineffective. Honourable senators, Canada is prompting a worldwide reaction.

Honourable senators, the Fathers of Confederation established this chamber to provide sober second thought on all bills.

[*English*]

A disturbing pattern has emerged since this government received its coveted majority. We have seen instances, both here and in the other place, time and again, of the government invoking procedural tactics to stymie debate on their legislation.

With this latest motion, the government will have used closure or time allocation on seven separate pieces of legislation, the latest of which includes nine bills. Time allocation is a tool afforded to the government that is to be reserved for cases where the utmost urgency is required, not to railroad those who do not agree with them.

Honourable senators, Speaker Kinsella himself has referred to the time allocation motion as a guillotine imposed by the government on this chamber. Indeed, on December 18, 2001, the Senate was considering Bill C-36, the original anti-terrorism bill introduced in the wake of the tragedies of September 11, 2001. Those were, of course, extraordinary circumstances. Yet even at this critical time, our Honourable Speaker, Senator Kinsella, who then occupied the role I hold now as Deputy Leader of the Opposition, held the view that these extraordinary circumstances were no justification for the imposition of time allocation. I quote Senator Kinsella from December 18, 2001:

> The government would move the guillotine to shut down debate and bring this bill to a vote, as they did in the House of Commons. . . . They have failed Canadians. . . .
>
> That is what we are dealing with in the motion that is before us. It is using power to secure more power. It was not necessary.

Senator Kinsella was supported in his view by Senator Di Nino, who rose in this place a few minutes later to echo the sentiments of his colleague, the Deputy Leader of the Opposition. Senator Di Nino said:

> Honourable senators, of all the proceedings in this chamber, this is the one that disturbs me most. My friend, Senator Kinsella, has called this measure a "guillotine." It has been called "closure" and "time allocation." I call it the "muzzling of Parliament."

Honourable senators, if we collectively decide that our time allocation provisions are to be the rule —

The Hon. the Speaker: Order, order.

[*Translation*]

This has nothing to do with the guillotine but the Rules of the Senate are very clear: in this type of debate, each senator has 10 minutes.

[*English*]

Hon. Joan Fraser: Your honour, my understanding is that although I would love to listen to my colleague Senator Tardif for more time, that is not possible. Are we correct in that assumption? She says that is correct, so I will do my poor best to follow.

Honourable senators, we are galloping through consideration of what is an extraordinarily important and complex bill. It is a bill of 104 pages and 208 articles plus a schedule, containing, as we have been reminded, nine separate bills, only two of which had ever before been considered by your Standing Senate Committee on Legal and Constitutional Affairs.

Yes, as has been said, your committee worked very hard to do what it could in considering Bill C-10 — very hard. However, that hard work does not come near what was required for this bill.

We heard testimony, by the statistics I have, for 58 and a half hours. That is an average of six and a half hours per bill, and these are complicated bills, honourable senators, which will have dramatic impact on the lives of many Canadians. We heard 123 witnesses. That is 13.6 witnesses per bill, including civil servants and three ministers, two of whom appeared together for one scant hour to testify on eight of the nine bills. What do you think they were able to tell us in that time? Not very much.

• (1420)

Were there questions we wanted to ask them about the policy reasons for various elements of the bill? Yes. Were we able to put those questions? Not very many of them.

I would like to take issue with Senator Carignan's gracious assertion that this entire bill has been examined. The truth is, honourable senators, despite your committee's best efforts, many important parts of this bill have gone entirely unexamined or have barely had their surface scratched.

I will give a few examples. We never even looked at the long passages in this bill concerning multiple and merged sentences or concerning administrative segregation, isolation. We barely scratched the surface of the long passages on pardons, which will now be called record suspensions. We did not do much at all looking at the extremely important and very controversial provisions limiting the availability of conditional sentences. We hardly were able to wrap our minds around even part of the quite complicated changes to the Youth Criminal Justice Act, which is itself — I am quoting someone but I cannot remember who — "impenetrable." I challenge anyone here to read the Youth Criminal Justice Act and to understand, before reading it four or five times, exactly what it says, let alone what the amendments in Bill C-10 will achieve.

We gave practically no consideration to the quite important implications under our constitutional regime and under international law of Bill C-10. These elements were mentioned. We were told several times that we are probably in contravention of both the Constitution and international law with Bill C-10, but we did not have time to examine those issues properly.

Since the committee was obliged to conclude its work in something approaching record time, the only last recourse, the last line of defence, is this debate — not the debate on time allocation, but the debate on at report stage and at third reading. This is where the Senate should be doing its job as the chamber of sober second thought.

Many people in this chamber know a great deal about the various subjects touched upon in this important and complex piece of legislation. They will not have the time to do the necessary research, to consider the transcripts of the testimony heard by the committee and to consider the briefs. They will not have the time, in many cases, even to speak to this bill. We will not do our duty; we will not do our job. We will not do the job the people of Canada count on us to do.

The second of Senator Carignan's assertions with which I would like to take issue is, as my colleagues have already said, his assertion that Canadians want this bill. We know that some Canadians, many Canadians, want this bill. We know that many, many thousands do not. We should bear that in mind. There is absolutely not unanimous consent among the people of Canada for this bill, which is all the more reason for us to give it proper consideration — just what we are about to fail to do.

We heard no evidence, not one scintilla, not one syllable of evidence, that there is any urgency to any element of this bill. There is no excuse for doing what this chamber is about to do. We should be ashamed of ourselves.

Some Hon. Senators: Hear, hear!

Hon. Joseph A. Day: Honourable senators, I did not have the opportunity to participate in the committee deliberations last week. I had hoped and expected, under our rules, that I would have the benefit of dealing with the report of all of that work that our honourable colleagues had performed during the week of hearings that they conducted during the report stage, and then again at third reading. I am finding it most unfortunate that the government has found it necessary and desirable to bring closure to this debate so that the rest of us cannot have the opportunity to understand this very important piece of legislation.

Honourable senators, I do want to thank Senator Wallace and Senator Fraser and all senators who participated on the committee work. I have had a chance to hear Senator Wallace's report yesterday at report stage. In reading between the lines of Senator Wallace's report I see the statement: We did what we could. We were asked to do something and we did that, and here it is, for what it is worth.

Honourable senators, I want to point out to you that rule 39(2) — that is the rule we are dealing with regarding this closure motion — as was pointed out by Senator Cowan, states that a closure motion shall provide for at least a certain number of hours of debate.

With respect to second reading, there shall be a further six-hours of debate on any substantive motion and a further six-hours of debate on a motion for second reading. That is one step in each of those instances.

If one goes down to rule 39(2)(d), it reads:

> . . . a single period of a further six-hours debate, in total, to dispose of both the report and the third reading stages of a public bill.

Senator Carignan is quite right to bring this motion, but I submit that the spirit of this section is that there would be at least six hours for each step. We have two steps here: one being the report stage, which we just started yesterday; and the second stage being third reading. This would have given us all an opportunity, if we had had at least 12 hours of debate, to deal with these matters. That is not what is before us, and that is why I cannot accept and support this request of closure.

I want to read from Senator Wallace's statements yesterday because this, I think, very succinctly outlines what we are dealing with here:

> Bill C-10 brought together nine previous bills . . . covered a variety of topics — topics that related to victims of terrorism, vulnerable foreign workers, international transfer of offenders, controlled drugs, sexual offences against children, youth criminal justice, house arrest, parole and pardon.

That, honourable senators, is what we asked the committee to study last week, and that is what we are now being told we can deal with in the next six hours of debate. I suggest that is unseemly at best.

Honourable senators, Senator Wallace, again in his statement yesterday:

> . . . there was a strong feeling that we had to analyze the key issues within the bill.

He pointed out:

> As I say, there were nine different components.

They picked out all they could do, but we asked them to deal with nine different pieces of legislation. They went for the key issues and tried to analyze those during the time that they had available.

Honourable senators, I object fundamentally to omnibus legislation. Omnibus legislation does not make good law. We have seen it time and time again, and I suggest that is the case in this instance.

• (1430)

There might be a reason for the omnibus legislation, and there might be a reason that could be explained to us for bringing a closure motion the same day as we start debate on the report

stage, but there was absolutely no suggestion made as to why that should be the case. What is the emergency? There is no emergency on any of this legislation. In fact, a lot of people are very concerned about this legislation.

I will give it to you, there are a lot of people that want to see different little pieces of this legislation passed, and we have received calls from many people in that regard. However, when I spoke to them, I asked, "Had you considered some of the other pieces of this legislation?" They would say, "No, all I want is my little piece passed." That, honourable senators, is the reason why the executive would want to pass omnibus legislation, to get a lot of things through without scrutiny, and that is why we as parliamentarians should be very concerned about omnibus legislation when a lot of pieces of that legislation are not being properly studied, did not receive proper scrutiny and, therefore, can well result in unintended consequences.

Honourable senators, let me read a quote from debate that took place on March 25, 1994:

> . . . in the interest of democracy I ask: How can members represent their constituents on these various areas when they are forced to vote in a block on such legislation and on such concerns?

Honourable senators, that was a quote by Mr. Harper when he sat as a Reform member of Parliament in the House of Commons. The block of legislation that he was referring to was 21 pages long. That is 83 pages short of Bill C-10, and he had that concern at that time.

Senator Mitchell: Wow. Do the math.

Senator Day: This quote by Mr. Harper exemplifies the problem that many senators are facing with this piece of legislation.

As I indicated, there are good and necessary aspects to this bill, as you might guess there would be when nine different bills are brought together. It is the process that we are concerned about, honourable senators, and it is the process that I am referring to here, not necessarily all of every piece of this legislation.

We know that this legislation could and will cause some concerns. We know that. We know that because the legislation has garnered such international attention already that it has even induced warnings from the United States and from Australia.

Honourable senators, some amendments have been made. The six Irwin Cotler amendments that were proposed in the House of Commons have finally found their way into this legislation. That was referred to yesterday by Senator Wallace. There were 16 other amendments that were proposed in the Senate committee hearings, 16 other amendments that were summarily dismissed, the same way as Irwin Cotler's amendments were summarily dismissed in the other place. That, honourable senators, is an indication of the kind of work that was going on and the process we are now seeing.

What concerns me is that the government is seemingly unwilling to accept any advice from anyone outside of their inner circle. Even members of their own caucus are being ignored.

We have all received the letter from our colleague the Honourable Senator Nolin urging us to give more careful consideration to this bill. He points out that the Minister of Justice, while appearing before the Legal and Constitutional Affairs Committee, said, "Our experience shows that toughening sentences does not create new criminals; it just keeps the existing ones in jail for a more appropriate period of time." We ask, honourable senators, what experience is that?

The Hon. the Speaker: I regret to advise that the honourable senator's 10 minutes is over.

Hon. Terry M. Mercer: Honourable senators, it is usually a pleasure to rise here in the Senate to speak on legislation — usually. However, today I feel so very disappointed with the lack of logic the government is showing in carrying forward with this flawed piece of legislation. I am also embarrassed for seven of our colleagues appointed by Mr. Harper who have just recently joined us in this chamber. They are now sitting here for the first time with a major piece of legislation, not having had an opportunity to hear the testimony at the committee and not having had an opportunity to hear lengthy debate and the messages from both sides. However, they will be asked — and probably will because they are members of the caucus — to vote on this legislation. It is being carried forward.

Despite the countless numbers of experts who have told us that this bill is flawed, despite the number of times we have tried to make the bill better by offering amendments to it based on evidence we heard from those experts, and despite the thousands of emails I have received from Canadians who do not agree with the bill and do not agree with the fear mongering tactics of the government, the Harper government wants to spend untold billions of dollars on a backwards crime agenda that flies in the face of fact and evidence. The government's attitude towards crime fails to understand the connection between the challenges of addiction and mental health and crime and fails to understand that youth cannot be treated the same as adults. It also clearly disadvantages the most vulnerable members of our society, including Canada's Aboriginal population.

We all know that crime rates in Canada have been falling for the past 20 years, but apparently facts and evidence do not matter to the government. As a matter of fact, the Minister of Public Safety even said that he did not care about statistics. In a quote from an appearance before the Legal Committee on February 1, he said:

> I do not care whether the statistics demonstrate that crime is down 5 per cent or 3 per cent or 1 per cent or up 10 per cent; I am focused on danger, and that is what the legislation is focused on as well.

Honourable senators, if the evidence is that crime rates are indeed falling and we already have stringent laws in areas such as child safety, for example, why the need for some of the sections of this bill?

On February 8, Mr. Dan MacRury of the Canadian Bar Association stated as follows:

> What we say to society, as the Supreme Court of Canada has, our Supreme Court has the toughest child pornography laws probably in the world, tougher than the United States.

He goes on to say:

> I respectfully submit that we should probably start getting out there and say we do have strong laws, because we do. That is the difference. There is misinformation out there that somehow we are not standing up for children. I can tell you that we are.

If there is a need to enhance laws to protect our children, then we are all for it. However, that need must be based on evidence that it is actually required. If it is not, then why are we doing it?

Honourable senators, while I cannot get into the ramifications of this bill in its entirety, as it is so large, I would like to touch on how the bill affects our youth.

We have all heard that as a result of this bill, many young people have the potential to be thrown in jail for smoking a joint or growing a marijuana plant. I think perhaps some people in this room might have been guilty of that at some point. The government insists this is not the case and that their intent is to go after the large grow ops and drug traffickers, yet the bill talks about the minimum number of plants being six. Does this sound like a major grow op to you? Perhaps we should ask Senator White, who would know better than most of us in here.

On February 2, 2012, the Canadian Police Association told the Legal Committee:

> Notwithstanding that, coming back to my earlier response, from a capacity perspective I do not remember the last time a Vancouver police drug squad member sought a warrant or executed a warrant on a grow op with six plants. We target organized crime groups, large grow ops, hundreds of plants, typically. Even if you wanted to follow the letter of the law in terms of where the line is, we would not have the capacity to do that anywhere in this country.

• (1440)

Not only is it preposterous to spend that amount of police resources going after someone who wants to grow six pot plants, it is simply not possible, yet that is the provision in this bill.

We must have confidence in our police force and in our justice system in order to ensure public safety, but this bill really does nothing to accomplish that in several areas.

With respect to mandatory minimums, for example, on February 22, former justice Mr. Justice Merlin Nunn told the Legal Committee:

> I think you have to have confidence in your courts and your justices that they will appropriately sentence the person who is before them. Two people can commit the same offence and they may have vastly different situations and may deserve, perhaps, vastly different sentences.

He went on to say:

> Look at the one in the papers in the last while, the kid who had the gun and had a picture of himself in his shorts in the mirror pointing the gun. The police happened to come in for some other reason and they saw him and he was charged. The minimum sentence is three years. One judge said this is a situation where a minimum sentence should not apply: It would be cruel and unusual punishment. It is not the kind of a situation that the intention of the act ever was to get at, but I would not want to be that fellow.

Honourable senators, we have all been young. We have all done foolish things from time to time when we were growing up. Does this young man deserve to go to jail for three years? While I am neither a judge nor a lawyer, it seems to me that wasting countless dollars on incarcerating this youth is foolish, to say the least.

What is needed is a balanced approach to the justice system. I read a very interesting submission to the Legal Committee from Professors Corrado and Peters from Simon Fraser University, and I quote:

> Our main concern is that these proposed changes to the Youth Criminal Justice Act (YCJA) will increase the number of young offenders sentenced to longer custody sentences without considering several critical issues identified in Canadian research and research in other countries concerning several negative impacts that custody can have on incarcerating young offenders.

They went on to say:

> The best response is becoming involved early and following the youth through development, offering support along the way. Without the programming, serious violent and mentally disordered young offenders will continue to cycle through the youth system and eventually find themselves in the adult system.

I entirely agree with that.

Honourable senators, the ramifications of these policies in Bill C-10 will impose an extreme financial burden on the provinces that will be saddled with more inmates and stripped of any judicial discretion. All of us in this room come from provinces that are suffering from fiscal problems. I know in my province we are worried about the cutbacks that are already starting to happen in our schools and our hospitals, and now they will have this extra burden of implementing the cost of Bill C-10.

The Parliamentary Budget Officer estimates the cost of only a few of these measures to be over $13 billion, but the government has never produced a credible estimate and will not tell Canadians how much this will cost. After this bill is passed, it will be like getting that awful Visa bill after Christmas — it will be a surprise for everybody.

A witness from the Canadian Police Association on February 2 told the Legal Committee:

> . . . I would like all honourable senators to be aware that police budgets across Canada are, in many circumstances, already close to the breaking point.

Again, I am sure Senator White could help us out with this.

The witness went on to say:

> In order to keep our communities safe, we require both the tools and the resources necessary to avoid the kind of service cuts that would put the gains we have made at unnecessary risk.
>
> On behalf of my members, let me be clear that this legislation represents part of the cost of doing business for law enforcement. We hope that the federal government and their provincial partners can quickly come to an agreement on how to best address the funding concerns without delay.

They are telling us, if we are going to do this, then we need a lot more money and we need to get a lot more money into the system.

Who is going to pay for the changes Bill C-10 is making? Canadians.

The Hon. the Speaker: Honourable senators, I regret to advise that the honourable senator's 10 minutes is expired.

An Hon. Senator: Time goes fast.

[*Translation*]

Hon. Rose-Marie Losier-Cool: Honourable senators, Bill C-10, which we are debating today, is a shoddy legislative effort. Some of its underlying principles are acceptable, but unfortunately, many others are not. Quite a few of the provisions we will be called upon to vote on at third reading stage are questionable and ideological, and fly in the face of most of the statistics and evidence that have been published for years.

[*English*]

However, the government is pushing this legislation through using the slim majority it has obtained from merely one quarter of the Canadian population. Far from helming our country for all Canadians, the current government is pandering to its core electoral base and, in so doing, is transforming Canada beyond recognition and turning it into a harsh, controlling state that invests much more in jails and military toys and much less into the population it claims to represent.

[*Translation*]

Among the things Bill C-10 deals with are terrorism, state immunity, drugs and other substances, firearms, conditional sentences, mandatory minimum sentences, the correctional system and parole. That is a lot for just one bill. The old saying, jack of all trades and master of none, might apply here.

If this bill had been divided into its sections to be studied separately, we might not be having all the problems we are having today. The current government claims that it prefers the omnibus option because each of the sections of the current bill was studied at length in the previous Parliament.

The current government provided the same explanation for its decision to impose closure on certain stages of consideration of this bill: since every section of the bill has already been studied at length in the past, why restart the process and spend as much time on it in the current Parliament?

[*English*]

In so reasoning, the current government shows once again its trademark contempt for the population, the experts, the hard facts and the democratic process. The government conveniently disregards the fact that more than a third of the persons elected in the other place are new to Ottawa. Did they not deserve the right to voice their opinion on such a mammoth piece of legislation?

What about our new members in this chamber? Quite a few are new here as well. Did the new senators not deserve the chance and the time to properly study this legislation, or has the government given up on the concept of sober second thought that used to characterize the Senate of Canada?

[*Translation*]

Aside from the fact that all these new legislators have not had an opportunity or the time to study at length this legislative potpourri that is Bill C-10, some of the more experienced legislators could have taken a second look and refined or changed their opinion on some of the provisions in the bill. After all, only a fool does not change his mind.

I must say that I am pleasantly surprised that the current Minister of Justice recognized the merits of comments made by a Liberal predecessor, agreed that some of the provisions in this bill were poorly drafted and changed them accordingly.

• (1450)

It is unfortunate that he is the only person on the government side to have changed his mind.

This bill includes several clauses that have been the subject of much criticism not only because the current government, in its ideological fervour, has exaggerated their potential effectiveness, but also because they will be very expensive in both the short term, during this time of austerity, and the long term, as they impose a financial burden on future governments, on the provinces, and even on the next generation. Anyone who doubts me has only to read the studies produced by independent experts, who are regularly quoted in the media, not to mention the reports of our very own Parliamentary Budget Officer. As recently as the day before yesterday, he informed us that eliminating conditional sentences, just one of the many proposals in the bill, could cost taxpayers up to $145 million.

[*English*]

I will not even go near the whole debate over the costs of the heaven-knows-how-many new jails that will need to be built in order to house the many new criminals Bill C-10 is bound to create with its many repressive and inefficient measures.

Two days ago, I was reading in the *Journal de Montréal* that the average yearly cost for each inmate in a federal penitentiary now stands at $114,000, a 30 per cent increase over four years. Multiply this by the amount of new people put behind bars by the bill, honourable senators, and think of how all this money could have been used for more beneficial purposes.

[*Translation*]

This government claims that Bill C-10 will not increase the prison population, but once again, those claims are not based on reliable evidence. The government relies on an ideological message delivered by individuals lacking both expertise and objectivity. Why did the government not pay more attention to real experts, consult real statistics and show real willingness to listen?

The carelessness, lack of depth and lack of objectivity that have so far characterized the legislative progress of Bill C-10 are very troubling for anyone who still cares about the democratic practices and institutions that have shaped our country. The government's arbitrary and authoritarian approach to forcing Bill C-10 through the legislative process, including refusing to allow debate and rejecting amendments proposed by opposition parties, has no place in a democracy.

What is the big hurry to pass this bill?

[*English*]

What is the emergency? Is the government telling us to "beware the Ides of March"?

Hon. Catherine S. Callbeck: Honourable senators, I rise to join the debate on time allocation for Bill C-10.

I believe that time allocation should only be used in an urgent situation that requires action, yet here we have Bill C-10. To my mind it is not urgent at all that it be passed within a matter of six hours. It is obvious that the government is not interested in hearing what senators have to say because six hours does not give enough time for all honourable senators to speak on this important piece of legislation.

Senator Tardif: Exactly.

Senator Callbeck: However, I want to congratulate and thank Senator Wallace, Senator Fraser and the members of the committee for their important and very hard work on Bill C-10.

I would now like to take the opportunity to voice a few of my concerns, and the concerns of many Canadians, about the changes being brought forward in Bill C-10.

For nearly three months, I have received emails and letters. I have spoken to many people about this bill. In fact, I believe that I have received more correspondence from Islanders regarding this legislation than any other issue during the past decade.

These thoughtful people are very troubled; they are troubled about the impact of this legislation. They are concerned that the content of this bill will:

> . . . radically shift Canadian justice away from prevention and rehabilitation, and towards punishment and exclusion, at a massive social and financial cost.

They want more emphasis on helping those who require treatment for addictions or for mental health. They want judges to continue using their best judgment when handing out sentences. They are concerned about criminalizing young offenders in prison rather than rehabilitating them to become productive adults. They want more literacy and other reintegration programs in our facilities, and they are pleading with the Senate, as the place of sober second thought, to fix the problems in this legislation that will send us down the path that has already failed in so many jurisdictions.

I share the concerns that, as I say, have been expressed in these emails and letters from Canadians. Crime rates have been dropping for 20 years, but the Conservative government is intent on pushing through a backwards, ideologically-based crime agenda that will cost billions and which, as I just said, has not worked in other jurisdictions.

In the short time I have this afternoon, I want to talk about three different areas. The first is mental health. We already know the Correctional Service of Canada falls short in the treatment of people with mental illnesses who are currently housed in its facilities.

In 2010, the Office of the Correctional Investigator released an independent report and found serious funding, implementation, and accountability gaps in the delivery of mental health care services in federal corrections. When the report was released, the Correctional Investigator, Mr. Howard Sapers, highlighted that the needs of mentally ill offenders in custody exceed the current capacity of the correctional service. In the report's news release he stated:

> Canadian penitentiaries are becoming the largest psychiatric facilities in the country. The Correctional Service of Canada assumes a legal duty of care to provide required mental health services, including clinical treatment and intervention. In failing to meet this legal obligation, too many mentally disordered offenders are simply being warehoused in federal penitentiaries. This is not effective or safe corrections.

The report also points to the fact that some parts of the Correctional Service of Canada's mental health strategy, though it is six years old, have not yet been implemented due to funding. The report goes on to say the offenders with mental disorders are often placed in segregation units so they can be observed for long periods of time. The Correctional Investigator condemned this practice as unsafe and inhumane.

• (1500)

Legislation such as what we have before us this afternoon, Bill C-10, will place even more offenders behind bars for longer periods of time, and it will add to the future challenges that Corrections will face on the issue of mental health.

The second area of concern is the lack of reintegration and rehabilitation programming in the system. The federal government has been announcing investments into the expansion of some of its

own correctional facilities. However, I am not aware, nor could I find, any commitment to extra funding for the rehabilitation and reintegration programs that will keep offenders from ever coming back to prison.

Senator Mercer: It is not there.

Senator Callbeck: I know. I tried to find it.

We have already lost the prison farm system, despite repeated testimony by volunteers, community organizations and former inmates who could attest to the tremendous value the program provided.

We know that without these programs, the likelihood that individuals will reoffend only increases. For example, studies show that participation in prison-based literacy programs can help prevent a return to prison. Not surprisingly, three quarters of Canadian offenders have low literacy skills. About 36 per cent of them did not complete grade 9, and the average education level of a person entering a federal facility — that is, those with a sentence of two years or more — is grade 7. Spending more on literacy training can help these offenders become more productive members of their communities when they get out of prison.

Since there is no doubt the vast majority of inmates will be returning to society, it only makes sense to help them gain psychological tools and employment skills so that they can become productive members of society.

As I say, I could not find a commitment anywhere that the federal government has made to increase the funding in this area. I was looking through the brief that was presented to the committee by Janice Sherry, the Minister of Environment, Labour and Justice and Attorney General for Prince Edward Island. She says that preparing for the impact of these provisions — meaning the provisions of Bill C-10 — will divert resources away from crime prevention and rehabilitation efforts.

Honourable senators, we should be spending more money in these areas and not less, as I think will happen in the provinces, just as the Honourable Janice Sherry has said will take place in Prince Edward Island unless the federal government comes forward with some money.

The third area I want to talk about is that Canadians are concerned about spending their hard-earned tax dollars on the cost of a justice agenda that has failed miserably in other places. The Parliamentary Budget Officer, Mr. Kevin Page, investigated the fiscal impact of the changes to eligibility for conditional sentences of imprisonment. His report was released on Tuesday. He found that the federal government would see an increase of nearly $8 million, based on more money spent on prosecutions and parole review, but the provinces are the ones that will be harder hit, because they spend money on prosecution, court, prison and parole review. It will cost the provinces another $137 million, based on cases they had in 2008-09.

Is my time up?

The Hon. the Speaker *pro tempore***:** I regret to inform you that your time is up.

Hon. Dennis Dawson: Honourable senators, I will be briefly addressing the issue of Bill C-10, but before that I would like to deal with the issue of closure. You can call it time allocation, but if it quacks like a duck and walks like a duck, it is duck. It is a closure motion, and it is stopping people from debating issues.

I will talk about the reciprocal role of the judicial system and our role as legislators. I have been here for over 35 years, in one way or another. I was here as a member of Parliament with my friend David Smith 35 years ago. I lobbied some of you who are on the other side and some on this side when I was here as a lobbyist, and I have been a legislator here with the Senate for the last six years. I have seen the evolution of the legislative process, and I have seen it from different levels.

I often talk about the good old days. When I was in the other place, the House of Commons, it might surprise some of the newer senators that members would listen to testimony. They would study and, yes, they would regularly amend legislation, even under a majority government; even under the Conservative majority government and under the Liberal majority government, they would still accept amendments. The people at the Department of Justice who wrote the legislation were happy — well, maybe not all the time — but they understood that we amended bills because we were part of a process that involved looking at their proposals. At least, that is what the process was and exactly what it is supposed to be.

[*Translation*]

We listened to testimony and acted accordingly.

[*English*]

We were well informed and listened, and we amended legislation. The system has now slowly been weakened by the present government. Nowadays, committees are expected to blindly adopt legislation put forward to them by the government — in this case, a convoluted mishmash of nearly 10 previous pieces of legislation that had not made it past the house.

[*Translation*]

We all saw the show put on by the House of Commons committee for Bill C-10. As a Quebecer, I was outraged by the insulting manner in which Minister Fournier was treated by the committee leaders when he came to Ottawa twice to try to improve the bill. As I mentioned, in the past, we listened to stakeholders and made amendments. That is not the case in 2012.

[*English*]

Talking about my lobbying days, my job at that time was to represent people from the outside who wanted to participate in the process of amending legislation. Parliamentarians were getting different points of view. They had the political point of view from the minister; they had the bureaucratic point of view; and the stakeholders wanted to be heard, so the stakeholders would come before the committees, give their opinions, some for the bill and some against, but, more often than not, some with amendments because at that time the process was such that bills could be improved. That was the objective of these committees.

Lobbying was part of the process and an honourable one at that. That is the biggest crisis we are going through — a process that is weakening the whole legislative process. This government, it is known, puts pressure on witnesses not to testify.

[*Translation*]

The government intimidates non-governmental organizations so that they will not come and testify.

[*English*]

This goes against all modern legislative consultation principles. We need to hear from them. This is again part of the process.

We have heard and read about the manual the government prepared to control house committees in the other place. This has led to a major reduction in the adoption of amendments in committees in the other place.

The history of Parliament tells us that bills were always amended in the house, in the Senate and in committees in both chambers. The people who write bills, as I said before, expect this. If you remember the Federal Accountability Act, hundreds of amendments were made in the Senate on that bill. They were sent back to the house and most of them were accepted by the house because we can, we do and we should be improving legislation when it comes to this place.

I must ask you, has this government found such talent at the Justice Department that every year of this government they have fewer and fewer amendments submitted and accepted than before? Are these drafters so superior to the ones from 20 years ago that their work does not deserve to be amended? I doubt it.

There are fewer amendments in the house and nearly none in the Senate. Has the drafting process improved so much that we no longer need to exercise our role as senators, as members of this chamber, as Senator Callbeck said, that is supposed to provide sober second thought?

In the past, we could improve what the house thought was good legislation. That is where the Senate comes into place in our democracy.

We are, generally speaking, less partisan. We engage in constructive debate. We encourage the improvement of bills and, therefore, of the country, as well as improve the importance of the legislation put in the other place.

Let me briefly address the judicial side of the issue. There is a check and balance between the legislative and the judicial. I have had a working relationship with judges in Quebec and at different levels. As some of you know, I also married one, but I will try to keep that consideration out of the debate, though it does influence my thinking a little bit. I think what we are doing in weakening the legislative side is bad enough, but at the same time we are now weakening the judicial system. We legislate; they judge.

• (1510)

We should not cross that line. We should not limit their power to mandate sentences; we should increase it. They are the ones that see the circumstances in which offence occurs. Often they see and hear young men and women, and too often members of our native communities, explain the circumstances of their crimes and, yes, sometimes judges offer them leniency. That is part of their job, part of their discretion, not ours. We have a good system. We have a higher rate of rehabilitation than our neighbours to the south and history has ultimately proven that their anti-crime measures were wrong.

[*Translation*]

Yes, mistakes have been made. Yes, I can sympathize with the victims and victims' groups, but the system works. And what is more, it works better than in other places.

[*English*]

Yes, we need to tweak the system every once in a while, but I do not think we should kill a good model. In short, let us both do our jobs as the Constitution requires us.

[*Translation*]

The Quebec Minister of Justice and Attorney General, Jean-Marc Fournier, came and met with members of the House of Commons Standing Committee on Justice and Human Rights to show just how different this bill is from the provincial model, which, I would like to say in passing, has proven its worth for the past 40 years.

Minister Fournier said that the government's solution is not a real solution. "It is like putting a band-aid on an infected wound. The band-aid does not help the wound to heal. It merely conceals it. Sometimes, when you remove the band-aid, the infection has worsened."

What is being done? The government is in the process of making draconian changes to the justice system. If the bill is passed, priorities will change. This bill will not help to combat crime in the long term.

First, the bill focuses on imprisonment rather than on rehabilitation. Second, it imposes automatic sentences that weaken our justice system and the role of judges. Third, the measures introduced by the government impose an enormous financial burden on the provinces.

This is not what Canadians want. They want a better justice system.

[*English*]

The often heard defence of all this abuse is — and we heard the same line and we heard it today from my friend, the deputy leader in the house, Senator Carignan — a broken record. We have a mandate from the people and what a treat. Every day we are seeing more and more of what they were ready to do to get this mandate: Spend outside the rules, use deceit, American-inspired politics. The end justifies the means, honourable senators.

[*Translation*]

I feel like I am talking to the Karl Rove fan club.

[*English*]

Just how stubborn this government can be is one for the books. Indeed, this week the government received a letter from the Global Commission on Drug Policy, urging Canada to stop pursuing the "destructive, expensive and ineffective" prohibition of pot. Among those who head this commission are former members the U.S. government, most famously George Shultz, the former Secretary of State in the Reagan administration. If Ronald Reagan's former Secretary of State is telling us the course of action this bill is headed in is wrong, why do we keep marching in that direction? The commission's letter further states with Bill C-10:

> Canada is at the threshold of continuing to repeat the same grave mistakes as other countries, moving further down a path that has proven immensely destructive and ineffective at meeting its objectives.

Honourable senators, we must ask ourselves: What kind of government would keep moving forward with legislation it is being told is ineffectual, dangerous and ultimately counterproductive, like the Global Commission on Drug Policy said and Mr. Fournier has been telling us? There is but one answer: an irresponsible one. The Conservatives like to talk about how opposition parties are unfit to govern, but in the years to come, when Canada has to deal with the new criminals, this bill will have been enacted, and we will be not only obliged to blame the government but as senators, on both sides of the house, if we pass this bill, we will have to blame ourselves.

Hon. Robert W. Peterson: Honourable senators, I rise today to speak on Bill C-10, the omnibus crime bill, and to encourage you to give this legislation further serious consideration. If we continue to rush Bill C-10 into law, Canada will be left with more crime, higher costs and less justice.

Bill C-10 bundles nine separate bills into one. It is over a hundred pages long and contains over 200 clauses. Yet, the Standing Senate Committee on Legal and Constitutional Affairs set aside just 11 days to deal with C-10. Clearly, it is impossible to give any of these bills the proper consideration they so rightly deserve in the tight timelines imposed by the Conservative government.

This legislation is complicated. It affects Canadians in many different ways, intended and unintended. It takes time to listen to Canadians, assess their concerns, and fix a bill. The Senate is known throughout Canada as the Chamber of "sober second thought." Imposing time allocation on Bill C-10 certainly flushes that reputation down the drain.

Parliamentary scrutiny was not only undermined by speed but also by cost. The government has never provided a full and proper costing of this bill. Yet, the Parliamentary Budget Officer, with no help from the government, was able to cost out just a few of the measures in Bill C-10, and found these alone would cost over $13 billion. That price tag is shocking.

When the Conservatives were in Opposition, my colleagues on the other side worked themselves into a lather over a billion dollar expenditure. Yet, they refuse to give a second thought to whether the measures in this legislation are worth an expenditure of thirteen times as much. For that price, the government could pay for tens of thousands of police officers. Which do you think would make Canadians safer?

Bill C-10 is far from the best use of public funds and very poor public policy. Youth advocate Mary-Ellen Turpel-Lafond nailed it when she said:

> What causes some recidivism in young people is not the system. It's the lack of support.

Worse yet, Bill C-10 will not actually work. There are no studies showing that its signature tool, mandatory minimum sentences, actually reduces crime. Criminals commit crimes for complicated reasons, but none of them hesitate because the penalty is three years in jail instead of two. The reality is that most of them do not think they will get caught, and Bill C-10 does nothing to help catch criminals.

This bill also does nothing to address the connection between crime, addiction and mental health. Nor does it do anything to redress the profound inequities faced by our Aboriginal population, which is disproportionately represented in the prison system. Under Bill C-10 that prison population will swell. That is not good. All too often, prison ends up being a school of crime. Young people who make one mistake meet up with hardened criminals who teach them the tricks of the trade and coerce them into gangs in order to stay safe on the inside.

In some provinces the prison population is approaching 200 per cent capacity, and that is before Bill C-10 passes. This overcrowding exacerbates problems inside prisons.

One of the largest charities working in the field of justice and corrections in our country, the John Howard Society of Canada, has very serious concerns regarding Bill C-10. They state that Bill C-10 will hinder their efforts for just, effective and humane responses to the causes and consequences of crime and impede their efforts to make communities safer.

It is well-known that the United States has gone down this road before. Republican governors and legislators in states like Texas, South Carolina and Ohio are repealing mandatory minimum sentences, increasing opportunities for effective community supervision and funding drug treatment because they know it will improve public safety and reduce taxpayer costs. They have determined from experience that mandatory minimum penalties greatly increased the numbers in custody, the numbers in remand and clogged the courts with trials. They also stated that:

> . . . studies clearly show that incarceration actually increases reoffending rates, particularly for youth and first time prisoners.

Fredericton Police Chief Barry McKnight understood this well. He told the committee that:

> We are not going to arrest our way out of this problem. We are not going to incarcerate our way out of this problem.

Then there is the question of justice. Mandatory minimums remove all humanity from the sentencing process. For instance, if a young person with a mental health problem pushed a police officer, he would be charged with a violent assault and face a mandatory minimum sentence. A college student growing six marijuana plants inside his dorm would see his sentence skyrocket under this legislation if he gives one joint to his roommate.

• (1520)

In fact, one judge has already ruled, in one recent case, that the mandatory minimum for a first-time offender possessing a loaded gun is unconstitutional because it would constitute "cruel and unusual punishment." That case would have sent a husband to jail for posing for photos with his cousin's handgun.

How did we get here? For the past six years, the Conservative Party has accused opposition parties of being "soft on crime" while they are "tough on crime." No other justification is required for the members opposite; they simply believe that if a bill "gets tough," then it must be supported. This simplicity harms our parliamentary process.

A better way forward would be to agree that "every crime deserves a consequence," that we must be "tough and smart on crime," and that we must be "tough on crime and tough on the causes of crime." From that point, we would move forward with a plan to make Canada safer instead of this self-defeating agenda of vengeance and retribution. Notable forces on the right outside the Conservative Party, from Conrad Black to the *National Post*, agree.

Honourable senators, let us stand up for Parliament, stand up for justice and stand up for taxpayers. Let us defeat Bill C-10 and get to the real difficult work of making Canada safer.

I will leave honourable senators with one final note for consideration: We spend $8,800 a year to educate our youth, yet we are prepared to spend $114,800 per year to put them in prison. There is something wrong with this picture; just think about it.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak to the government's closure motion on Bill C-10.

Bill C-10, as all honourable senators are aware, is an omnibus crime bill consisting of nine separate pieces of legislation that had been dealt with separately during the Third Session of the Fortieth Parliament. There are nine bills in this omnibus bill.

The Standing Senate Committee on Legal and Constitutional Affairs sat for over 50 hours and heard from 111 witnesses. We heard from victims, former judges, many police officers and people who worked for offenders. Even after hearing from all these witnesses, we were not able to thoroughly examine all aspects of Bill C-10.

I personally have received over 10,000 emails, hundreds of phone calls and handfuls of letters, all of which express concern about this bill. This morning, an electronic petition was sent to my office by an organization called Leadnow. This petition included over 50,000 signatures of people who are not in favour of Bill C-10. Unfortunately, I was mistakenly under the impression that we would be further debating this bill thoroughly in this chamber and touching upon the many problems present in this omnibus crime bill. There are many issues that I would have liked to debate in our Senate Chamber — issues that are important, complex and deeply embedded in this bill.

The work done by Justice Nunn is often cited when we speak of Bill C-10. In fact, it is often stated that it was the report of Justice Nunn that brought this bill before us. Knowing this, I was troubled to hear Justice Nunn, when he appeared before our committee, voice concern over mandatory minimum sentencing and state that he was not in favour of it.

Honourable senators, if a person whose report is directly reflected in this bill and who is often given credit by the government for Bill C-10 has doubts, then do we not also have reason to be concerned? To me, this is a sign that this bill needs to be examined more carefully in this chamber.

Since my time is limited today, I will touch upon a few of the many pressing concerns that I have and will also discuss two amendments that I brought forward in committee and would have liked to introduce in this chamber. The first was a safety valve amendment to mandatory sentencing, which states:

> A court sentencing a person who is convicted of an offence under this part, for which a minimum punishment is prescribed by the law, is not required to impose the minimum punishment if the court is of the opinion that:
>
> (*a*) there are exceptional circumstances relating to the offence or the offender; and
>
> (*b*) imposing the minimum punishment, having regard to all the circumstances, would be excessive or unreasonable.

Honourable senators, this amendment reflects what our committee heard many times from many people, such as the Canadian Bar Association and many others, including Justice Nunn. This was known as the "safety valve amendment." I drew the committee's attention to the importance of leaving some kind of discretion to the judge in exceptional circumstances when sentencing, even when mandatory minimums are imposed by Bill C-10. The effect of this amendment is to not tie the hands of the judge with mandatory minimum sentence provisions advanced by Bill C-10 and to allow the judge to consider factors that would make such a sentence excessive or unreasonable and to impose an alternative or lesser sentence.

The Canadian Bar Association and the Aboriginal Legal Services of Toronto wanted a general safety valve that would apply to all mandatory minimum sentences currently found in the Criminal Code. They pointed out many other countries that have safety valves, such as the United Kingdom, Australia and the United States. The effect of this amendment is that we all know we need to give the judge some flexibility in exceptional circumstances.

I also introduced in committee an amendment on mental health considerations for drug offences. It states:

> A court sentencing a person who is convicted of an offence under this Part may, if satisfied that the person requires mental health care, delay sentencing to enable the offender to participate in a mental health program approved by the Attorney General or to receive mental health treatment.

Additionally, it states:

> If the offender successfully completes a program under subsection (6) or if the mental health treatment is ongoing, the court is not required to impose the minimum punishment for the offence for which the person was convicted.

The committee heard from the Commissioner of the Correctional Service of Canada, Mr. Don Head, that 13 per cent of men and 29 per cent of women have mental disorders in our prison system; and this only applies to the drug section.

Several witnesses drew attention to the importance of adopting this amendment. Mr. Howard Sapers, the Correctional Investigator of Canada, said that the profile of inmates was changing. I want honourable senators to reflect on this statement when sleeping tonight because it haunts me: Mr. Sapers said, "Prisons are not hospitals, but some offenders are patients." I repeat: "Prisons are not hospitals, but some offenders are patients."

Dr. John Bradford said that in jail there is a controlled situation, while in a mental institution there is one-on-one care to help a person heal. Let them get that care first and then they can come back in front of the judge, which advocates treating offenders rather than putting them in jail.

Honourable senators, many things have been mentioned in this chamber, but two acts have not been touched, and they are very close to my heart. One is the Justice for Victims of Terrorism Act, to deter acts of terrorism against Canada and Canadians. The act states that both Canadians and people all over the world are entitled to live their lives in peace, freedom and security. Bill C-10 was introduced in the Senate in the last session in the form of Bill S-10. Senator Segal and Senator Tkachuk will attest to the fact that I was very concerned and agitated about this because once a victim has started an action against a foreign state, if for some reason the relationship between our country and the said foreign state improves, the victim's action would then be defeated as the foreign state would be given immunity.

I am very pleased to see my concerns have been addressed in this new bill, which states:

> If proceedings for support of terrorism are commenced against a foreign state that is set out on the list, the subsequent removal of the foreign state from the list does not have the effect of restoring the state's immunity from the jurisdiction of a court in respect of those proceedings or any related appeal or enforcement proceedings.

• (1530)

Honourable senators, this shows that we can change bills and that we can make differences for Canadians. However, there are many more improvements that still need to be made to this bill. Our committee heard from a number of witnesses last week who raised some very important concerns. We need to give these concerns proper consideration.

For example, our committee was advised by David Quayat and Hilary Young very clearly that, under our federalism the constitutional division of powers creating causes of actions is generally a provincial power. My concern is that we are raising the expectations of victims of terrorist acts and, when they finally sue the person who has caused them harm, they may find that they will not be as successful and they may be once again let down.

Another act that is of particular concern to me is the Immigration and Refugee Protection Act. This bill will allow immigration officers to refuse work permits for foreign nationals deemed to be at risk of exploitation based upon ministerial instructions — a very laudable thing. This amendment is meant to prevent trafficking, abuse and exploitation of vulnerable immigrants, especially women. However, the components of this bill are also very troubling.

For example, under this bill, an employer applies to Human Resources and Skills Development Canada for a labour market opinion setting out that there is no one in Canada that can do the job. The employer is then granted permission to bring a foreign employee in on a work permit. The challenge I have with this provision, one that I would like to have debated, is why, then, is the employee denied the work permit?

In my opinion, if we are trying to protect vulnerable people, especially women, the fairer situation would be to stop the root of the problem and stop the employers from obtaining labour market opinions to hire the employees in the first place, rather than once the work permit has been given.

The Hon. the Speaker: Excuse me, the honourable senator's 10 minutes has expired.

Hon. Grant Mitchell: Honourable senators, I would like to place a slightly different emphasis in my remarks on the issues that are at stake in this bill. My colleagues have discussed the bill in many different substantive ways. They have addressed the issues of this bill's relationship, or lack thereof, to solving the issues of crime, crime prevention, rehabilitation and so on. There is another side to this.

To be sure, this bill is about crime. It is less about crime prevention than the government would purport it to be. In fact, it is very much about a weak and failing crime agenda, one whose failures will be proven in the not-too-distant future — in fact, are already beginning to be proven — and one for which failure will incur huge human costs. Those costs will be on the vulnerable and unsuspecting victims, as well on those whom the government sees purely as offenders in varying colour and varying degree of evil — offenders who themselves will in many ways become victims of this bill.

This bill is very much about more than simply crime and the crime agenda. It is very much about retribution and punishment versus forgiveness as ways and means of creating the healing process in those experiences that people have with respect to crime. In that context, in particular, it is about who we are and what we are as Canadians. Bill C-10 is about what we value; how we promote and reflect those values in our society; how we relate to one another; how we relate to the more vulnerable; and how we relate to people for whom, if we could only offer a little bit more understanding, we would actually solve their problems and create a stronger, more healthy, more giving and more compassionate society.

This bill is about reducing complex problems to very simplistic characterizations that simply will not be fixed by the even simpler "remedies" — and I use that word lightly — this bill and this government would apply to those kinds of complex problems. It is about the difference between understanding and accepting science, research and thoughtfulness versus being driven by an ideology that may percuss this government and its members at some emotional level, but absolutely will not solve the problems which they have identified. In many respects, of course, we agree on what the problems are, however, we certainly have a deep difference in our estimation of what the symptoms are.

Now, because of closure, this bill, in addition to being about democracy to the extent that it addresses directly issues of fairness and justice, is very much about democracy because closure is an assault on the democratic institutions that we work within. Closure is an assault on the democratic processes that give us and sustain our rights and freedoms that make Canada one of the most remarkable and envied, just and fair — at least to this point — societies on the very face of the earth. Therefore, this is not simply about crime and a crime agenda; this is now about democracy, the democratic process and the assault that this closure represents.

This closure is not simply an isolated incident. It is, in fact, part of a pattern of closure.

Senator Mercer: They are addicted to it.

Senator Mitchell: Talk about the need to deal with addiction.

This government has invoked closure 24 times since it became a majority government. I am not sure, but I will bet that is more than the previous government invoked in its entire 13 years in government.

I thought it was a record, but, when I was in the legislature in Alberta, one summer when we were sitting that government invoked closure 18 times. Probably per month, per day or per unit of time that was more, but this is certainly a record in volume.

It is not just that this closure today is part of a pattern of closure. It is part of an assault in many different respects on our democratic institutions, on our democratic processes and on the intensity with which people in this country are encouraged to or discouraged from day-to-day debate, action and involvement in democratic processes and democratic debate in this country and in our society.

We saw almost breathtaking examples that illustrate what I am saying on this issue. We saw, for the first time in the history of this country, the government ruled in contempt of Parliament. They can say that it is because of the configuration of Parliament at that time, but there have been many periods of minority government. Never before in the history of this country has a government been ruled in contempt of Parliament. The foundations for that ruling speak for themselves.

The fact of the matter is that this government was making decisions — in fact on this very bill — and asking for decisions to be made without ever providing the kinds of information that any properly functioning, democratic, parliamentary institution would be absolutely right to expect that a government should provide them.

Then, of course, there have been multiple examples of muzzling of free speech among our scientists. In the Department of the Environment, our scientists are noted internationally for their credible, world-class leading scientific research and peer-reviewed publishing. Those who are left, if not fired, have been systematically inhibited from speaking out about their work.

In relation to access to information, the program has been bogged down in a way that is unprecedented. People have never seen anything like this before. When information is finally revealed, or when the documents are finally presented, they are often heavily redacted and almost unusable in the context of access to information.

This is perhaps one of the most serious and revealing features of the character of this government. When confronted with groups that disagree with whatever it is this government wants to do, if the government was funding them, they stop funding them. We saw that with KAIROS. Not only did the government stop funding that organization the way they had, but they actually took it over in a surreptitious matter, to stifle debate, to stifle those groups that have opinions or positions that this government would disagree with. They have done the same with many women's groups that were funded and that provide a remarkably important process of representing and advocating for women's issues and on behalf of women in our society and in our government public policy process. They have cut funding to stifle that.

• (1540)

There has been a direct assault in many ways — beyond the question of closure — on how these institutions have been treated and how they work. For example, several years ago, while still a minority government, this government prepared a huge manual to instruct its members on how to inhibit the process and the work of parliamentary committees.

Senator Mercer: The dirty tricks handbook.

Senator Mitchell: There it is, one of the dirty tricks handbooks.

In more recent times, with their majority, they are now conspiring to put much of the work that has been done by parliamentary committees, as a matter of course and tradition and, of course, in honour of democratic openness and transparency, in camera — behind closed doors — so that Canadians cannot see what it is that they want to do.

We have seen more and more — and this is very disconcerting — intimidation, in various ways like cutting off of funding, as I just mentioned, of groups that simply want to participate, legally and responsibly, in the public policy process and debate in this country. There is a concerted strategy to intimidate. Most recently, there has been the effort to demonize environmental groups and to somehow stifle whatever they are saying before processes that were set up by government so that people can openly debate issues on both sides, for example, development and the environment. These groups are now being intimidated by the kind of initiative that has been undertaken by the government generally and furthered by a recent inquiry by a member of this Senate.

The government has specifically launched intimidating attacks on environmental groups, and I will speak more broadly and at greater length about that when I address that particular inquiry.

Then there is the assault on fairness in the electoral system. If all of the various assaults that I have just listed were bad, this perhaps elevates the nastiness of what this government is doing to democracy even further. Of course, I am referring to their guilty plea on the in and out strategy that was clearly cheating. Whether or not it ultimately meant that they had bought or stole an election, it certainly was intimidation and erosion of the democratic process.

Even more disconcerting, we now see the question of voter suppression. It has yet to be determined whether the government actually stole the election based on voter suppression, but I am saying that there were forces afoot that certainly underlined that the fairness of this electoral process has been absolutely eroded and undermined by this government. When they saw that it was happening during the election, they did nothing about it.

One of the most —

The Hon. the Speaker: I regret to advise that the honourable senator's time has expired.

[*Translation*]

Hon. Céline Hervieux-Payette: Honourable senators, I am usually very pleased to rise and speak in this place, but today, it is with great sadness and more importantly it is with great concern that I speak to this motion to limit the time for debate.

I would like to mention a few recent issues that clearly demonstrate the kind of federalism this government likes to practice. With regard to health care agreements, there was absolutely no consultation. The provinces were simply told, "Here is what you are getting; take it or leave it." In other words, "It's our way or no way".

Coming from Quebec, this is not necessarily how I imagined the spirit of Confederation. A federal government implies some degree of power-sharing, and when this power is shared by two levels of government, they first have to agree to discuss how to address operational issues.

I remember one file that was the subject of considerable consultation: the Kelowna Accord. All that work was tossed out the window the day after the Conservative government came to power. The provinces, the federal government and all stakeholders had come to an agreement on how to address the problems facing Aboriginal populations, involving everyone and ensuring a step in the right direction. Still today, these issues are definitely not receiving the attention they deserve.

The same is true regarding justice. As we all know, the administration of justice — including the prosecutors and the courts — comes under provincial jurisdiction. Whenever changes to the Criminal Code — which is in federal jurisdiction — were being considered, there always was consultation. I used to be an MP in the House of Commons and now I am a senator, and I believe that it is the federal government's duty to ensure that, when passing legislation whose application concerns both levels of government, both sides come together to discuss it.

One question I have that will likely remain unanswered has to do with the cost. Personally, I have not yet seen any studies regarding the cost of this bill. Where is the cost-benefit analysis that proves that, as of tomorrow morning, our streets will be safer? On the contrary, and we will have the opportunity to discuss this later, in the testimony we heard, no expert would agree that this bill guarantees any kind of improvement. Where are the federal-provincial agreements that would put a limit on additional costs?

I would simply like to remind you, honourable senators, of the position taken by my province and the Quebec justice minister, Jean-Marc Fournier. Mr. Fournier has concerns, as do I, about the lack of scientific evidence to support the Harper government's approach to criminal justice. Mr. Fournier announced that Quebec does not intend to pay the multi-million dollar tab resulting from passage of the omnibus bill.

My proposal is quite simple: why not expect the Prime Minister and provincial premiers or justice ministers to sit down together to study the situation and come up with a solution in the best interest of all Canadians?

I am truly convinced that the government does not want to listen to the scientific evidence, and that it does not want to hear from experts. I know that, in Canada at least, Louise Arbour is one of the most renowned and admired people in the administration of justice, and she is a member of certain groups that have taken the government to task for this bill.

With regard to one of Mr. Fournier's concerns, this bill will result in an upward spiral of imprisonment. There will definitely be no savings and no rehabilitation. Nor will there be any money — I have not seen any — to compensate victims.

I ask the question once again: where is the cost-benefit analysis?

We have only received the report prepared by the Parliamentary Budget Officer, which indicates that costs will escalate by hundreds of millions of dollars and that we will have to build prisons.

I wonder if we are moving towards the American model. Will future jobs be created by building private prisons to be operated by private corporations that will hire prison guards? I do not think that this will bring us to the international forefront in terms of productivity.

One of the things that Mr. Fournier has criticized and deplores, as I do, is the undercurrent of revenge in Bill C-10.

• (1550)

According to him, that does not ensure safety for the long term — and I agree. The minister said:

> Prison sentences do not reduce crime or recidivism. A strategy purely focused on locking up offenders is nothing more than a temporary, superficial solution.

The minister said it was a "soft on crime" solution.

Mr. Fournier also reminded us a number of times that we can lengthen sentences for young offenders, but those young people will have to leave prison one day and return to society.

I would like to remind honourable senators that I took part in developing two bills. The first was on youth protection and the second was on a complete overhaul of the Young Offenders Act under the Trudeau government. The philosophy behind them was the same, because when children need to be protected it is generally because they are at risk. Quite often they are at risk of committing reprehensible acts because they are poor, mistreated, living in the streets and have no family. The Conservatives' solution to keeping them off the streets is to put them in prison. This solution and this philosophy are not only outdated, but they are not to Canada's credit.

Mr. Fournier is challenging the federal government to provide facts and evidence to justify the fundamental changes it wants to make to the system. In other words, if tomorrow morning the ten provincial ministers and the federal government sat down to see how to improve the safety of our communities in Canada, perhaps the government would find that we need a bit more in terms of social services; perhaps it would find that we need to help the First Nations community a bit more; perhaps it would also find that it is important to help single mothers take care of their children. In that sense, Quebec has found a solution and that is to create day cares to allow young mothers, usually single ones, to have someone to take care of their children while they get job-related training in order to lift themselves out of poverty one day.

There are solutions, but the one in Bill C-10 is not the right one.

It seems that, nowadays, it is not in the government's interest to put facts and scientific evidence on the table, be it from Statistics Canada or other federal institutions. I find that troubling. I think that the best way to go about solving a problem is to understand the nature of the problem itself and all possible solutions, based on what other Western countries are doing. This government has chosen an approach more akin to that used in non-OECD countries, an approach that is diametrically opposed to a philosophy of rehabilitation.

The government's claim that we do not support improving the justice system and protecting ordinary Canadians is totally false. Nevertheless, Bill C-10 is the wrong kind of solution. That is why I think that we are missing out on an excellent opportunity to meet today to discuss Bill C-10.

Minister Fournier was not the only one to say so. Ontario's premier said that he would not foot the bill either. Together, Quebec and Ontario represent 50 per cent of the Canadian population. So who will foot the bill? Some Canadian will have to. Either Canadians will receive two bills, one from the federal government and the other from the provincial government, or they will receive a bill from the federal government only. Regardless, Mr. McGuinty is already dealing with a difficult situation in Ontario, and he does not need more expenses in his budget. Building new jails is not on Ontario's agenda.

I therefore urge honourable senators to ask the minister to postpone this bill indefinitely.

[*English*]

Hon. Larry W. Campbell: Honourable senators, I rise today to speak on the government motion to limit debate on Bill C-10. The role of the Senate is to provide sober second thought, but this government is limiting our ability to fully consider important pieces of legislation.

Due to the time constraints this government has imposed on the study and debate of this bill, we have not been able to look at all the required information needed to pass this legislation in good conscience. This bill includes nine separate pieces of legislation and covers a huge variety of subject areas. From terrorism to drug crime to pardons to immigration issues, there is a dog from every kennel in this bill.

The Standing Senate Committee on Legal and Constitutional Affairs held 11 days of hearings to cover every part of this bill. How can this government possibly believe that this is enough time to properly hear crucial evidence and testimony regarding this bill?

The part of this legislation that deals with increasing and creating a new mandatory minimum for sex offenders, as well as creating two brand new offences, was dealt with in a day. Proposed amendments to the Immigration and Refugee Protection Act were given hardly any consideration at all. The committee heard from two panels of witnesses and from the minister and officials — less than one day of study.

The International Transfer of Offenders Act amendments were addressed by only two panels of witnesses, for a total of about two hours. The changes to the Young Offenders Act — 27 clauses — were also dealt with in a day. Proposed amendments to the Corrections and Conditional Release Act, which constitute over 50 clauses of this bill, as well as changes to the pardon and parole system and the curtailing of the availability of conditional sentencing were not given thorough study. They were looked at for approximately a day and a half.

Senator Tardif: Shame!

Senator Campbell: These are complex amendments with far-reaching implications. They deserve proper consideration, which they were simply not given.

Many organizations and groups asked to be heard before this committee but were unable to be heard due to the ridiculous time constraints. Furthermore, by limiting debate on this bill, the government is effectively slighting the witnesses who did travel here to speak to the committee and explain their views. We do not have adequate time to ensure that their voices are properly heard.

Time allocation was imposed on every level of house debate. It is an abuse of power that has, unfortunately, become a commonly used tool for this government. The message they are sending is clear, as it has been from the introduction of this legislation: They do not care about evidence, they do not care about witnesses' testimony, and they do not care about sober second thought.

Hon. Art Eggleton: Honourable senators, I want to stress three points. I will pick up on what Senator Campbell has just said and what Senator Fraser and others said earlier.

First, I find it astonishing that we did not finish the work. Is this not a violation of our duty? Senator Fraser has said there are components of the bill that did not get proper attention at the committee. Now, the committee worked long. It went all week and worked very hard, but this is a big bill. The Canadian Bar Association says it is too big. It says there are too many components in it that should not be in one bill by itself, and it points out that a lot of attention was not paid to a lot of components. Well, is that a violation of our duty? I think it suggests that it is.

Senator Tardif: Yes.

Senator Eggleton: Why are we talking about time allocation when we have not finished the job? We should have this back at committee so we can do the proper job the people expect us to do to provide sober second thought. You cannot provide sober second thought if you are not doing the work.

The second point I want to make is that all sorts of people have weighed in on this — people of great prominence, accomplishment and expertise: a former Chief Justice of Ontario, another who was a former member of the Supreme Court of Canada, the Canadian Bar Association. Many different organizations have all weighed in on this. However, did the government members of the committee accept any of their suggestions? No; no, they did not.

Did this large body of people who have a lot of expertise in this area not have anything to say that was useful in your minds, that you could not support any amendments whatsoever? Or is this just a case of, "Well, the last election we promised this, and therefore we will deliver it?"

• (1600)

That is an affront to Parliament, to just leave it at that, because you have an obligation to go through the proper process. What else would we have the committee for? Why else would we be standing here debating these items if you have already made up your minds? It is a question of, "Do not confuse me with the facts, because I have already made up my mind." That, again, is a dereliction of duty. Surely we should not be stonewalling all these people. You do not have to agree with everything they said, but surely someone, at some time, said something useful. However, you did not allow a single amendment to this. "No, we promised this in the election; we are going to proceed with it."

Why did you send it to committee? Why did you not just insist on having it all voted three times in one day and just get it over with? You are insulting people by saying, "Go ahead; say whatever you want. Yes, have the committee meetings for a week, but at the end of the day we will do exactly what we have always intended to do, and we will not listen to you at all."

One person who would feel dishonoured by that use of procedure and Parliament is former Prime Minister Diefenbaker. Prime Minister Diefenbaker was a champion of this Parliament. He was a person who respected the institution of this Parliament and believed that it needed to carry out its duty in a proper, functioning way. He said: "Parliament is more than procedure — it is the custodian of the nation's freedom."

How do you think Mr. Diefenbaker would feel today about the number of times that Mr. Harper has invoked closure and time allocation in this Parliament since the last election in May, in record numbers? That, again, is an insult to the memory and beliefs of Mr. Diefenbaker and to this institution. Let us do our job; let us defeat time allocation and go back and give this bill proper examination.

Hon. David P. Smith: Honourable senators, I rise today to add my voice to this debate on time allocation on Bill C-10. Bill C-10 is an amalgam of nine bills. It is a big one, over 200 clauses. There is a lot to absorb. I just do not think that time allocation is appropriate here. This bill is flawed. There are flaws in there. I honestly think that we should be having debate rather than closure.

The Minister of Justice has said it is balanced and targeted with specific legislation to keep existing criminals in jails. He says the approach respects the rights of the accused without "allowing these rights to take precedence, such as community safety."

I want to say that I actually have great respect for the Minister of Justice. However, I do not agree with him on this. I am a lawyer by profession. Forty years ago, when I was called to the bar, I did quite a few criminal cases. I cannot resist pointing out that a year later, my wife became a Crown prosecutor. Those were interesting days. We never appeared against each other.

This is an area of law that I am quite familiar with. I know what the legal profession and all the organizations are saying, and they are overwhelmingly opposed to this legislation.

First, I would say that Liberals are committed to pursuing a crime and justice approach that is evidence-based, cost-effective and focused on crime prevention. If you look at statistics on how Canadians feel about it, between 2009 and 2010, police-reported crime dropped 4 per cent and violent crime dropped 3 per cent. Statistics Canada says that 93 per cent of those surveyed in 2009

said they were satisfied with their personal safety. This is the same figure that they cited five years earlier, before the Conservatives and their "lock up every offender" philosophy came into effect, so there is no difference.

I do not think this bill has broad support from Canadians. I have received hundreds of emails, virtually none in support.

One key element of the bill that has received a fair bit of attention is the mandatory minimum sentences for drug offences. It does not distinguish between, say, possessing 6 plants or 600 plants. This part of the bill just does not make good sense, as has been pointed out by Senator Nolin, for whom I have great respect. The Global Commission on Drug Policy weighed in on the debate as late as yesterday, when it sent out a missive against the bill. This well-respected international organization, which includes former Supreme Court of Canada judge Louise Arbour, sent a scathing letter to the government stating:

> . . . with the proposed implementation of mandatory prison sentences for minor cannabis-related offences under Bill C-10, Canada is at the threshold of continuing to repeat the same grave mistakes as other countries, moving further down a path that has proven immensely destructive and ineffective at meeting its objectives.

Honourable senators, as the commission states, by implementing this drug policy, the government is sending the wrong message to the world. The letter goes on to say:

> Canada has a proud international tradition of innovative and realistic policies; tougher drug law enforcement tactics such as mandatory minimum sentencing for minor drug offences will put a huge strain on Canadian taxpayers, will not have the intended effect of creating safer communities, and will instead further entrench the marijuana industry in the hands of organized crime groups.

The commission is not alone. The U.S. organization Law Enforcement Against Prohibition sent a letter to the Senate, signed by 28 current and former judges, police officers and narcotics investigators, which said:

> Through our years of service enforcing anti-marijuana laws, we have seen the devastating unintended consequences of these laws. Among the greatest concerns is the growth in organized crime and gang violence.

Is that not what you are trying to fight with this bill? That is kind of ironic.

Then there is the cost. Ask Kevin Page, the Parliamentary Budget Officer. He was asked to give an independent analysis to the Senate and House of Commons on the state of the nation's finances. He responded to a request from a member of the other house to look at the cost issue of one element of the bill, the conditional sentences of imprisonment. His report on the fiscal impact of the changes to eligibility for conditional sentences of imprisonment in Canada had Bill C-10 been in force in 2008-09 underlined what we had suspected: The government's plan would result in increased costs.

What I found particularly telling was that he concluded that approximately 4,500 offenders would no longer be eligible for CSI — that is, conditional sentences of imprisonment — and, as such, would face the threat of a prison sentence; and the average cost per offender will rise significantly, from about $2,600, because of these minor ones, to $41,000. That is a 16-fold increase. From whom? The Parliamentary Budget Officer.

The government claimed this bill would not result in increased costs. The Parliamentary Budget Officer said it would have resulted in close to $8 billion in costs federally, while the provinces would bear the brunt for higher prosecution, court, prison, and parole review costs.

Others may get into this, but in Ontario alone they are saying it will cost $1 billion.

Another area that concerns me is the Aboriginal community. In 2006, they represented 3.1 per cent of the adult population, but they represented 18 per cent in provincial and territorial prisons and 19 per cent in federal institutions. With these minimum sentences, that number will go up. That is disgraceful; I think it really is.

I was also curious to read former Tory MP David Daubney's comments on the bill. He recently retired from the Department of Justice, and as an MP, he chaired the Standing Committee on Justice, which produced a review of sentencing back in its day. In an interview with the *Globe and Mail*, he said the government's "policy is based on fear — fear of criminals and fear of people who are different. . . . I do not think these harsh views are deeply held." He was the coordinator of the Justice Department's sentencing reform team until retiring in October.

To give credit where it is due, I was pleased to see that the government listened to the brilliant mind of our critic in the other house, himself a former Minister of Justice, with those amendments, and I do respect that.

• (1610)

I also want to say objectively that I was part of the Special Senate Subcommittee on Anti-terrorism, and again I was pleased to see that the government also considered our report.

However, overall, in this time when the government is preaching austerity and has already warned that belt-tightening is coming in the next budget, placing jobs and pensions at stake, it is embarking on a reckless spending spree to deal with an issue that is based on ideology and not reality. It is part of this jails and jets idea. I will not go into these most expensive jets in the world, but the last I heard, the Cold War was over.

The government is building its crime-fighting fantasy on a failed American experiment with this legislation, and it is being done on the backs of Canadians who do not even feel under threat or siege. I know that honourable senators will be addressing other shortcomings of this legislation, but I did want to take a few minutes to indicate I do not think this is something on which we should have time allocation.

Hon. Elizabeth Hubley: Honourable senators, I am deeply troubled by many aspects of Bill C-10, the Safe Streets and Communities Bill. From the testimony given during the hearings on this bill in the Standing Senate Committee on Legal and Constitutional Affairs, it is clear to me that there are still serious issues with this legislation that have yet to be resolved.

In particular, I am concerned about the effect of mandatory minimum sentencing provisions on our already overcrowded prisons, the lack of access to programs and services for inmates and the replacement of the principle that corrections services use the least restrictive measures with what is necessary and proportionate. Overcrowded prisons are a threat to the safety of inmates and the corrections staff and are an impediment to the rehabilitation of offenders.

Howard Sapers, the Correctional Investigator, had this to say about the overcrowded prisons when he appeared before the Legal and Constitutional Affairs Committee:

> As prisons become more crowded, building our way towards a solution while assisting inmates to lead a law-abiding life upon release is an increasingly challenging and expensive endeavour.

Honourable senators, too many of our Canadian inmates are housed in accommodations that contravene United Nations standards, and some of those in solitary confinement are also double-bunked This is simply unacceptable. Overcrowding is only going to get worse if we pass this bill and its attendant mandatory minimum sentencing provisions.

In addition to the problem of overcrowding, Mr. Sapers also told the committee about the challenges our corrections system faces due to the changing offender profile. As the committee heard, one in five federal inmates are aged 50 or older; 36 per cent are identified at admission as requiring some form of psychiatric and psychological service or follow-up intervention; 63 per cent of offenders report having used either alcohol or drugs on the day of their current offence; 20 per cent are of Aboriginal descent; and 9 per cent of inmates are Black Canadians.

Honourable senators, offenders with mental health issues or addiction problems and those who lack education and job skills need access to programming while in prison. Frustratingly, the Correctional Investigator found that in prison after prison the waiting list for access to these programs contained more inmates than were actually enrolled.

In order to achieve safe streets and communities, there needs to be a greater emphasis placed on treatment and rehabilitation. Most offenders leave prison one day, and when they do Canadians deserve to know that they have the skills necessary to lead a productive and crime-free life.

I am afraid that with this bill too much of an emphasis is placed on punishment and retribution and not enough on rehabilitation and prevention. Kim Pate, the executive director of the Canadian Association of Elizabeth Fry Societies, explained to the Standing Senate Committee on Legal and Constitutional Affairs that the majority of women, men and young people who are in prison have also first been victimized.

Honourable senators, I believe that the best approach to dealing with crime is prevention. We must intervene early to divert vulnerable children away from lives of crime. This is especially important in communities where poverty, despair and criminality cycle through families from one generation to the next.

I am also concerned about the provision in this bill that would replace the principle that the correctional service use the least restrictive measures consistent with the protection of the public, staff members and offenders with the principle that the measures are limited to what is necessary and proportionate. This change would give prison guards even more power to use force than they currently possess.

Honourable senators, I am afraid that this change will hit mentally ill prisoners particularly hard. When I think of the impact that this sort of change will have on offenders, I cannot help but think of vulnerable individuals like Ashley Smith. I realize that dealing with mentally ill prisoners cannot be easy for prison staff. That said, it is imperative that we continue to hold them to the highest possible standards. It is important to remember that when we incarcerate an individual we temporarily deprive him of his liberty, but we do not take away his rights under the Canadian Charter of Rights and Freedoms.

Honourable senators, the Correctional Investigator told the Standing Senate Committee on Legal and Constitutional Affairs that he, too, is concerned by the messages and implications that are being delivered by this proposed change, and, moreover, that this change appears contrary to maintaining a fair, safe and accountable correctional system. Clearly there are lingering concerns about this aspect of Bill C-10 and its consequences for Canadians as inmates.

I am not satisfied that these concerns have been thoroughly considered. Due to these overwhelming concerns about the impact mandatory minimum sentences will have on our already full prisons and on mentally ill inmates who occupy them, I cannot support this bill. I think we are taking the wrong approach to dealing with crime, and consequently we will achieve neither safer streets nor safer communities.

[*Translation*]

Hon. Fernand Robichaud: Honourable senators, I agree with my colleague, Senator Callbeck, that, first of all, we should only invoke time allocation in urgent situations, when a bill needs to be passed immediately, and that we could have reached an agreement on the number of hours or days to allocate to this bill.

During his presentation on the committee's report, Senator Wallace talked about what a great job the committee did. He also mentioned that the committee members did not always agree on —

The Hon. the Speaker: I apologize, honourable senators, but I must interrupt Senator Robichaud.

[*English*]

Our two and a half hours have now expired; therefore, I am obliged to put the question to the house.

It was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Eaton, that, pursuant to rule 39, a single period of a further six hours of debate, in total, be allocated to dispose of both the report and third reading stages of Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts.

Those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the yeas have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators.

The two whips are standing.

Senator Munson: One hour.

Senator Marshall: One hour.

The Hon. the Speaker: As the rules say, and the whips confirm, the vote will take place at 5:20 and the bells will ring during this period.

Do I have permission to leave the chair?

Hon. Senators: Agreed.

• (1720)

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Angus	Maltais
Ataullahjan	Manning
Boisvenu	Marshall
Braley	Martin
Brazeau	Meredith
Brown	Mockler
Buth	Neufeld
Carignan	Ogilvie
Cochrane	Oliver
Comeau	Patterson
Dagenais	Plett
Demers	Poirier
Di Nino	Raine
Doyle	Runciman
Duffy	Seidman
Eaton	Seth
Finley	Smith (*Saurel*)
Fortin-Duplessis	Stewart Olsen
Frum	Stratton
Gerstein	Tkachuk
Greene	Unger
Housakos	Verner
Lang	Wallace
LeBreton	Wallin
MacDonald	White—50

NAYS
THE HONOURABLE SENATORS

Baker	Losier-Cool
Callbeck	Lovelace Nicholas
Campbell	Mahovlich
Chaput	Massicotte
Cools	McCoy
Cordy	Mercer
Cowan	Merchant
Dawson	Mitchell
Day	Munson
Downe	Nolin
Dyck	Peterson
Eggleton	Poulin
Fraser	Poy
Furey	Ringuette
Harb	Robichaud
Hervieux-Payette	Smith (*Cobourg*)
Hubley	Tardif
Jaffer	Zimmer—37
Joyal	

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

NINTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Wallace, seconded by the Honourable Senator White, for the adoption of the ninth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts, with amendments and observations), presented in the Senate on February 28, 2012.

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, in rising today to speak on the bill itself, I first want to thank Senator Wallace for his work in chairing our Standing Senate Committee on Legal and Constitutional Affairs during the study of this complex bill. I participated in most of the hearings and all of them during last week's marathon. The

committee functioned well within the strictures imposed upon it, due in no small part to the leadership of Senator Wallace as chair and Senator Fraser as deputy chair. We all owe them our appreciation.

However, honourable senators, as we heard earlier this afternoon, there were severe constraints placed by the government on our examination of the bill, and these had consequences for our study.

Many of us are familiar with the maxim "first, do no harm," a fundamental precept of medical ethics. As legislators, we would be wise to heed this maxim. I am convinced that by this test, we would have no choice but to defeat Bill C-10 because this bill will do harm to the criminal justice system in this country and likely irreparable harm to the lives of many Canadians.

Judge Barry Stuart, retired Chief Judge of the Yukon Territorial Court, put it well when he appeared before our committee last week. He said:

> The last, the most important thing I would say is . . . we cannot afford some political idea to float if it does not meet the best evidence test. You probably spend more time looking at best evidence in purchasing military aircraft than you do in looking at what you will do with our youth. . . . You need to look at this carefully on the evidence. If the evidence supports it, fine. If the evidence does not, I hope you will have the courage to say no.

Honourable senators, we should have the courage to say no.

Regrettably, as I described earlier today, we and our colleagues in the other place have not been given the opportunity to give this bill the careful study it deserves and demands.

• (1730)

The short title of this bill is "Safe Streets and Communities Act." This is a goal every one of us shares. Who would not want to make our streets and our communities safer? All of us want those who break the law to receive the most just and the most appropriate sentence.

However, a fair reading of the evidence we heard would lead one to conclude that, in fact, many of the provisions of Bill C-10 will make our streets and communities less safe and will result in Canadians receiving sentences that are neither just nor appropriate.

A centrepiece of this legislation is the extensive use of mandatory minimum sentences, so heavily relied upon by this government, yet not a single study has been produced by the government or its supporters in defence of this policy.

Let me tell you what the studies do show. The Centre for Criminology and Sociolegal Studies at the University of Toronto puts out an excellent publication called *Criminological Highlights*. It is read and relied on by officials in the federal and provincial governments, judges, police officers, lawyers and academics and has subscribers in 35 countries around the world. It is, in other words, a respected, valued publication in the criminal justice system the world over. For the February 2010 issue, researchers looked at a wide range of serious studies on the effect of imprisonment. They reached a number of pertinent conclusions. First, they state:

> Incarcerating offenders who could be given non-custodial sanctions does not reduce the likelihood that they will commit further offences. In fact, incarceration may increase the probability of recidivism.

Second, they state:

> First-time imprisonment of offenders increases the likelihood that they will re-offend.

Third, they state:

> Numerous studies have shown that mandatory penalties do not affect crime rates. The evidence is equally consistent in showing that they interfere with accountability and the efficient operation of the criminal justice system.

Honourable senators, these are significant and, I would have thought, highly relevant conclusions for any government interested in making streets and communities safer. I would have expected our government, particularly since it professes itself to be focused on outcomes and accountability, to be interested in avoiding these kinds of outcomes. Instead, we have a government focused on silencing any voice that does not join in the choir to sing the praises of its ideologically based decision making.

Last May, the Harper government stopped its funding of this University of Toronto publication. It was not expensive. I understand it was some $25,000 a year. However, money was never the issue, colleagues, because we have all seen this government's tendency to fund only those publications that agree with its policies and to stop funding those who dare to disagree.

An Hon. Senator: They are very insecure.

Senator Cowan: I fear this is what happened here. Happily, the Liberal government of Ontario stepped into the breach, and this highly respected publication will live on.

In November of 2010, the well-known not-for-profit organization called The Sentencing Project published a paper entitled, "Deterrence in Criminal Justice: Evaluating Certainty vs. Severity of Punishment." It looked at studies on sentencing, including a Canadian meta-analysis that reviewed 50 studies dating back to 1958 involving a total of 336,052 offenders. The Sentencing Project Found that imprisonment versus remaining in the community was associated with a 7 per cent increase in recidivism. In other words, colleagues, locking someone up instead of keeping them in the community makes them significantly more likely to reoffend, and, of course, that means more dangerous streets, more dangerous communities, more victims and more costs of crime.

A number of us on this side have asked the Leader of the Government in the Senate repeatedly about the monetary costs of her government's crime bills. She has repeatedly said in response that her government is more concerned about the costs to victims. Well, colleagues, the evidence — the real, serious studies — is clear. The policies contained in Bill C-10 that would impose mandatory minimum terms of imprisonment and specifically reduce the ability of a judge to order a sentence served in the community are policies that actually increase the likelihood of crime and increase the number of victims. If this government were truly concerned about the victims of crime and the costs to victims, it would withdraw and redraft this bill.

The fact is, honourable senators, mandatory minimums do not work to reduce crime, but there is another, equally serious problem with mandatory minimum penalties. They actually undermine the foundation of our system of criminal justice.

Let us be clear. The issue is not the length of the sentence, although there are some very strange mandatory minimums provided in this bill with some child sex offences receiving lower mandatory penalties than some drug offences. Some proponents of this bill will graphically describe some heinous crime as reported in the media and then smugly ask opponents, "Do you not agree that is too light a sentence?" That, honourable senators, is not the issue. Indeed, I believe that kind of argumentation distorts the debate and obscures the real, serious issue.

Graham Stewart, who, until 2007, served as the executive director of the John Howard Society, expressed it well: "The opposition to mandatory minimums is not the penalty; it is the decision-maker."

Sitting here in this chamber, literally high on the hill — Parliament Hill — are we best placed to anticipate the circumstances of every possible case that may come before a judge so that we can say now, possibly years in advance, before an offender is even born, that this is the penalty that must, as a minimum, apply to that accused individual?

Senator Mitchell: Absurd.

Senator Cowan: Former Supreme Court Justice John Major is an eminently respected jurist; indeed, he was entrusted by this government to conduct the Air India inquiry. He was interviewed on CBC's *The Current* on December 15, 2010, about mandatory minimum penalties. He was asked whether he thinks they are a good idea. Here is what he said, and I quote:

> No. No I don't. No two crimes are the same. No motivation is the same. And you can't put the square peg in a round hole all the time. I don't know that there's ever been an identical crime committed by strangers.

Senator Tardif: That is right.

Senator Cowan: Former Justice Merlin Nunn said practically the same thing to our committee last week. Based on his 22 years of experience as a Supreme Court trial judge in Nova Scotia, this is what he said:

> I am not in favour of mandatory sentences because I have seen so many different situations of a particular offence. You could do the same offence five times with five different people and it is a whole different set of circumstances.

Honourable senators, we have an excellent criminal justice system in Canada. Indeed, it is a model for the world. A fundamental principle of our system is its careful balancing of the roles, powers and responsibilities amongst the police, the Crown prosecutor, the defence lawyer and the judge.

Another absolutely foundational principle is that a judge decides each case on its merits, judging the accused person before him or her on that day. It is not a one-size-fits-all justice system. Criminal justice is not a vending machine where you press a button, A1, B5 or B6, and out pops a sentence. Vending machines usually dispense junk food, and we should aim for something higher when we dispense justice to Canadians.

Graham Stewart told us that "the reality is that once you start making justice arbitrary, you cannot maintain public confidence." Mandatory minimum punishments are, by their very nature, arbitrary, and as Mr. Stewart told us, public confidence in the judiciary in the United States, which, as he put it, has mandatory minimums scattered throughout the system, is much lower than here in Canada.

I know that the government opposite and their supporters do not like references to the U.S. experience. No wonder, but it is a cautionary tale.

As Mr. Stewart emphasized to us, when our American neighbours introduced mandatory minimums, they were not deliberately setting out on a program to increase their prison population. Back in the 1970s, nobody knew where introducing a few mandatory minimums would lead. They wanted more public safety, and they thought that this was the path to that end.

• (1740)

Let me read to you from Mr. Stewart's testimony on the results. These are startling statistics, honourable senators:

> Today, one in every 100 American adults is in jail — not having been in jail — but in jail today, one in every 100.
>
> One in 30 men between the ages of 20 and 34 is in jail — one in every 30, and for Black men that age, it is one in every nine.
>
> Five states, Vermont, Michigan, Oregon, Connecticut and Delaware, now spend more on their correction systems than on their post secondary education system. In every school classroom in America, there are two children that have a parent in jail. More than any other cause, and there are a number of different causes, the difference in causes of the incarceration rates between Canada and the United States reflects sentencing policy and, in particular, the use of mandatory minimums.

He went on:

> While the United States embraced mandatory minimum sentencing, Canada, through various governments of different political stripes, avoided the wedge politics that this creates and instead developed sound sentencing policies that reflected values of Canadians and left sentencing to the judges.

Last week, all of us received an extraordinary letter from an organization called Law Enforcement Against Prohibition. This is an American organization, and the letter was signed by retired American chiefs of police; judges; prosecutors; corrections officials; law enforcement officers; legislative counsel; and federal border, customs and immigration officials. They focused on the drug portion of Bill C-10 and they were, as they said, extremely concerned about our proposed legislation, which they described as similar to those that have been, in their term again, such "costly failures" in the United States.

The letter went on:

> These policies have bankrupted state budgets as limited tax dollars pay to imprison non-violent drug offenders at record rates instead of programs that can actually improve community safety.

In fact, honourable senators, jurisdictions that have tried mandatory minimums are now taking a hard look at those policies and are, in some cases, undoing them. They look with disbelief as we proceed, seemingly oblivious to the evidence, down a path that they know, to their sorrow, has been a failure and which has cost so much in lives and taxpayers' dollar.

Just this week, Louise Arbour, a former Canadian Supreme Court Justice and UN Commissioner for Human Rights; together with Richard Branson, the well-known founder of the Virgin Group; Fernando Henrique Cardoso, the former President of Brazil; Ruth Dreifuss, the former President of Switzerland and Minister of Home Affairs; and Thorvald Stoltenberg, the former Minister of Foreign Affairs of Norway and the UN High Commissioner for Refugees, sent an open letter to all senators on behalf of the Global Commission on Drug Policy. The commission also includes former U.S. Secretary of State George Shultz and the former Chair of the U.S. Federal Reserve Paul Volcker, just to name two.

They wrote to urge us to vote to reject the proposed mandatory minimum sentences in Bill C-10. They said:

> Building more prisons, tried for decades in the United States under its failed War on Drugs, only deepens the drug problem and does not reduce cannabis supply or rates of use. . . . with the proposed implementation of mandatory prison sentences for minor cannabis-related offences under Bill C-10, Canada is at the threshold of continuing to repeat the same grave mistakes as other countries, moving further down a path that has proven immensely destructive and ineffective at meeting its objectives.

John Paul Stevens, who served on the U.S. Supreme Court from 1975 to 2010, wrote a fascinating article in the November 2011 issue of *The New York Review of Books*. It was a review of a book by William Stuntz called *The Collapse of American Criminal Justice*. I will read one paragraph:

> Rather than focus on particular criminal laws, the book emphasizes the importance of the parts that different decision-makers play in the administration of criminal justice. Stuntz laments the fact that criminal statutes have limited the discretionary power of judges and juries to reach just decisions in individual cases, while the proliferation and breadth of criminal statutes have given prosecutors and the police so much enforcement discretion that they effectively define the law on the street.

That is exactly what many predict will happen here as well.

As I said a few moments ago, our criminal justice system is founded on a careful balance of the roles among the police, prosecutor, defence and judge. Bill C-10 would radically change this balance, and there has been no evidence presented that it would be a change for the better. Let me explain.

Knowing that the judge will have lost any discretion with respect to a jail sentence for a particular crime, the discretion will shift down to the prosecutor and, indeed, the police to decide what someone should be charged with — an offence that carries a mandatory minimum or something else — and on what terms. Our committee heard evidence how this will increase the number of plea bargains as offenders agree to plead guilty to a lesser charge in order to avoid a charge that carries a mandatory minimum.

That is discretion exercised by a Crown prosecutor, and there will be increased reliance upon discretion exercised by the police, as well. Indeed, a number of senators opposite pointed proudly to statements made by police representatives during the hearings when we were assured that, even though Bill C-10 would impose a mandatory minimum sentence for certain behaviour — offering to share a drug with a friend at a party, as an example, for no money, regardless of whether that friend accepts — we were told not to worry, because the police have assured us they will not charge that person.

Honourable senators, we are being asked to remove discretion from our judges, who are trained to exercise it impartially and dispassionately, and give it instead to police officers.

Senator Tardif: Incredible.

Senator Cowan: Unquestionably, most police officers will use that discretion in the public interest as they see it. However, we have seen far too many instances in recent years of police officers abusing their discretion and, indeed, the public trust.

Do we truly believe that Canadians are more comfortable with giving police more discretion than with judges assessing just and proper sentences?

There is also a serious problem of Bill C-10 stretching our criminal justice system further than it has ever been stretched before. Justice Barry Stuart testified that if everyone pleaded "not

guilty," the criminal justice system would simply shut down. It is simply not equipped to deal with that volume of trials. When charged with an offence that carries a mandatory minimum jail sentence, what incentive is there to plead guilty?

The Canadian Bar Association, which represents both defence and Crown lawyers, told us in unequivocal terms that Bill C-10 will put an inordinate strain on the overall workload of the players in the criminal justice system. Daniel MacRury, Chair of the CBA's National Criminal Justice Section, testified as follows, and he is speaking about Nova Scotia:

> Plea bargaining is a reality. In our jurisdiction, about 15 per cent of matters actually go to trial at the end of the day.

That is 15 per cent.

> If more matters are going to trial, where is the capacity for that?

I also want to address the role of victims and their interests. I am sorry that Senator Boisvenu is not here for this. This government has held itself out as first and foremost concerned for the best interests of victims and victims' rights. Sadly, I believe the government is raising expectations beyond what this bill will or could achieve.

First of all, the promise held out is that mandatory minimum penalties will reduce crime and protect people from becoming victims in the future. The facts, honourable senators, simply do not support this. To the contrary, the best evidence and the best studies, not contradicted by evidence or studies produced by the government, is that mandatory minimums will reduce public safety in the long run, will increase crime and, therefore, will obviously create more victims.

We heard repeatedly that victims want to be engaged in the criminal trial process. I fear they will be disappointed, as the pressures on the court system will result, as I have said, in many plea bargains and deals made behind closed doors, to which victims are not a party, and potentially cases dismissed altogether as the trial list is simply too long.

• (1750)

Steve Sullivan was the first Victims Ombudsman appointed by the Harper government. He speaks his mind, whether or not it agrees with the government. Not surprisingly, he was not reappointed to this position.

Senator Cordy: Surprise, surprise.

Senator Cowan: Regrettably, he did not get an opportunity to appear before our committee, but he did testify in committee in the other place. Here is some of what he had to say; and remember, this is the Victims Ombudsman:

> From working on the front line and having discussions with many of my colleagues there and with a lot of our networks, the issues in this bill, frankly, are not the issues that come up when we talk about the day-to-day challenges of victims of crime.

He later went on to say:

> . . . crowns are going to be busier. They're going to have more trials; there will be more plea bargains and more stays. That's not an agenda that's going to help the victims of crime who are seeking justice.

Jamie Chaffe of the Canadian Association of Crown Counsel warned us that the added workload that Bill C-10 will place on the system "will negatively impact on the public safety of Canadians, the rule of law and public confidence in the administration of justice in Canada."

Mr. MacRury of the Canadian Bar Association told us this:

> People will look for prosecutors and put pressure on them, for example, to elect summary instead of indictable when it is clearly an indictable offence. Then you are in a situation such that do you allow that election so an injustice does not happen? I do not think that is a just result because, at the end of the day, you are explaining to a victim, for example, that we are going summary. That is not fair to the victim, either. We are dealing with a bunch of people that we have to treat fairly in the system and we have to be transparent. The concern I have is that it is transparent now when we have it in an open courtroom, but if we are encouraging what I call "election bargaining," which will happen under this act, I do not think that is healthy, either.

With Bill C-10, the Harper government is bringing the same Orwellian definition of transparency to the criminal justice system as it has brought to the government itself.

Honourable senators, I also want to speak about what some of us have called "the false dichotomy" of victim versus offender. In fact, the evidence is that there is often no clear line: Far too frequently, offenders in fact used to be victims. Kim Pate of the Canadian Association of Elizabeth Fry Societies gave very strong testimony about this:

> In Canada, there have been many reports, particularly in terms of the over-representation of Aboriginal people who have first been victimized. Before this committee, I have mentioned previously that Corrections identifies that about 91 per cent of the women serving federal sentences have histories of abuse, and many of them may be in for defending themselves or reacting to violence. Yet, that is not differentiated once they get into the system and certainly does not assist them or others in terms of developing a method that will encourage more punitive reaction to their criminalization.

She later elaborated in reply to questions from Senator Dagenais that we should be doing more to deal with the determinants of crime by intervening earlier through:

> . . . better social services and more universal approaches, whether it is enhanced school programs and recreational programs, all the things we know that put children at less risk of ending up in a vulnerable situation either to be preyed upon or to become, themselves, involved in criminal activities.

There was a great deal of evidence that the impact of this bill will be felt disproportionately by Aboriginal Canadians. They are already, as we have heard, grossly overrepresented in our prison system. While they are only 4 per cent of the general population, they make up almost a quarter of the prison population. Out west, the statistics are even worse. In Saskatchewan, Aboriginal Canadians comprise 11 per cent of the population, but 81 per cent of new admissions to prison. As Assembly of First Nations National Chief Shawn Atleo has said many times, children from some Aboriginal communities are more likely to end up in jail than to graduate from high school.

Justice Barry Stuart, again, has a long experience with Aboriginal offenders. He was very clear with us: He is not against the use of jail, but his long experience showed him that jail alone is ineffective. It must operate in conjunction with community supports, and that means community resources.

Justice Stuart is also now a member of the Smart Justice Network, a non-partisan group of Canadians with extensive experience who have come together to work for a better, evidence-based way for criminal justice. He spoke at a press conference held following his appearance before our committee. He described seeing over and over again children who had been taken from their homes, placed, with the best of intentions, in care and ending up in youth court. When he testified before our committee, he put some numbers on this. He told us that since leaving the bench, he has been visiting some of his, as he described them, "customers" in jail, and in one of those sessions they held a circle. He asked the offenders in the circle to put up their hands if they had ever been in care. Of the 27 offenders — and this was a maximum security prison — over three quarters had been in care.

Justice Stuart believes adamantly that we spend far too much money at the end of the process — on criminal justice and our prison system — and nowhere near enough at the front end, where the problems set in.

Professor Michael Jackson of the University of British Columbia's faculty of law told us that prison has become for young Aboriginal men and women what the residential school was for their parents and grandparents. He said: "The promise of a just society was not a college education but a term in a federal institution."

Honourable senators, many of us were here when the Prime Minister made the historic, long overdue and deeply moving apology to Aboriginal Canadians for the residential schools. However, the apology is not enough. We cannot move from the apology to ignoring the consequences of that terrible time for Aboriginal Canadians today and locking up more and more Aboriginals in our jails when there is strong evidence that there is a connection. When will it stop? We had residential schools that seem to have set in motion the terrible cycle of victimization and crime. Now, are bills like Bill C-10 to place more and more Aboriginal Canadians behind bars and continue that cycle for their children? If there is any situation to demonstrate that justice is not a one-size-fits-all system, it is this.

Another problem with this government's vending machine approach to dispensing justice is the impact this bill will have on Canadians with mental illness.

Howard Sapers, the Correctional Investigator of Canada, put it this way:

> . . . the real question, I suppose, is how to deal with the fact that prisons are not hospitals, but some offenders are patients.

Let me give you some statistics. These were taken from the submission of Dr. John Bradford, a professor of psychiatry at the University of Ottawa and with the Royal Ottawa Health Care Group.

Thirty-eight per cent of men assessed at a federal prison showed symptoms of mental health problems, and 78 per cent of men in some studies showed a severe dependence on alcohol. The statistics for women are even worse. Seventy-eight per cent have drug problems, and approximately 70 per cent have problems that relate to alcohol. The degree of mental disorder or previous suicide attempts was extremely high — 41 per cent.

Honourable senators, these people need treatment, not prison. We know from the testimony of Mr. Sapers and others that our prisons are simply not equipped to provide the treatment these people need, nor frankly should they be. I do not go to a hospital expecting them to be able to provide correctional services, and Canadians should not be sent to prison to receive mental health services.

We heard very strong testimony from Derek Mombourquette, the vice-president of the Canadian Association of Police Boards. I will read briefly from his submission to the committee:

> In 2012, we have a policing/mental health crucible in which police officers, trained in law enforcement, are the 24/7 first-line mental health care responders by default. At a time when communities are struggling to maintain a level of sustainable policing for safety and security, police resources are being diverted to issues that would be much better addressed within a health care system.

• (1800)

He concluded by saying:

> In effect, correctional institutions regrettably have become the institutionalized care of the twenty-first century for those with mental illness.

Honourable senators, the evidence was clear that these problems will only get worse under Bill C-10. Senator Boisvenu was apparently prepared to accept this. In committee the other day, he said, well, our mental institutions do not have the capacity to deal with all the mentally ill, so it is okay to send the others to prison. That way, Canadians are safe from them.

Does the government agree with Senator Boisvenu? Does the government share his views concerning the treatment and care of the mentally ill? What he describes is certainly not any concept of justice that any of us on this side of the chamber would recognize and support.

Let us not lose sight of the fact that the costs of this punishment and vengeance spree will in fact mean that there will be less money available to provinces to provide the care that the mentally ill need in order to stay out of prison in the first place.

Colleagues, the Department of Justice conducted a survey in 2007 of Canadians' views about the criminal justice system. They asked respondents to rate which sentencing objective they rated as most important. The results were striking. Rehabilitation of the offender ranked first out of seven objectives. Denunciation ranked dead last, with fewer than 2 per cent selecting that as the most important.

However, during our hearings we heard very disturbing testimony about the current inability of our prisons now to provide the needed programs and treatment to inmates. Here is what Howard Sapers — and you will remember that he is the Correctional Investigator of Canada — said:

> On February 1, I took a snapshot of inmate involvement in programs. I found, for example, that at Kingston Penitentiary, which has a current count of 356 inmates, there were only 47 inmates currently involved in a core correctional program, yet there was a waiting list of 177.
>
> On that same day, at Bowden Institution in Alberta, there were 579 inmates on count, 102 — less than 20 per cent — were involved in a core correctional program, with 163 on the waiting list. At Collins Bay, with a count of 466, less than 10 per cent — 42 offenders — engaged in a core correctional program with a waiting list of nearly 180.

Even now, inmates who want to better themselves are denied the opportunity because there are no resources. Bill C-10 will only increase the pressures on our correctional services and make the waiting lists even longer.

How will this increase public safety? How will this make our streets and communities safer? We know that prison can be a school for crime, where first-time, non-violent offenders learning the wrong lessons from hardened criminals; and we know that we are failing to provide our inmates with the programs and treatments we believe they need to return safely to their communities.

Honourable senators, these offenders will get out of prison one day, and when they do, the evidence suggests they will present a greater danger to the public than when they went in.

Some of you, when you were coming in this morning, may have heard "The Current" on CBC Radio. I wanted to read to you what I thought was a striking conversation. It was an interview involving Rob Sampson, who was the Minister of Corrections in the Harris government. I believe he perhaps succeeded Senator Runciman as minister in that capacity. He was also the author of the "Road Map," which is the program that was relied upon by the government and by the Correctional Service of Canada in coming up with Bill C-10.

The other participant in the panel was Eric Sterling, who was formerly legal counsel to the U.S. House Judiciary Committee when they came up with mandatory minimums, which he now says was a huge mistake.

I want to read to you a bit of the exchange. This is Mr. Sampson:

> Well, in the Ontario system, and even in the federal system now, the average education level is about grade eight. None of them, I would say 80 percent to 90 percent of the people under the Ontario system, and I think the numbers in the federal system are about the same, are unemployable. They literally have no employable skills. And so to bring them into the justice system, sentence them to six months at home, and then push them back into the public again is not helping them. And guess what? They come back again! Why? Because the best source of income they know is moving drugs from A to B.
>
> ANNA MARIA TREMONTI: But if they . . .
>
> ROBERT SAMPSON: They (inaudible) hold a job —

— I presume he said they cannot hold a job —

> — they don't have a skill that can hold a job. And so the system needs to have them long enough to be able to provide them those skills and resources.
>
> ANNA MARIA TREMONTI: So you are saying they should go to prison to learn a trade?
>
> ROBERT SAMPSON: Well, they should go to prison so they have an opportunity to change their life around and get out of the cycle that they're into now. That's the problem. We . . . smaller, shorter sentences don't provide the system long enough time to help these people out. Grade eight education! How long did it take you to get a high school education? Six weeks? Six months? No! It takes some time to help these people realize the job that they're in now, which is peddling and using drugs, is not the right job for them!

There was silence from Anna Maria Tremonti, but then Mr. Sterling said:

> With all due respect, it sounds absurd to me that we're going to use mandatory sentences as a device to educate uneducated drug addicts and believe that we can move them from an eighth grade to a 12th grade level in a year or two. What we found in the United States was by overcrowding our prisons, we had to spend so much on the security side that the educational and rehabilitative functions got zeroed out.

That was this morning.

Honourable senators, Bill C-10 is also designed to make significant changes to the Youth Criminal Justice Act. Colleagues will recall that the Quebec Minister of Justice, Jean-Marc Fournier, came to Ottawa in November to plead with the government not to make a number of these changes. He pointed to the success of Quebec's approach — one grounded in the goal

of rehabilitation over incarceration. He met with Justice Minister Nicholson, but left empty handed. The federal government refused to listen to his arguments. This is what he said:

> This isn't a tough-on-crime measure we're seeing today — it's a tough-on-democracy measure.

Justice Minister Fournier described asking Minister Nicholson for the studies on which the government was relying to make the changes proposed by Bill C-10. We are talking about youth criminal justice here. No study was put forward.

Later, the Justice Minister did come forward with a single document that the government was relying upon. This was the report of the Nova Scotia Nunn Commission of Inquiry, submitted by Justice Merlin Nunn, the retired justice of the Supreme Court of Nova Scotia.

Justice Nunn was very clear when he appeared before our committee. Some of the changes in Bill C-10 he supports, as do we all, but he emphatically does not support a number of the major provisions. He told us that youthful offenders — adolescent offenders — are fundamentally different from adult ones. It makes no sense to sentence them as one would an adult. It just does not work. In his words, "the experience over the years has shown that custody is not the way to go." However, Bill C-10 would increase the reliance on custody for youthful offenders. Justice Nunn adamantly opposed the proposed addition of the principles of "deterrence" and "denunciation" into the Youth Criminal Justice Act.

He told us about an offender who was convicted — this was the subject of his inquiry — and placed in Waterville, a youth correctional facility in Nova Scotia. As Justice Nunn described, he was doing well there, passing Red Cross swimming levels, learning the guitar and learning to enjoy reading. He planned to go out west and learn to become an electrician. Then he turned 18 and was transferred to an adult prison.

• (1810)

In Justice Nunn's words:

> It is just a terrible place to send a young boy. You may read about some of the stuff that goes on in these prisons but we kind of forget about them. We just say they happen, I guess, and no one pays much attention. I think that is why he got in trouble when he got out. I think he lost the rehabilitation that had gone on in the youth custody prison.

This young man did not go west and learn to become an electrician. Instead, he has been arrested three or four times since his release from prison. Honourable senators, is that how we make our streets and communities safer? I think not.

The Nunn Report was the only study that the Justice Minister produced in support of his changes — and the author was quick to go on record saying that the changes go too far. Senator Angus said to Justice Nunn: "It looks like we have gone a little beyond what your recommendations said."

Many witnesses cautioned us that the bill's provisions for youth criminal justice are not a positive step for criminal justice or for public safety. We heard submissions from UNICEF Canada. Their brief said:

> For many of the proposed changes, there is no evidence or experience that shows they are likely to increase public safety or decrease youth crime. In fact, they may have the opposite effect.

The representatives of UNICEF told us about a cross-country roundtable organized by the Minister of Justice in 2008. Participants included representatives from the judiciary, prosecutors, defence counsel, legal aid, police, RCMP, academics, NGOs, psychologists, researchers, children's mental health and youth justice programs, provincial/territorial governments and provincial/territorial child and youth advocates. The round table report summarized the feedback as follows:

> There was an overwhelming consensus that the perceived flaws are not in the legislation; . . .

He was talking about the Youth Criminal Justice Act.

> . . . the flaws are in the system. Any changes should be evidence-based and made following the same thoughtful process that gave rise to the development of the YCJA in the first place.

This was the overwhelming consensus of all who operate on the front lines of the criminal justice system as it deals with young people. Did the Harper government listen to their years of experience? Obviously they did not because instead of evidence-based changes to the system, we have been presented with ideologically-based changes to the existing law. Far from a thoughtful process, we have been forced to consider these changes as one part of a 9-part omnibus crime bill, rushed through Parliament to meet the completely arbitrary and artificial Prime Minister-decreed 100-day deadline.

Some honourable senators opposite have defended the bill by saying it is targeted to youth who commit serious, violent, repeat offences. The problem is that is not all that the bill does. The bill, as written, captures those offences and much, much more. One witness, Dr. Joel Watts of the Institut Philippe-Pinel of Montreal, compared it to dragnet fishing. He said:

> We may be catching individuals we want to catch, but we will also catch some of the individuals that maybe we would perhaps not want to have clogging up our criminal justice system.

He was speaking about the bill capturing people with mental illness, but I believe his comments apply with equal force to many other parts of the bill.

Certainly with respect to the youth criminal justice provisions, UNICEF was clear in its brief, which said:

> In attempting to rein in the most violent offenders, they cast too wide a net. We need to treat violent crimes seriously. But the proposed changes would incarcerate more youth for far less serious crimes. It's not difficult for youth to get into the justice system. Once in, however, it is very difficult to get out.

Surely our youth deserve better than a government whose only policy for young people is to punish them more severely for their mistakes.

Honourable senators, I spoke earlier about how the existing pressures and stresses on the criminal justice system will only get significantly worse under this bill. We heard representations to this effect across the board from police officers; lawyers, both Crown and defence counsel; Correctional Services; mental health professionals; the judiciary; and community organizations.

The Harper government has refused to come clean with Canadians about the true costs of this bill, and they have refused to engage with the provinces and territories, jurisdictions that will bear much of the cost associated with this bill and that must be involved if we are truly to make our streets and communities safer.

I quote two paragraphs from an editorial that appeared in The Chronicle Herald this morning:

> Prime Minister Stephen Harper certainly campaigned for a mandate to get tough on crime. So he can fairly claim voters supported this agenda in giving him a majority.
>
> But we don't recall Mr. Harper asking for a mandate to get tough on provincial taxpayers by making them pay the lion's share of what it will cost to lock up more offenders.

The Parliamentary Budget Officer tabled a report earlier this week setting out his office's estimation of the costs of one part of this omnibus bill. He revealed costs where the government had suggested there would be no additional costs and that was just one part of the bill. The Harper government has stonewalled the Canadian public at every turn as to the costs of its lock-'em-up plan. We all recall how this government was found in contempt of Parliament — an historic first in Canadian history and indeed amongst British Commonwealth governments. That was because this government refused to disclose the costs of its earlier crime bills.

The Parliamentary Budget Officer's report notes that its analysis "was hampered by a lack of data. Actual data was not forthcoming from Public Safety Canada." Yes, honourable senators, why stop at stonewalling Parliamentarians and the Canadian public? The Harper approach to law-and-order is evidently to put roadblocks in front of anyone trying to find out the truth about its policies, even our Parliamentary Budget Officer. It took two people working for five months to be able to come up with the costing figures for this one part of the bill on conditional sentencing. The PBO estimates that this change alone will cost the federal and provincial governments $145 million annually. Again, this is just one part of this bill.

The Government of Ontario filed a submission with us on February 21, in which they told us that they have determined that Bill C-10 could cost Ontario taxpayers more than $1 billion in increased provincial correctional and police services costs alone. It states that it wants to work with the federal government to address these concerns and says:

> In our view, it is not appropriate for one level of government to create financial burdens for another without discussion and an appropriate financial offset.

The Harper government continues to deny any responsibility for the burdens it is placing on Ontario taxpayers.

The Government of Prince Edward Island wrote to our committee on February 23. It is highly critical of the bill, saying that it:

> . . . marks a significant shift in the long-standing sentencing principles enshrined in the Criminal Code, a shift which could have a negative impact on the administration of justice within the province.

On the issue of mandatory minimum penalties, it says:

> Removal of judicial discretion in favour of one-size-fits-all sentencing will, in some cases, result in unjust dispositions. Moreover, this approach will have the result of incarcerating individuals unnecessarily, which will serve only to increase costs and do nothing to improve the safety of our streets and communities.
>
> To be clear, our misgivings about mandatory minimum penalties are not an endorsement of individuals who commit serious crimes, particularly crimes against children. It stems from our confidence in our judiciary to impose fair and just sentences, in accordance with the rule of law and the principles enshrined in the Criminal Code.

PEI also anticipates that Bill C-10 will result in a significant financial burden to their province and is in the process of assessing those costs.

The Justice Minister of Nunavut came and testified before our committee. Minister Shewchuk told us that Nunavut is likely to be the most affected by the new regime provided in Bill C-10. He described how the bill will result in more overcrowding in its correctional facilities. It will result in more offenders being sent to southern facilities — a high expense and a step that is known to exacerbate the difficulties of an offender returning successfully to their community. Minister Shewchuk told us how most Nunavut offenders who are caught up in the criminal justice system are dealing with the cyclical repercussions of family violence, poverty, substance and alcohol abuse, and often mental illness. He said:

> Bill C-10 will divert the financial resources that we require to address the root causes of criminal behaviour and to fund rehabilitation programs to support a punishment model that will add further stress to our already overburdened corrections infrastructure and courts.

• (1820)

Earlier this week, Senator Lang, when speaking on the gun control bill, said this: ". . . you reduce crime by spending taxpayers' money effectively. You do not reduce crime by spending taxpayers' money on a system that does not work."

I agree.

We know that imprisonment for minor, non-violent crimes does not work to reduce crime. In fact, it can increase crime when the person gets out. In the meantime, the money spent on that incarceration is money that was not spent on the things that we know — yes, know, based on hard evidence — do work to fight crime.

The average university tuition in Canada per undergraduate student per year is $5,140. However, we spend between $90,000 and $140,000 to keep each man in a federal institution for a year, and $185,000 for each woman. Which is the better expenditure of scarce public dollars? We know where provincial and territorial governments think the money should go. If this government truly believes, as it says it does, in respecting areas of provincial and territorial responsibility, how then can it turn around and impose this bill upon them, which will require them to divert huge sums of money away from their chosen priorities? How can it do so without even a semblance of discussion or negotiation with the provinces and territories?

Honourable senators, this is the new federalism: unilateral declarations on health care funding and now a flood of new inmates for provincial correctional facilities, courtesy of the federal government.

Colleagues, by passing this bill we are raising high expectations amongst Canadians as to the positive impact it will have in making our streets and communities safer, but unless we are prepared to commit resources throughout the system, then I am afraid Canadians will be severely disappointed. Solutions to complex problems based upon ideology rather than evidence will not deliver safer streets and communities for Canadians.

In my speech earlier today, I quoted extensively from the article by the Honourable Roy McMurtry, Edward Greenspan and Anthony Doob. They urged us to start from basic facts. Let us do so now, even if only briefly.

The crime rate in Canada has been steadily going down and in fact is at its lowest level in 30 years. The problems we are trying to address — and I think all of us acknowledge that there are problems — are not capable of being solved by us alone as federal legislators, however well-intentioned. I think Justice Barry Stuart had it right: The issues are deep-rooted. Laws and the criminal justice process focus at the end of the problem, when in fact jail alone is ineffective. It can only work effectively in conjunction with community supports.

It is little more than smoke and mirrors to pass criminal laws and then say, "We have addressed that problem; let's move on to the next." It will not work. Our streets and communities will not be safer. We are holding out false promises to Canadians if we say that. The problems simply cannot be solved by legislation alone and certainly not by amendments to criminal and quasi-criminal statutes such as we have before us today. We are not doing right by Canadians if we pass these laws and say, "That's it, we've done our part. Our streets and communities are safe."

As you know, I do not believe the measures in this bill are the right ones. I also do not believe that the legislative response alone will actually address the real issues. The real way, the most effective way, is by engaging our communities, working with all levels of government as well as non-governmental health and community organizations that have experience and expertise in these areas.

David Mombourquette of the Canadian Association of Police Boards, and many others, urged the federal government to:

> . . . take the initiative to work with its provincial and territorial partners, as well as other key stakeholders, to develop a seamless and comprehensive delivery system that combines strong enforcement and prosecution with meaningful programs for prevention and rehabilitation. . . .

The observations appended by our committee to the report on Bill C-10 broached some of these issues. The government should take these observations to heart and then invest in policies that will make a meaningful and positive difference in the lives of so many Canadians. Let us recognize and cooperatively deal with the root causes of crime, like poverty, substance abuse, mental illness and lack of education.

Colleagues, I have spoken at length but have touched on only a few aspects of this omnibus bill. Others will have time, but unfortunately not enough time in this abbreviated debate, to discuss in greater detail some of the other measures it contains, such as the changes to the Controlled Drugs and Substances Act, the changes to the Corrections and Conditional Release Act, and the broad and unconstrained discretion this bill would grant to the Minister of Public Safety with respect to the international transfer of offenders.

I will conclude by saying that while there are parts of this bill that may in fact be positive changes, on balance Bill C-10 represents a big step backwards for Canadian justice and for all Canadians. Contrary to its short title, it will not make our streets and communities safer. The title is positively Orwellian because the serious evidence we heard in our committee suggests it will have the opposite effect.

In committee we proposed a number of reasonable, evidence-based amendments that we believed would temper the most objectionable parts of the legislation. Unfortunately for Canadians, the government used its majority to defeat all of them.

Honourable senators, I believe that we should legislate on behalf of Canadians on the basis of evidence and not ideology. This bill fails that test. Applying the test I proposed at the beginning of these remarks - "First, do no harm" - we cannot support this misguided legislation because of the harm it will bring to Canadians and to our criminal justice system.

Senator Runciman: Will the honourable senator take a question?

Senator Cowan: Absolutely.

Senator Runciman: The senator spent a good deal of his speech this evening decrying mandatory minimum penalties. Between 1976 and 2005, 30 mandatory minimum penalties were instituted, all under Liberal governments. I am assuming that Senator Cowan was here for at least some of that time.

Senator Cowan: I was not.

Senator Runciman: Were you not here up until 2005?

Senator Campbell: None of us were.

Senator Runciman: These were all instituted under Liberal governments.

I must ask: Why are mandatory minimum penalties so offensive now that a Conservative government is instituting them and bringing them forward and they were not under Liberal governments?

Senator Cowan: That is a very good question and my answer is simply I do not support those mandatory minimum sentences any more than I support these. I think the evidence — and you were there, you heard it — you have received all the —

Senator LeBreton: Oh oh.

Senator Cowan: Senator LeBreton, you will have an opportunity in a minute. You listen to me and I will listen to you. I was asked a question by Senator Runciman and I will reply. We will hear Senator LeBreton in a minute, if I can continue with my answer. Thank you.

I do not support mandatory minimums because everything that I have read over the last three or four years while I have been here, when I looked at the tackling violent crime bill before us three or four years ago, not long after I came to this place, and this bill, says that they do not work.

I have no reason to believe that the mandatory minimums imposed by previous governments — and I am sure Senator Baker and others who have been around will correct me — were all imposed by Liberal governments. Most of them were because the Liberal government was in place for most of that time. However, I believe I am correct that some of the mandatory minimums were brought in under the Mulroney government.

• (1830)

In any event, I think we should have a look at those. My point would be that, before we embark on increasing the number of mandatory minimum sentences, we should look very carefully at those we already have. It may be that those are wrong, just as I believe these ones are wrong.

The Hon. the Speaker *pro tempore***:** Are there are further questions? Honourable Senator Jaffer.

Senator Jaffer: I have a question for the honourable senator. He spoke a lot about mandatory minimum sentences and the concerns he had. He was in committee throughout last week. Could he please tell us what we could do, if we had the time, so that there would be some kind of discretion left for the judges?

Senator Cowan: I believe the honourable senator addressed it briefly in her remarks earlier this afternoon.

A safety valve exists in the U.S., the U.K. and Australia, and it simply says that, in extraordinary circumstances, which would be determined by the judge, the judge would have the ability to impose a sentence other than the mandatory minimum sentence that is imposed by the law.

We proposed a general safety valve, and the government said no. Then we came back to two alternatives. One was to say, "Well, if you will not give us the general safety valve to restore to the presiding judge the right in exceptional circumstances to impose a penalty other than a mandatory minimum jail sentence, then do so in the case of Aboriginal offenders." The government said no. Then we said, "We have heard all about the incidence of mental illness in our system. Will you at least allow judges who have before them offenders suffering from mental illness to depart from the mandatory minimum?" The government said no.

The honourable senator is perfectly correct. We did propose a general mechanism — that safety valve — and then we proposed two specific ones — one dealing with Aboriginal offenders and the other dealing with mentally ill offenders. The government said no. These mandatory minimums will be there, and there will be no safety valve, no discretion left to the judges.

Hon. Jane Cordy: I thank the honourable senator for his speech. It was an excellent speech, and I was particularly taken with his comments regarding those who have poor mental health, which is what I spoke about at second reading. We know that one in five Canadians will have poor mental health at some point in their lives. Unfortunately, some of those Canadians with poor mental health will come into conflict with the law.

I do not really believe that those who have poor mental health when committing a crime or coming into conflict with the law would be very much aware of mandatory minimum sentences, so I am not sure that mandatory minimums would act as much of a deterrent for those who have a mental illness. Would the honourable senator not agree that society would be better served if those who have a mental illness or poor mental health when they commit their crimes were treated in a secure hospital environment, rather than languishing in jail with a mandatory prison sentence?

Senator Cowan: I thank the honourable senator for that question. As I explained in answer to Senator Jaffer's question, we did propose a safety valve that would enable a judge to impose a sentence allowing the person to stay out of incarceration and to receive treatment in the community.

This whole problem of the relationship between the mentally ill and the correctional system is deeply troubling to all. I know Senator Runciman was particularly concerned about that in the course of the hearings, and he was frustrated — as I am sure he will tell us later this evening — with the inability or unwillingness of the Correctional Service of Canada to deal with these people.

In the 1970s and 1980s, in a way that was followed in other Western democracies, most provinces closed down many of our psychiatric institutions and mental hospitals on the basis that those persons who had been institutionalized before could be

more appropriately helped and dealt with in the community, which we thought was logical at the time. What we found — and it was brought home again last week — is that the resources simply are not in the community.

I do not think anyone is suggesting that we would want to re-institutionalize all of those people in psychiatric institutions. Some of them maybe, but re-institutionalization is not the answer, not in psychiatric institutions and certainly not in correctional institutions. That is why I say it is a very complex problem.

There are some people who obviously need to be in a correctional environment, and they should and will be there. However, there have to be other kinds of institutions and other kinds of services available in the community, involving other departments of government and other governments and agencies, to deal with these people. In many cases, they are now simply being warehoused in our penal institutions, which are clearly unprepared and unable to provide care for them and, from the point of view of the proposed Safe Streets and Communities Act, to make sure that they do not reoffend when they are released.

The Hon. the Speaker *pro tempore***:** Are there further questions for Honourable Senator Cowan? Honourable Senator Wallace.

Hon. John D. Wallace: I listened very closely to the honourable senator's comments and I must say that they reflect a perspective. Having been very much involved with this, as the honourable senator has also been, and understanding the issues in more detail perhaps than the general public would, I have heard the evidence that the honourable senator referred to. It certainly did not reflect the balance of the evidence I heard, nor would I expect that that is his role here. He brought a perspective to his comments when he referred to that testimony. Others, perhaps on this side, will bring the other side of the coin.

However, what I find in all of this — and I have felt this way as I have watched this debate unfold publicly in the media and in this chamber — is the over-simplification of it and the tendency to gravitate to and adopt catchy slogans and political phrases and to over-simplify the issue. We all know it is not a simple issue at all. The solutions are not simple. Certainly, the government is not suggesting that there are simple solutions. There are many steps that have to be taken.

An Hon. Senator: What about the title, "Safe Streets and Communities Act?"

Senator Wallace: Some of the comments the honourable senator made are that it is a one-size-fits-all bill, that it will result in a flood of inmates, that the government's position is, "Well, once this is done, that is it, we are done; let us move on," and that this bill relates to minor and non-violent offences. Those statements just are not correct.

Senator Cordy: Look at the title.

Senator Wallace: I believe it misleads the public every time those kind of statements are made.

I recognize the technique in debating of framing the debate. Politically, we all understand that and I guess that is what they are attempting to do with those kinds of statements. I think it does a real disservice to continue to perpetuate them.

There are so many things I could question the honourable senator on, but he made a statement at the outset of his comments, words to the effect that locking someone up instead of keeping them in the community makes our streets less safe. It is better for them to serve their time in the community as opposed to locking them up for a period of incarceration, I suppose that ties back into the mandatory minimum argument. It is better to let them serve their time in the community.

I ask the honourable senator, does he really believe that when he looks at the serious, violent, repeat offences that are targeted by this bill? These are offences such as publishing and distributing child pornography, sexual assault if the victim is under 16 years of age, sexual assault with a weapon against a child under 16 years of age, aggravated assault against a person under 16 years of age, and agreeing and making arrangements to commit a sexual offence with a child. In those circumstances, is a reasonable period of incarceration not appropriate? I would suggest to the honourable senators that the mandatory minimums set out in this bill are reasonable. Does the honourable senator believe, in those circumstances, that incarceration has no role and that it is better that they serve their time in the community on house arrest?

Senator Cowan: With respect, Senator Wallace, I did not say that at all. All I said is that you are taking away the discretion. The honourable senator is a lawyer and he has practised before our courts. I am sure he has defended people in our system, and he knows that it is the judge who sits there, fairly and impartially, listens to the evidence and observes the witnesses. Surely the honourable senator would agree with me that the judge is best able to determine what the appropriate sentence is in the circumstance. That is my position. My position is that the judge —

• (1840)

An Hon. Senator: They are taking away all that discretion.

Senator Cowan: I think Senator Tkachuk made the cut here, so he will be on the list in a little while.

I am saying, and I am sure Senator Wallace would agree with me, that the court system — that is, the judges that the honourable senator has appeared before, that I have appeared before and that Senator Oliver has appeared before as well — will know. Those people are trained to evaluate the evidence, to observe the demeanour of the witnesses and to make the appropriate judgment and impose the appropriate sentence. That sentence could be, in appropriate circumstances, prison; it could be a suspended sentence; it could be something else. What we are saying today is that we are removing that discretion from the judge. That is what I mean by one size fits all.

Listen to what Justice Major and what Justice Nunn said. I am sure that if you talk to judges in New Brunswick they will tell the honourable senator the same thing. People can commit the same offence, but the circumstances are all different. All I am arguing,

honourable senators, is that it is the judge who ought to have that discretion, and that to take away that discretion and for us to decide here and to embed in the law what the sentence ought to be for some case that will be well down the road, I think, is inappropriate. I certainly agree that in the kinds of cases the honourable senator is talking about a prison sentence is what would happen. Those kinds of people who commit those kinds of crimes in those circumstances would certainly go to jail. No judge is simply going to walk away from that. However, it is the judge who ought to have that discretion. We should not remove that discretion from the judge and we should not, as I said in my speech, delegate it down to the prosecutors or to the police to decide on those charges.

I think there is a great danger in turning our back on the system that the honourable senator has practised in and that I have practised in for many years and that has worked pretty well.

Senator Wallace: Would the honourable senator accept one further question?

Senator Cowan: Of course.

Senator Wallace: I have listened, again, closely to what the honourable senator has had to say. He suggests that the effect of this bill, in particular the imposition of mandatory minimums, would, in his words, remove judicial discretion. I would suggest to the honourable senator that it does not remove judicial discretion, it restricts it. It restricts that discretion to the periods between the mandatory minimums and the mandatory maximums. Within those periods, judicial discretion continues to exist and flourish.

I would also say that we, as legislators, do have a responsibility when it comes to sentencing. We have the responsibility to create the framework, the boundaries for sentencing. It is legislators that have the obligation to protect the public and craft legislation to protect the public. It is the role of the judiciary to interpret the laws that we create. Their role is not to protect the public. They are to interpret the laws that we develop, which are there for that purpose.

Senator Cowan: I think I said my piece.

The Hon. the Speaker *pro tempore***:** Are there further questions of Honourable Senator Cowan?

Continuing debate, Honourable Senator Runciman.

Hon. Bob Runciman: Thank you, Your Honour; I appreciate this opportunity.

Honourable senators, with respect to Senator Cowan's last response to Senator Wallace, wherein he indicated that he felt the individuals in the examples referenced by Senator Wallace do deserve to go to jail, of course, that is the problem. In too many instances, they are not. I referenced one during the committee hearings of a man from Nanaimo, British Columbia, who was sentenced to house arrest. He pled guilty to five sexual assaults involving four children aged 7 to 14. Among the victims was an 11-year-old mentally challenged girl. He got two years less a day to serve at home — in the home where he perpetrated those crimes. I could give honourable senators a list of situations like that over and over. Clearly, that is why this government is acting to deal with this very problematic situation.

Honourable senators, I know you are familiar with the bill; I will not go through it in detail. Instead, I would like to talk a bit about what we heard during the extensive committee hearings on Bill C-10.

I have spent a good many years in public office, including 29 years in the Ontario legislature, and I have not experienced anything any more intensive than the last few weeks on the Senate's Legal and Constitutional Affairs Committee. We heard from roughly 100 witnesses over the course of the committee's almost 60 hours of hearings, which included full days into the evening, in some cases, during a non-sitting week. The committee was confronted with a significant bill, a collection of nine previous pieces of legislation, in a tight time frame to get the job done. However, the committee did not just take a pass on Bill C-10. The committee members did their homework. They asked challenging questions, and they deliberated carefully.

I think it is fair to say that watching this committee at work is not like committees in the other place. There is no partisan sniping. We do not necessarily agree with each other, but there is, I think, a great deal of mutual respect.

I want to make special mention of Senator Wallace, our committee chair. He laid out a plan and he stuck to it. He was fair with both committee members and witnesses, and he kept the discussions on track when they began to meander. Through it all, he was guided by the need to listen to all points of view and to give Bill C-10 a thorough examination. Senator Wallace did an outstanding job under very difficult circumstances, and I would like to congratulate him.

Some Hon. Senators: Hear, hear!

Senator Runciman: I would also like to draw attention to the exceptional work of the committee's deputy chair, Senator Fraser.

She led the questioning of every witness panel, and with as many as eight panels in a single day, that is no small task. It requires a lot of preparation, and it was clear to anyone watching Senator Fraser that she had done her homework.

An Hon. Senator: Hear, hear!

Senator Runciman: Yes, let us give her a round.

Some Hon. Senators: Hear, hear!

Senator Runciman: I appreciate what Senator Fraser said yesterday about our committee clerk, Shaila Anwar, and Senate staff in arranging witnesses and ensuring that everything ran smoothly. If you know Shaila, you will realize that the men and women in this room are her second-favourite senators. To talk about sacrifice, one of our meetings was running late and caused her to miss almost all of a Sens-Capitals game; I think she got there for the last 10 minutes.

I also think Senator Fraser referenced this too, namely, senators' staff. I am sure that a lot of senators' staff were diligently working long hours. I know Barry Raison in my office was working over the weekend, preparing for amendments that we had not seen yet. It was a bit of a guessing game. We were given the clauses and sections of the act that might see amendments, but we had to sort of prepare them in the dark and be ready for any eventuality. I know he did an outstanding job, and I am sure the staff for other senators did as well.

I think it is safe to say that some honourable senators are unhappy with the outcome, but no one should complain about the process. It was thorough, and the witness panels presented a wide variety of points of view.

I would like to tell you about a call my office received in the middle of last week from a grandmother from Manitoba. She said that she had always been in favour of abolition of the Senate, but, after watching the committee hearings on television, she changed her mind. She now realizes the valuable work a Senate committee does — and, no, her name was not Plett.

The bill before us has been amended, as you have heard, to better serve the interests of victims of terrorism. These six amendments will enable victims to sue listed foreign states not only for their support of terrorism but also for direct involvement in committing acts of terror.

I would like to acknowledge Senator Tkachuk for his work on this file over the years. The justice for victims of terrorism act and the amendments to the State Immunity Act are the result in no small part of his devotion to this cause.

Hon. Senators: Hear, hear!

Senator Runciman: As noted by Senator Wallace, the report on this bill includes observations, and I think all of the observations are good advice to the government and reflect what we heard at committee.

• (1850)

I would like to speak about one observation in particular, because Senator Cowan referenced an issue that I have worked on over the years. No message came through more clearly than the failure of the correctional system to cope adequately with the large and growing percentage of inmates, particularly female, who suffer from mental illness.

As the committee heard from Public Safety Minister Toews and others, and I think Senator Cowan referenced this as well, this is due, in part, to the policy of deinstitutionalization. The theory is a good one, but it has been a failure in practice because community supports and supervision were not there when institutions were closed.

This is not a problem created by the Correctional Service of Canada, but it is one it has had to deal with. People suffering from serious mental illness pose a danger to themselves and to others within the institution, both staff and fellow inmates. If we put them back on the street without treating them, we are not fulfilling our obligation to society. We are not meeting the needs of rehabilitation and reintegration. We are endangering public safety and we are vastly increasing the chances that they will reoffend.

The observation on mental health urges the Correctional Service of Canada to explore alternative service delivery options, and it cites the example of Ontario's St. Lawrence Valley Correctional and Treatment Centre as a type of facility that should be considered.

I was the Corrections Minister in Ontario when that facility was conceived and built nearly a decade ago. It remains unique as a facility in which Corrections supplies security and the Royal Ottawa Health Care Group looks after treatment. The ratio of staff, about 80 per cent clinical and 20 per cent corrections, is exactly the opposite of what occurs in Corrections Canada treatment centres, if they can find staff. The results are clear. As forensic psychiatrist Dr. John Bradford told our committee last week, that facility has reduced the rate of recidivism by 40 per cent.

Later this year, the inquest into the death of Ashley Smith, a 19-year-old who committed suicide while incarcerated in a federal institution, will shine a bright and harshly negative light on how the correctional system is failing to meet the challenges posed by mentally ill inmates, particularly women. As the committee states in its observation, "there can be no postponement of action on this critical issue." We hope Correctional Services' leadership is listening.

I would like to talk about some other parts of Bill C-10, particularly those elements that have generated the most controversy and, in my view, have been most distorted by critics.

We have heard a lot of talk about the cost to the provinces of implementing this bill. That is fair enough, but it is important to remember that many of the provinces asked for measures in this bill. In response to concerns about implementation, federal ministers, at the recent federal-provincial-territorial justice ministers meeting, agreed to take into consideration the views of the provinces when determining when the various provisions of Bill C-10 will come into force.

Within five years, there will be a comprehensive review of the Controlled Drugs and Substances Act, including a cost-benefit analysis of mandatory minimum sentences. It is right there in clause 42 of the bill, a clause that has received little notice.

Honourable senators, when we talk about the cost of law enforcement and justice, we should also talk about the cost of crime. According to a recent Justice Department study, it was a staggering $99.6 billion in 2008. That did not incorporate a number of other elements. The Justice study indicates that, in reality, it is well over $100 billion in 2008.

We heard from several witnesses that this bill, without an exemption from mandatory minimum sentences, will result in the mass incarceration of Aboriginal Canadians. They argued that these mandatory minimums are inconsistent with section 718.2 of the Criminal Code, which requires that reasonable alternatives

to incarceration should be considered with particular attention to circumstances of Aboriginal offenders, the so-called *Gladue* principle.

Honourable senators, we should not forget what kind of offences we are talking about here. The mandatory minimums in Bill C-10 are for drug trafficking and sexual offences against children — serious offences. The Supreme Court in *R v. Wells*, 2000, said that, generally, Aboriginal and non-Aboriginal offenders who commit violent and serious offences are likely to receive similar terms of imprisonment.

We must also remember that mandatory minimums and section 718.2 coexist in the Criminal Code as it now stands. When the former Liberal government instituted mandatory minimums for child sexual offences in 2005, it did not exempt Aboriginal offenders.

Lastly, it is important to note that Aboriginal people are also overrepresented in the criminal justice system as victims, and Bill C-10 will help all victims.

I said at second reading that the least credible argument against Bill C-10 is that it amounts to the Americanization of the Canadian justice system. I noted that minimum sentences in the U.S. are several times longer than what is proposed in Bill C-10, and the Canadian incarceration rate is about one-seventh that of the United States.

Criminologist John Martin of the University of the Fraser Valley told our committee on February 23 that this criticism is both "reckless" and "irresponsible." He noted that a mega-prison like Folsom in California has 4,500 inmates, compared to institutions of 300 or so in Canada, institutions that may be expanded by a few dozen beds if necessary as a result of the safe streets and communities act — no mega-prisons, no U.S.-style sentences, no comparison.

We have also heard a lot about Bill C-10's reforms to the Youth Criminal Justice Act. The critics say that there is no need to change the act, that it is working well and that these changes will result in many more young people going to jail.

Honourable senators, nothing could be further from the truth.

The changes in Bill C-10 will provide more judicial discretion to judges when it comes to pre-trial custody, sentences of incarceration and in publication of names in cases where public safety is at risk. They allow judges to once again take into consideration denunciation and specific deterrence. Most of the changes in this section of Bill C-10 are intended for that very small percentage, 3 to 5 per cent, we are told, of young offenders who are out of control and pose a significant risk to society.

The Youth Criminal Justice Act, as constituted, does not give judges the tools they need to deal with these offenders. We heard that in the Nunn commission report. Senator Cowan was referencing Justice Nunn, and that was one of his key recommendations with respect to changes to the YCJA.

The committee heard an example on February 22 from Detective Stephen Nevill of the Toronto Police Service, an example that illustrates how the system works or, perhaps more accurately, fails to work. This is an actual case from the youth court on Jarvis Street of a 16-year-old male convicted of robbery, threatening bodily harm and possession of property obtained by crime. All those charges were withdrawn when he completed extrajudicial sanctions. He was then charged and convicted of obstructing a police officer, failing to comply with a recognizance, and that means he was out on bail at the time, released by the courts, committed another offence that breached the conditions and was convicted. He received a $1 fine. He was then convicted of another breach of bail conditions and again received another $1 fine. That youth is currently facing numerous new charges, including breach of recognizance, possession of marijuana, failure to comply with his youth probation, robbery, using an imitation firearm —

The Hon. the Speaker *pro tempore*: Honourable Senator Runciman, I regret to inform you that your time for speaking has expired.

Senator Fraser: Five minutes.

The Hon. the Speaker *pro tempore*: There is a list of other honourable senators who wish to speak. What is the wish of the house? Shall he be given five more minutes?

Hon. Senators: Agreed.

Senator Runciman: Thank you.

In any event, I will move on. I find it hard to believe that anyone could look at a case like that raised by Detective Nevill and believe the system is working well. The reforms to the youth act will help the courts deal more appropriately with this type of case involving violent and repeat young offenders.

I would like to conclude by talking about the section of Bill C-10 that has generated by far the greatest number of letters, calls and emails. That is, the measures that are subject to the greatest confusion and deliberate distortion, I believe, the amendments to the Controlled Drugs and Substances Act.

• (1900)

There is a real misunderstanding of who this bill targets and about the state of the drug trade in Canada. This bill is aimed squarely at drug dealers and for a very good reason: Drug crime is increasing in Canada. We have become a global supplier of synthetic drugs. If you do not believe me, read the UN report released this week, the *Report of the International Narcotics Control Board for 2011*, which confirms this sad fact. Police seizures of ecstasy destined for the United States have doubled from 2007 to 2008.

Even as our committee was considering this bill, the RCMP made a huge seizure in Toronto of a controlled chemical used to make the date rape drug GHB, enough of the chemical to produce up to 4.8 million doses of the date rape drug, which is worth about $48 million on the street. Smuggled from China, it was destined for an organized crime lab to be cooked and sold on the streets, most of it exported.

This was a large seizure, but far from unique. According to Statistics Canada, there were 2,190 cases of production, importation or exportation of illegal drugs in 1990 and around 35,000 in 2010. Organized crime controls the marijuana trade in Canada; they have turned it into a multi-billion dollar crime industry. One of the reasons this has occurred is that there are modest, if any, consequences, particularly in certain parts of the country.

RCMP Superintendent Eric Slinn told our committee that a few years ago marijuana growers in Nova Scotia, afraid of getting federal time, would have their charges transferred to British Columbia because they knew they would receive a conditional sentence there. This has had a significant impact on the growth of the industry. The average size of a marijuana grow operation in the Cariboo Region of British Columbia has grown to almost 1,000 plants — three times larger than in the 1990s.

Only 11 per cent of the cases coming to the attention of the police result in charges. Professor Plecas, who appeared before us from British Columbia, said it is very clear the kinds of sentences our courts have handed out have not come close to having the ability to rehabilitate; they have not been able to deter and have absolutely not provided for public safety.

Finally, I would like to touch on one point, a matter raised repeatedly by my friend Senator Baker, the famous case of someone with a previous drug conviction who happens to hand someone a single pill and ends up getting a year in jail for trafficking. Law enforcement repeatedly told the committee this is not the sort of case they focus on, but it is important to remember a powerful example we heard from the superintendent. It was the case of a girl who died after taking a single ecstasy pill at a rave. It is not an isolated event; there have been ten recent deaths in Southern Alberta alone and five in British Columbia linked to taking ecstasy pills laced with a toxic drug. Superintendent Slinn said about that case:

> A $10 value was put on this young girl's life. She was an aspiring model, a beautiful girl. Organized crime cares nothing about all of our children and our grandchildren. They will exploit anything. We need as many tools as we can have to discourage them and hold them accountable.

I think after hearing that example, it would be difficult to have sympathy for Senator Baker's hypothetical one pill repeat drug trafficker.

Honourable senators, Bill C-10 will not solve the crime problem in Canada, but it gives police and courts the tools they need to deal more effectively with certain offences. I might add that these offences are on the increase in this country. The government committed to enacting these measures, the public endorsed that commitment and we are acting. When this bill comes to a vote, I urge all honourable senators to support the Safe Streets and Communities Bill.

Hon. Joan Fraser: Honourable senators, I want to say at the outset that there are some good things in Bill C-10. Let me start by mentioning the Justice for Victims of Terrorism Act. I wish that this were in fact a free-standing bill because I would like very much to be able to vote for it, as I have done in the past. Unfortunately, it has been bundled into a bill which contains a great many other items. Some of them are also good.

The recognition of young offenders' diminished blameworthiness or culpability is a very important principle. Probably the sexual offences against children, although we did not examine the fine detail, but the notion of those sexual offences is certainly good.

It is very good to have Senator Runciman's favourite subject of mental health recognized as a principle that the correctional service must take into account when dealing with offenders. I want to pay tribute to Senator Runciman for his dedication, tenacity and expertise in this field, not only on this bill, but on previous bills. I also want to pay tribute to the chair for bringing us to a consensus on what I believe are excellent observations.

However, too many elements of this bill are bad. Some of them are just plain mean-spirited or nasty. On that list, my number one item for the very nastiest element of this bill would be the provision that young offenders may have the publication bans on their identities lifted when they are as young as 12 years old. We know from expert testimony that publication of young people's names can have a devastating life-long impact, as well as an immediate impact. The stigmatization that results can do serious damage to their chances of rehabilitation, yet a young offender, a 12-year-old, is in many cases, probably most, though not all, capable of rehabilitation and capable of growing up to be a fully functioning, participating, positive member of our society. Why would we do this? There are so many other bad or dubious things, and I must say that the government has assiduously cultivated a number of myths about this bill, all false. Let me address some of these myths.

First, that this bill will only affect major or violent criminals and recidivists — if only that were true. On drugs, for example, the Minister of Justice, Mr. Nicholson, says the bill will go after the big, bad people, those who are — and I am quoting him here — "in the business of trafficking." We all want the law to come down very hard on the big, bad, serious people who are in the business of drug trafficking. They are bad people, and we do not want to let them off lightly.

However, testimony from experts in Mr. Nicholson's own department confirmed that this bill, as written, will also capture "quite small people" and subject them to mandatory minimum sentences of imprisonment.

Looking at conditional sentences, this bill dramatically limits the number of conditional sentences that will be available to offenders. Conditional sentences, honourable senators, are only granted now on very strict conditions. Most notably, they are only granted for sentences of less than two years. First, the judge decides that this offender gets a two-year sentence, and then the judge may decide, if all the other careful conditions are suitable, that a conditional sentence — serving the sentence in the community, perhaps at home, perhaps elsewhere — is reasonable. The bill's new rules may, in some cases, be justifiable. I can see why one would abolish conditional sentences for kidnapping, for example, but some are not so justifiable.

Saying there shall never be a conditional sentence for being unlawfully in a dwelling house strikes me as going a step too far, similarly, eliminating all conditional sentences for car theft. We know that some car thieves are major-league international criminals, but some are just young chaps going out on a joy ride. My own car was stolen a few years ago by a young chap going out on a joy ride. I got it back. I do not think that person deserved to go to prison, although a bit of community service might not have been a bad idea.

The paradoxical effect of the new rules on conditional sentences is that, as a number of witnesses told us, we will end up spending more, much more, while simultaneously we will subject these offenders in many cases to significantly less correctional supervision. The Parliamentary Budget Officer says the average time spent under supervision in Bill C-10 drops from 348 days to 225 days, but the cost will go up from $2,575 per offender to $41,000 per offender. It strikes me as really wrong-headed.

• (1910)

Myth number two: We need this bill because the system now is too soft on crime, and judges, in particular, are too soft.

In fact, Canada has one of the developed world's higher rates of incarceration now; all those sentences have been imposed by judges, and our incarceration rate will only rise when this bill comes into force.

It is kind of funny. The government does not like giving discretion to judges, who are the people who are best placed to gauge the facts and context of individual crimes. The government, therefore, refuses the kind of safety valves that Senator Cowan referred to that could apply only to exceptional circumstances. However, the government does like giving discretion to everyone else. It likes giving discretion to itself. For example, in the international transfer of offenders provisions, a page of criteria is set out that will apply if, in the minister's opinion, such and such is true. That sounds pretty discretionary to me.

This bill gives the government the power to pass an order-in-council to increase the number of offences for which no pardon may be granted.

It sets up a whole system for vulnerable foreign workers where the criteria will be established by simple government instruction rather than by regulation, which is a much more formal public consultative process.

It gives, as Senator Cowan said, discretion to Crown prosecutors. We know there will be more plea bargaining. We tend to forget that there will also be more cases that are just not pursued because the courts are jammed and there are not enough crown prosecutors or other court staff to do it. Jamie Chaffe of the Canadian Association of Crown Counsel told our committee that there are already significant portions of the Criminal Code they are not able to enforce in certain jurisdictions. He stated:

> What we have right now is a situation where some provinces will enforce, some will not. That is a serious rule of law issue and it will have to be addressed across the table between federal and provincial counterparts.

The police, as we have heard, get discretion under this bill. Will they or will they not charge people with six marijuana plants? Will they or will they not charge a whole raft of other people? They are also already overburdened, and they will be more so when this bill comes into effect. Something has to give somewhere. They will exercise more discretion.

The correctional service is given quite a wide degree of discretion in quite a number of circumstances here. Particularly worrisome is that under this bill we abandon the long-standing provision that the correctional service shall use the least restrictive measures necessary when dealing with offenders, and, instead, they will use measures that the correctional service deems to be necessary and proportionate. That is more serious than it sounds, colleagues.

Howard Sapers, the Correctional Investigator, said that removing the language of "least restrictive" is akin to removing a load-bearing wall from a structure.

Michael Jackson, an extremely eminent lawyer, who has pleaded numerous cases before the Supreme Court, among other things, explained:

> That least restrictive principle is not fashioned out of thin air. It is not just words that sound good, least restrictive measure. It follows from the Supreme Court of Canada's decision in the *Oakes* case.

That case is an absolute pillar of the way in which our courts apply Canada's Charter of Rights and Freedoms.

He went on:

> It is a constitutional restriction or reflection of the principle of restraint on official state authority . . . That provision is one of the golden rules, as Mr. Sapers has referred to it. It is a fundamental principle underlying the CCRA.

It will be gone. Instead, prison officials will get to decide not what is the least restrictive measure, which is justifiable under the Constitution, but what they think is necessary and appropriate.

Myth number three: This bill will make Canada safer. In fact, as Senator Cowan so well explained, all the expert evidence shows that the opposite is true. Yes, some people need to be locked up, and some need to be locked up for a long time, but what most need, if we are to avoid recidivism when they get out — and they will almost all get out — is treatment, whether in the community or in prison. However, fewer people will be diverted to community-based treatment and supervision because of the mandatory minimums and because conditional sentences will become less available. This will, as we have heard, be particularly devastating for Aboriginal people because they are the ones who have benefited most from the trend in recent years to turn to restorative justice, which is in conformity with Aboriginal practices and culture and the way in which they have handled offenders for thousands of years.

It might be acceptable to go this route if the prisons took on the job of treatment, but that is not actually happening. You heard Senator Cowan give the devastating statistics about the numbers

of people who actually are getting core programming in prisons right now, compared to the waiting lists. Mr. Sapers, the Correctional Investigator, in his most recent annual report also discussed the new program model that the correctional services appear to be rolling out across the country. He said there are concerns regarding its emphasis on reducing or collapsing a number of previously separate programs, for example, substance abuse, violence prevention or anger management, into a one-size-fits all intervention. Mr. Sapers stated:

> These "efficiencies" follow an earlier move that eliminated low intensity sex offender programming across the Service. Furthermore . . . time spent in programming is dramatically reduced — in some cases, by a factor of three.

I defy anyone to think that the prisons will be able to provide the necessary treatment and rehabilitative programming that offenders need if our streets are, in fact, to be safer. The fact is our prisons are already being swamped. Nearly 16 per cent of our prisoners are double-bunked; too many are triple-bunked, even though international norms, to which we are supposedly subscribers, say single-bunking is the only way to go. Correctional services are hiring staff frantically, but not for programming.

Myth number four: The costs of all of this tough-on-crime stuff will be small and are, in any case, irrelevant. We all know the Parliamentary Budget Officer begs to differ on that. Also bear in mind the impact on the provinces and territories, which will be much larger because that is where the vast bulk of Canadian prisoners are.

We have heard about the expressions of concern from Nunavut, Ontario and Quebec. In Ontario, they expect some facilities to operate at 150 per cent capacity. You should know, honourable senators, that in the United States, which, as we know, is not soft on crime, courts have found that for a prison to operate at 137.5 per cent of capacity constitutes cruel and unusual punishment, but we will be going to 150 per cent.

Think about the smaller provinces. In Prince Edward Island, which Senator Cowan mentioned, under the bills that have already been passed, the demand for adult custodial beds — this information is from the government of Prince Edward Island — has been increasing by almost 15 per cent per quarter. That is a 15 per cent per quarter increase in their inmate population due, in large measure, to recent amendments to federal legislation and a change in their client profile.

The Hon. the Speaker *pro tempore***:** Honourable senators, is leave granted for an additional five minutes?

Hon. Senators: Agreed.

Senator Fraser: All those conditional sentences that will no longer be available will, as I suggested earlier, have a direct impact in very large measure on the provincial institutions.

• (1920)

Let me finally talk about the cruelest myth of all, which Senator Cowan also mentioned. The cruelest myth propagated by the government is that this bill will help victims. It will give victims a slightly greater voice in some circumstances, but it will do nothing else for them.

A witness for the Canadian Bar Association told us:

> If resources are not coming, I can certainly tell you that victims will not be happy when cases are thrown out for delay. . . . The reality is that the system will not sustain this piece of legislation. . . . On the ground, the resources are not there to implement the legislation and, at that point in time, you are putting false expectations on victims, which is not fair.

Nothing in this bill will help to guide victims through the maze of the system that fails them now and will continue to fail them.

I would finally say that it is not true that all victims support this bill. Honourable senators have all received, but I do not know if they have all read, a letter from Mr. Matthew Cook of Victoria, B.C. Three years ago, his family had an intruder in their home — a young man who was intoxicated. He took a kitchen knife and he stabbed Mr. Cook's wife, opening an artery and severing a nerve cluster. Mrs. Cook has a permanent disability and they have suffered enormous financial disadvantage as a result of this event.

Mr. Cook wrote:

> . . . I have since been employed at a Community Residence Facility under the Salvation Army, a halfway house for men who are on parole. As such I believe I have special insight into our criminal justice system having seen it through the eyes of the victim as well as one who, as part of the system, has built relationships with men who have committed offences similar to what I have described to you. . .

Mr. Cook opposes mandatory minimum sentences because they will only immerse first-time offenders even more into criminal culture. He says:

> . . . I have seen that it is those associations that are formed in prison that ultimately derail the good intentions of a parolee, and that more time in prison will only strengthen those ties.

He ends his letter with what his wife said to her attacker as part of her victim impact statement:

> I hope your time in prison will be one of growth and fruitful soul searching.

Mr. Cook says:

> Is that not what we have penitentiaries for — to give men the opportunity that they may repent and return to us as healed individuals? Should not this be the ideal that our country aspires to? I do not see these ideals represented in Bill C-10. I see it costing us more, both fiscally and morally. I implore you, as our sober second thought, let it not pass.

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, it is a great honour for me to rise today, as Leader of the Government in the Senate, to speak to Bill C-10, the Safe Streets and Communities Act.

On May 2, 2011, Canadians handed a clear and resounding mandate to Prime Minister Harper and the Conservative Party of Canada. They voted resoundingly in favour of a majority Conservative government committed, among other issues, to protecting society and holding criminals accountable for their actions. As many honourable senators in this chamber are well aware, Bill C-10 fulfills our government's commitment in the June 2011 Speech from the Throne to introduce important legislation to keep Canadians safe from crime and terrorism.

As we have heard previously in the House of Commons, as well as here in the Senate, our government bundled together nine critical crime bills that were on the Order Paper at various stages in the last Parliament. We all know what happened. The Official Opposition — the Liberal Party at the time — joined other opposition parties to defeat our government 11 months ago. Canadians took note and elected a majority Conservative government as a result. Bill C-10 is a comprehensive piece of legislation, bringing all of these elements together and it responds to the concerns of Canadians.

Canadians want to feel safe in their own communities. We must see to it that they are. We, as Canadians, want to be able to raise our children without worrying about criminals roaming our neighbourhoods and streets. We want to and must put an end to drug dealers trafficking dangerous and harmful drugs near our schools and playgrounds. We insist that we not be placed in a situation where we are confronted with sexual predators prowling around, many out on early release.

This bill goes a long way in creating a condition where Canadians will feel safer in their communities.

Honourable senators, I wish to pay special tribute to my colleague, Senator Boisvenu, and other advocates for victims of crime who have repeatedly urged the opposition to understand the critical importance of having this bill passed expeditiously so that our government can keep its commitments to Canadians. Everyone knew and understood what we were saying in the election campaign — and before — and what we promised to do.

Highly-respected people such as Joe Wamback, Sharon Rosenfeldt, and Sheldon Kennedy have spoken out on many occasions about the need for changes to our justice system and our public safety laws. They have been strong advocates for this bill who have encouraged its timely passing. Who better to understand the pain and anguish of victims than Senator Boisvenu, Joe Wamback, Sharon Rosenfeldt, and Sheldon Kennedy?

I think of my friend Sharon, her son a victim of Clifford Olson. How she kept her sanity and dignity through her long ordeal is something I cannot comprehend. Consider Senator Boisvenu. Who among us would ever wish to walk in his shoes? We owe them all a profound debt of gratitude for their tireless and selfless work on behalf of victims of crime.

Some Hon. Senators: Hear, hear.

[Senator LeBreton]

Senator LeBreton: In the Senate, as voices for Canadians of all demographics, from coast to coast to coast, we have a duty to stand up for victims of crime, to protect Canadians and to do what is necessary to build a stronger, safer and better Canada. This comprehensive legislation is another important step in the process to achieve this end.

All honourable senators in this place have likely heard feedback from their communities about this bill. Indeed, I have heard many sentiments in my own community of Manotick, just south of Ottawa. I have heard from people across the country as well. The message of Canadians has been loud and clear. They are saying to us, "Please ensure a safer community for our families." They are relying on us, their government and all parliamentarians, to take steps needed to achieve this.

I will now briefly address the content of the bill and explain the five parts that comprise Bill C-10. Part 1 includes reforms to deter terrorism by supporting victims of terrorism and amending the State Immunity Act. Part 2 includes sentencing reforms that will target sexual offences against children, and serious drug offenders, as well as prevent the use of conditional sentences for serious, violent and property crimes. Part 3 includes post-sentencing reforms to increase offender accountability, eliminate pardons for serious crimes and strengthen the international transfer of offenders regime. Part 4 includes reforms to better protect Canadians from violent and repeat young offenders. Finally, Part 5 includes immigration reforms to better protect vulnerable foreign workers against abuse and exploitation, including human trafficking.

Although there have been criticisms of this bill being complicated and difficult to understand, I would like to remind honourable senators that these reforms are not new and certainly not unfamiliar to both houses of Parliament. They are certainly not new to Canadians. These reforms, as I stated earlier, were all before Parliament previously, before they died on the Order Paper with the dissolution of the previous Parliament.

• (1930)

I would also like to remind my honourable colleagues that many of the initiatives included in this bill have been debated, studied, and even passed at least one or two times by both chambers at different stages of the bill.

They are hardly new and they are hardly unfamiliar. Largely, the comprehensive legislation reintroduces crucial reforms to our justice system in the exact same form they were in previously, with technical changes that were needed to be able to incorporate them into this now one bill before Parliament, C-10.

In an effort to ensure all members of this chamber are fluent in their understanding of this bill, I will take this opportunity to walk you through various parts of the bill, particularly those that have been misunderstood, misreported and, quite frankly, the subject of what I would say is deliberate confusion.

Part 1 amendments seek to deter terrorism by enacting the proposed Justice for Victims of Terrorism Act. These reforms recognize that "terrorism is a matter of national concern that

affects the security of our country," and that it is a "priority to deter and prevent acts of terrorism against Canada and Canadians."

The real and imminent threat of terrorism remains constant for countries like Canada and the United States — indeed, any country in the free world — and we must always continue to be vigilant. That is why Part 1 proposes to enable victims of terrorism to sue perpetrators and supporters of terrorism, including listed foreign states, for loss or damage that occurred as a result of an act of terrorism or omission committed anywhere in the world on or after January 1, 1985.

We must do this in honour of the victims of terrorist attacks such as 9/11 and acknowledge the pain and suffering of the loved ones left behind, like Maureen Basnicki, who I think is in the gallery with us today.

The bill also would amend the State Immunity Act to lift immunity of those states that have been listed as supporters of terrorism.

Honourable senators will remember that amendments contained in Part 1 of Bill C-10 were previously proposed and passed by this chamber in former Bill S-7, the justice for victims of terrorism bill, in the previous session of Parliament. Our colleague Senator Dave Tkachuk is to be thanked for his pursuit of these important measures.

Part 2 proposes important amendments to the Criminal Code and the Controlled Drugs and Substances Act to ensure that severe and violent crimes like child sexual exploitation and serious drug offences receive sentences that effectively reflect the severity of the crimes.

This part of the bill includes former Bill S-10, the penalties for organized drug crime bill. As honourable senators will recall from the previous Parliament, it proposes to amend the Controlled Drugs and Substances Act to impose mandatory penalties for the offences of production, trafficking, possession for the purpose of trafficking, importing and exporting, or possession for the purpose of exporting a Schedule I drug, such as heroin, cocaine and methamphetamine, and Schedule II drugs such as marijuana.

These mandatory minimum sentences would apply where there is an aggravating factor, including where the production of the drug constituted a potential security, health or safety hazard, or if the offence was committed in or near a school.

Additionally, this bill would double the maximum penalty for the production of Schedule II drugs like marijuana from 7 to 14 years and it would reschedule drugs most commonly known as the date rape drugs, from Schedule III up to Schedule I.

For context, Schedule III drugs include various drugs to treat attention deficit disorders like Adderall and Ritalin. Also included in Schedule III are some species of psychedelic mushrooms, unlike Schedule I drugs, which include heroin, methamphetamines, cocaine and PCP.

As a result, these offences will now carry higher maximum penalties, helping to keep Canadians safe by keeping criminals off of our streets and out of our communities for a longer period of time, as well as acting as a deterrent — and I think we overlook this fact, honourable senators; these penalties do act as a deterrent and there is evidence to prove it — for other would-be criminals.

This part of Bill C-10 would also allow a court to delay sentencing while a drug-addicted offender completes a treatment program under the supervision of the court and, if the offender successfully completes the program, it allows the court to impose a penalty other than the minimum sentence.

I am going to repeat that, because this is something that they always overlook. This part of Bill C-10 would allow a court to delay sentencing while a drug-addicted offender completes a treatment program under the supervision of the court and, if the offender successfully completes the program, it allows the court to impose a penalty other than the minimum sentence. It is important that we all understand that.

Our government is committed to keeping our communities safe, while also allowing offenders an opportunity to avail themselves of drug treatment programs, and thereby improving their lives and, hopefully, contributing to society. The myth Senator Fraser speaks of really is that this government or anyone in society would not do everything possible to try to treat people who are hooked on drugs, and to suggest that we would do anything other than try to help these people is false.

The inclusion of these measures in Bill C-10 means that this is the fourth time the bill has been introduced.

Coincidentally, these important measures have been passed by both chambers, but never by both in the same session of Parliament. This bill is identical to the bill that died on the Order Paper at the dissolution of the last Parliament.

As others have said, we have all received the mass emails, but I say and you must acknowledge that a significant number of these were exactly the same text; the only thing that was changed was the name. It is the easiest thing in the world to do. You do not even have to think about the letter you are writing; just pop your name on it.

There are others, of course, who have written. Of course, we responded to these legitimate concerns, but these people who have emailed us and emailed us with these form letters are of the opinion that serious drug offences do not require a response such as that contained in this comprehensive bill. I fervently disagree with these views, as do many experts. In fact, statistics back this up.

Serious drug crime is a severe problem in Canada and it requires serious legislative approaches. That is what we are doing. This is why we are bringing this bill forward.

For example, marijuana cultivation offences have increased significantly in the past several years. As well, available RCMP data indicates a rise in synthetic drug production operations in the last 10 years. The RCMP indicates that there were 25 clandestine labs seized in 2002. In 2008, 43 clandestine labs were seized across

Canada. One year later, another 45 clandestine labs were seized by various Canadian police agencies. The majority of these labs seized were methamphetamine and ecstasy labs. We only have to read newspapers, especially in Alberta, to see the deadly results of the products of these labs. These are dangerous drugs that have led to the deaths of many Canadians, particularly young Canadians — our children.

Prime Minister Harper — and honourable senators may recall this, I am sure, because I know we all watch Prime Minister Harper very closely — unveiled Canada's National Anti-Drug Strategy in October 2007. This strategy provided new resources to prevent illegal drug use, including illicit drug use by young people. It also provided a plan to treat people who have drug addictions and, of course, there was an element to fight organized crime and illegal drug crime.

• (1940)

The strategy comprises a two-pronged approach, one that will be tough on drug crime and the other that will focus on drug users. The strategy includes three action plans: preventing illicit drug use, treating those with illicit drug dependencies, and combating the production and distribution of illicit drugs.

Sadly, because domestic operations related to the production and distribution of marijuana and synthetic drugs have dramatically increased, we have a serious problem in this country. It is more prevalent in some regions of Canada over others. The situation has reached a critical point in many parts of country, and law enforcement agencies are, quite frankly, overwhelmed. As we have all heard before, penalties for drug-related offences and the sentences imposed on offenders are considered by many, including our government, to be far too lenient and not proportionate to the significant level of harm imposed on Canadian communities by these actions. The reforms that our government is pursuing in Bill C-10 will address these concerns.

Part 2 of Bill C-10 includes reforms previously proposed by the former Bill C-16, the Ending House Arrest for Property and Other Serious Crimes by Serious and Violent Offenders Bill. The reform set out in this bill, Bill C-16, explicitly stated that conditional sentences will not be an option for offences punishable by a maximum of 14 years to life; offences prosecuted by indictment and punishable by a maximum penalty of 10 years that result in bodily harm, involve the import and/or export, trafficking and production of drugs or involve the use of a weapon; or the listed property and violent offences punishable by 10 years and prosecuted by indictment, such as criminal harassment, trafficking in persons and theft over $5,000.

Our colleagues in the other place will recall clearly that this is the third time these reforms have been introduced by our government. On each prior occasion, the House of Commons approved the legislation at second reading in principle and in scope.

I wish to point out that there have been a few new technical changes made to the list of excluded offences punishable by the maximum of 10 years. The recently enacted new offence of motor vehicle theft will now be included, and to coordinate the proposed imposition of the mandatory sentence of imprisonment in proposed section 172.1 the luring of a child, with the conditional sentences amendments.

An important segment of Part 2 of Bill C-10 seeks to impose new and higher mandatory minimum penalties for all forms of child sexual abuse, as previously introduced as part of Bill C-54. I am quite certain all members of this chamber can unanimously agree on the critical importance of this measure of the bill. Several of our Senate committees have heard from victims of sexual abuse in a variety of studies. It is clear that sexual abuse, unfortunately, affects the lives of so many Canadians — too many Canadians — and too many have had to live their entire life with the consequences. We have heard the high-profile stories of Sheldon Kennedy and Theo Fleury, and through the good work of some of our committees, we have heard the stories of children from coast to coast to coast who have been subjected to cruel and unspeakable acts.

In addition to the new and higher mandatory minimum penalties, the reforms set out in Part 2 of this bill would create two new offences that will aid in the prevention of the commission of sexual offences against children. As a mother and grandmother, I am incredibly proud that our government sees this as an important, urgent issue and seeks to require the courts to consider imposing conditions to prevent suspected or convicted child sex offenders from engaging in conduct that could facilitate or further a sexual offence against a child.

Bill C-54 had previously received all-party support in the House of Commons.

Honourable senators, you will recall that the bill reached third reading debate here in the Senate before it died on the Order Paper after opposition parties forced an unnecessary and quite costly election, costly to them in more ways than one.

I know that my Conservative government colleagues were all very disappointed. I remember how disappointed we were that the bill died, because it should have passed. It should be law right now because it was critically important that these reforms to protect our children be in place, but now we have a chance again to make sure this happens.

Our government has made some changes since that bill died on the Order Paper, as you know, including increasing the maximum penalties with a corresponding increase in mandatory minimum sentences to better reflect the nature of the offence. We have also amended the bill to include the making of or distribution of child pornography, and also to extend this provision to a parent or guardian who procures his or her child for unlawful sexual activity. The changes we have made to this bill are in line with our objectives in the former Bill C-54.

Additionally, the new two sexual offences proposed would be added to Schedule 1 of the Criminal Records Act to ensure that those convicted of either offence are subject to the same period of ineligibility for a record suspension — currently referred to as a pardon — as they are for other child sexual offences. This is crucial. I am sure my honourable colleagues will agree that the crime of sexual exploitation of young children is a most heinous crime, one that is inconceivable, and a crime that most certainly must be met with the appropriate punishment.

These reforms in Bill C-10 seek to consistently and adequately condemn all forms of child sexual abuse through the imposition of new and higher mandatory sentences of imprisonment, as well as some higher maximum penalties.

We are also addressing the serious issue of drug crimes in this country, particularly those involving organized crime and those that target youth, because we all know the impact these crimes have on our communities.

I would like to now move on to Part 3 of Bill C-10.

This section of the bill proposes post-sentencing reforms to better support victims of crime, as well as to address the issue of offender accountability. I heard Senator Fraser's comments about victims and saying that this was the saddest part of this bill. The saddest part of this debate, Senator Fraser, is that you would think that victims would not want everything possible done to deal with the perpetrators of these horrendous acts. We, as a government, have acknowledged and done more for victims than any other government in the history of the country.

It is clear. I have heard many times in my discussions with Canadians, and I know that my colleagues on the government side of both houses of Parliament have as well. They know when we talk about costs, there is no cost that is too great to deal with criminals. The cost to victims and the cost to society are what is paramount. The cost of incarcerating people pales by comparison.

Canadians are offended when offenders get a slap on the wrist and a trip to "Club Fed." They want to have complete confidence in our justice system. In order for this to happen, offenders must be held accountable.

As with Parts 1 and 2, Part 3 introduces reforms previously contained in bills that were at one time before the previous Parliament. All of this is nothing new. We have been talking about this for six years. They did not talk about it much before that, mind you.

In Part 3 of Bill C-10 we have included proposals from the Ending Early Release for Criminals and Increasing Offender Accountability Bill that would amend the Corrections and Conditional Release Act to recognize the rights of victims, increase offender accountability and responsibility, and modernize the disciplinary system for inmates. We have been very clear. Our government is committed to standing up for Canadians and, most importantly, victims of crime. We believe criminals must be accountable and responsible for their crimes. I think all Canadians share the belief that, in order to deter crime, there must be consequences in the form of appropriate and reasonable sentences.

• (1950)

This bill would address the disrespectful, intimidating or assaultive behaviour of inmates inside Canada's penal institutions, including the throwing of bodily substances. It would also restrict visits for inmates who have been segregated for serious disciplinary offences. As my colleague the Honourable Vic Toews has said previously, our front-line correctional officers have asked for these measures and we are very proud to deliver them.

I am proud also that our government has committed to transforming our corrections system to ensure that it actually corrects and does not become a home away from home for offenders who have victimized others. As many honourable senators already know, our government has taken major steps to address the recommendations contained in *A Roadmap to Strengthening Public Safety*. Bill C-10, now before us here in the Senate at third reading, continues this vital work.

As re-introduced as part of Bill C-10, this initiative now includes technical modifications that would delete provisions that were ultimately passed as part of the Abolition of Early Parole Act and, in addition, clarifications regarding, for example, sentence calculations, adding new offences recently enacted by other legislation, and a proposal to change the name of the National Parole Board to the Parole Board of Canada.

Our comprehensive crime bill also includes proposals previously contained in Bill C-5, the Keeping Canadians Safe (International Transfer of Offenders) Bill. These proposals would enhance the safety of all Canadians by enshrining in law a number of additional key factors in deciding whether or not an offender would be granted a transfer back to Canada. The bill proposes these reforms as originally introduced.

Also reintroduced as part of Bill C-10 are proposals that were included in the Eliminating Pardons for Serious Crimes Bill introduced in the previous Parliament. This provision would expand the period of ineligibility for a record suspension, currently referred to as a pardon — a misnomer if I ever heard one — and would ultimately make record suspensions unavailable for certain offences and for persons who have been convicted of more than three offences, prosecuted by indictment, and for each of which the individual received a sentence of two years or more. This bill corrects inconsistencies that occurred in the former bills before Parliament but are consistent with the government's objectives.

One of the areas of criminal law and our justice system that is close to the heart of many Canadians, including myself, is the serious issue of violent and repeat young offenders. My colleague the Honourable Rob Nicholson, Minister of Justice, has stated on numerous occasions that he has received a great deal of communication from Canadians on this matter, and I can attest that my office continues to receive such correspondence as well. This is one area that I hear a lot about.

Part 4 of Bill C-10 would reform the Youth Criminal Justice Act to strengthen its handling of violent and repeat offenders. This has been a long time coming. Canadians have called for these changes for years. Our government is delivering on our promise to Canadians. We heard this message loud and clear last May 2, and we take our responsibility to keep communities safe very seriously. I encourage my opposition colleagues to do the same.

The reforms we are proposing include: highlighting the protection of the public as a principle, making it easier to detain youth charged with serious offences pending trial; ensuring that prosecutors consider seeking adult sentences for the most serious offences; prohibiting youth under the age of 18 from serving a sentence in an adult facility, which is another falsehood that keeps surfacing; and requiring police to keep records of extrajudicial measures.

Many of my honourable colleagues here in the Senate of Canada may remember that these much-needed reforms were previously proposed in Sébastien's Law, which had been extensively studied by the House of Commons Standing Committee on Justice and Human Rights when, sadly, it died on the Order Paper with the dissolution of the previous Parliament. The provinces have highlighted concerns regarding pretrial adult sentencing and deferred custody provisions in the former bill. This new re-introduction addresses the concerns the provinces brought to us.

For example, a number of the provinces have requested a less restrictive regime for the pretrial detention provisions than that of the former Bill C-4. The changes found in this bill respond by providing more flexibility to detain youth who are spiraling out of control and who pose a risk to the public and to themselves.

Other changes are of a more technical nature; for example, removing Bill C-4's proposed amendments in two areas: first, deleting reference to the standard of proof for an adult sentence and, second, the expanded scope of deferred custody and supervision orders.

Finally, Part 5 of Bill C-10 would amend the Immigration and Refugee Protection Act to authorize immigration officers to refuse work permits to foreign nationals and workers where it would protect them against humiliating and degrading treatment, including sexual exploitation and human trafficking. Our immigration officers play a key role in Canada's immigration process. This part of the bill gives the individuals who are on the front lines daily more discretion in our government's fight against trafficking.

These initiatives are identical to those previously proposed in the former Bill C-56, the Preventing the Trafficking, Abuse and Exploitation of Vulnerable Immigrants Bill.

The proposed reforms would come into force in the same manner as originally proposed by the respective predecessor bills. Part 1 would come into force upon receiving Royal Assent and the balance would come into force on a day to be fixed by Governor-in-Council. This will enable our government to consult with the provinces and territories on the time needed to enable them to prepare for the timely and effective implementation of these reforms.

Canadians deserve to feel safe in their homes, victims deserve to be treated with more respect, corrections officers need the tools to do their jobs, and offenders must be prepared to take responsibility for their conduct and pay the price if they break the rules. Bill C-10 will achieve these goals.

Honourable senators, I know that it has taken some time for me to go over the details of our government's important, comprehensive crime bill with you, but I feel it is important that you are well versed on the initiatives put forward by our government to better protect victims. Through all the bills before Parliament, including all the hard work that was done — especially the 60-plus hours in the Senate committee — we have given everyone ample opportunity to properly understand this bill, because it is our duty to keep our communities safe and to stand up for the interests of law-abiding Canadians.

We were very clear in the last election that this was a priority for our government. We have put these bills together to follow through on our commitment to deliver on our promise to Canadians. A great deal of work has gone into this, and I am sure all honourable senators will agree that we have spent many hours, months and years going over the details of this bill.

Our esteemed colleagues in the House of Commons worked attentively to do their due diligence in studying this important bill. Many members of the House of Commons rose to speak on issues important to their constituents and all Canadians.

Our government is proud of the measures set out in this bill that will protect Canadians by making our streets, communities and country safer. Judging by the majority mandate delivered to us in the last election, Canadians wanted us to proceed. I was pleased to see the public opinion poll in Quebec that shows overwhelmingly that Quebecers support these initiatives. You would not know that by reading some of the media based in Montreal; but that is a fact.

• (2000)

Here in Parliament's upper chamber, the Standing Senate Committee on Legal and Constitutional Affairs did a phenomenal job of studying this bill. Led by our colleague, Senator John Wallace, the committee heard from 106 witnesses during more than 60 hours of testimony. I would personally like to thank all members of the Legal and Constitutional Affairs Committee, from both sides of this chamber, for their dedication and thoughtful work.

Honourable senators, I would like to thank you for your undivided attention as I have gone through this bill in great detail. I also wish to urge you to allow this bill to move along to Royal Assent so that we can meet our commitment to Canadians. It is my hope that you share our government's belief that the protection of society must be the paramount concern of our justice system.

Honourable senators, Bill C-10 sets out to address serious and violent crime in Canada, a statistic of crime that is on the rise. Despite some of the figures that have been thrown around, violent crime is on the rise. Canadians continue to tell our government that they are losing faith in the justice system, and I can believe that. I certainly lost faith in the justice system on a personal level. Bill C-10 is a step towards restoring Canada's confidence in our justice system — a system that is intended to protect them. Canadians want a justice system that is fair, consistent and accountable. Bill C-10, the Safe Streets and Communities Bill, will ensure that law-abiding citizens and families are protected, that criminals are held responsible and answer for their crimes that endanger the public's safety, and, most importantly, that victims are heard, respected and treated properly.

Hon. Serge Joyal: Honourable senators, I will follow the invitation that Senator Wallace, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, made earlier in his question to the Honourable Leader of the Opposition by avoiding making political statements of generality that might produce a lot of applause or entertain some bias that some of us might have against the judicial system or against various aspects of our legal institutions in Canada. Rather, I want to concentrate my remarks on some of the constitutional aspects and Charter aspects of this bill.

If we have a duty, as legislators, especially in the Senate, it is to ensure that when we adopt legislation, we do so by paying due respect and attention to the Canadian Constitution, that is, the sharing or divisions of power that we know as one of the characteristics of our system of government, and, of course, the paramountcy of the Charter provisions, especially when we legislate in relation to the Criminal Code. We know that when we legislate in relation to the Criminal Code, all of our decisions have an impact on the freedoms of Canadians. If there is a value that we uphold in this country, it is the freedom and dignity of each and every Canadian.

I would like to thank Senator Baker who has afforded me the opportunity to state my views at this stage of the debate. Having reviewed the bill in its various parts as outlined by the Honourable Leader of the Government, I have come to the conclusion that there are at least seven aspects of this bill that are open to challenge on constitutional grounds. I say that with great preoccupation because if we adopt legislation in Parliament that is challenged the next day in court and those provisions are struck down by the court on the basis of either the Constitution or the Charter, then Canadians may lose faith in the work of Parliament and may lose their trust in the judicial system. Canadians expect the objective of the bill to be sustained by the court, but when the expected and the promised are not upheld by the court, then we do not serve the objective of the legislation and the trust of Parliament. Canadians must continue to trust Parliament.

The first aspect of this bill which is really problematic is mandatory minimum sentencing. In the last five years, we have adopted a number of bills that have imposed mandatory minimum sentences. We have done that in relation to amendments to section 95 of the Criminal Code on loaded firearms and in relation to provisions around drunk driving causing harm and eventually death. I remember that the Honourable Leader of the Opposition stood up at that time and was very eloquent in speaking to the need for us to adopt that proposed legislation. Unfortunately, honourable senators, those two provisions that were adopted on the government initiative imposing mandatory minimum sentences have been struck down by the courts. The most recent one was in mid-February 2012 — less than two weeks ago — in *R. v. Smickle* by the Ontario Superior Court of Justice. The presiding Justice Molloy came to that conclusion, and she said:

> A reasonable person knowing the circumstances of this case, and the principles underlying both the Charter and the general sentencing provisions of the Criminal Code, would consider a three year sentence to be fundamentally unfair, outrageous, abhorrent and intolerable

That was in relation to the loaded firearm provisions of the Criminal Code that we amended in this chamber in 2007. To make people believe that a mandatory minimum sentence will keep someone in prison for two, three or five years, will not hold the test of the Charter.

A similar decision was made in the Court of Quebec in March 2011 by Justice Valmont Beaulieu, in *R. v. Perry* almost one year ago in relation to the amendments to the drunk driving provision.

[*Translation*]

In his ruling, Justice Beaulieu said that, by limiting the discretion of the court in this way, these new provisions could result in sentences that would be unfair, extremely disproportionate and inappropriate and thus the court would be imposing arbitrary sentences in violation of sections 7 and 9 of the Charter.

[*English*]

In less than one year, we have been told that mandatory minimum sentences are constitutionally fragile, if not vulnerable. If we are to continue to legislate in the Criminal Code and add minimum sentences for all kinds of crimes and for all kinds of good or not-so-good reasons, we should definitely follow the suggestion made by the bar association when they appeared before the committee on February 8 — add a safety valve to the Criminal Code. Mr. Daniel MacRury, Chair of the National Justice Section of the Canadian Bar Association, suggested a text to include that would read as follows:

> Where an injustice could result by the imposition of a mandatory minimum sentence in extraordinary circumstances, the judge may consider other sentencing options.

• (2010)

I would add, ". . . in justifying in writing his or her decision." I think that in fact would keep the minimum sentence, but at least would avoid repeated decisions of the court whereby those minimum sentences would be set aside.

As my colleague Senator Jaffer said earlier on, there are other Western countries that have mandatory minimum sentences, such as the United States, Australia and the U.K., and those countries have such a safety valve in their criminal law. In other words, we would not do something that would be totally contrary to what is the criminal tradition in those countries that borrow and share the same kinds of traditions in terms of criminal law.

The other elements of mandatory minimum sentences that in my opinion could lead to a challenge in court are the impacts of those decisions in reference to Aboriginal people. The impact takes the following scenario: As you know, honourable senators, following a decision of the Supreme Court in a famous case called *Gladue*, the court came to the conclusion that Aboriginal peoples in Canada, having been the object of systemic discrimination, when it comes to sentencing, the court is bound to take into consideration the particular circumstances related to their status as Aboriginal peoples. This is called the *Gladue* principle. We all

know that Aboriginal people are overrepresented in the prisons in Canada. My colleague Senator Cowan has given some figures. I will repeat some of them.

In the Prairie provinces Aboriginals represent 60 per cent of the inmates. They represent roughly 18.5 per cent of the prison population in Canada while, in fact, they constitute 2.7 per cent of the Canadian population. In other words, there is a systemic problem with the Aboriginal peoples in prisons. That has been stated by the Supreme Court of Canada, and that is why we, in former sessions of the Canadian Parliament, have amended section 718.2(*e*) of the code to put before the sentencing judge the specific conditions under which Aboriginal people find themselves in a situation of systemic discrimination as far as the justice system is concerned.

What will happen with this bill? Bill C-10 is tricky. It does not talk about Aboriginal people, but since this bill extends the number of minimum sentences, the *Gladue* principle does not apply. When an Aboriginal person is found guilty in the court, the fact that the person is Aboriginal does not apply. It means that the more we impose minimum sentences, the less Aboriginal people are protected by the provisions that the Supreme Court has decided are compulsory when imposing sentence. In other words, we are depriving the Aboriginal people of the protection that the Supreme Court has recognized in a landmark decision in relation to the presence of Aboriginal people in the criminal justice system of Canada. At a point in time, by multiplying the minimum sentence, we are in fact nullifying the effect of the *Gladue* decision.

In my humble opinion, what will soon happen is that lawyers and groups of lawyers who defend Aboriginal people, like the Kenora group we heard at the committee, will challenge the constitutionality of those minimum sentences because they equate to the nullification of the protection to which they are entitled under our Constitution. That is very serious and that is my second concern in relation to the constitutionality of this bill.

My third concern is in relation with the youth justice section of the bill. The Supreme Court of Canada, in a 2008 decision, which is a rather recent decision, called *R. v. D.B.*, established the principle that the court must follow in relation to when they have to judge or decide about the criminality of a young offender. I am quoting from the court, because it is very important to keep that principle in mind:

> The principle of fundamental justice at issue here is that young people are entitled to a presumption of diminished moral blameworthiness or culpability flowing from the fact that, because of their age, they have heightened vulnerability, less maturity and a reduced capacity for moral judgment. That is why there is a separate legal and sentencing regime for them.

The court continues:

> The presumption in question is, firstly, a legal principle.

In other words, we cannot avoid it, we cannot try to finesse it, and we cannot try to juggle with the different concepts to try to not respect the legal principle that the young offender has a diminished moral blameworthiness or culpability.

The problem with the bill, in my opinion, is clause 185, whereby we expand the publication ban that normally follows from a decision when we bring a youth before the youth criminal court. The problem with this clause is that it extends that principle, while in fact the Supreme Court has stated in the same decision, as follows:

> . . . the publication ban forms no part of the young person's sentence. . . .

The fact that the bill is drafted in a way that it links any violent offence to a potential criminal ban, without defining in very restrictive terms what is a violent offence, fails to meet the test of the Supreme Court.

May I have five more minutes?

Hon. Senators: Agreed.

Senator Joyal: That is the third count on which I think this bill fails.

The fourth one is in relation to the international transfer of prisoners that the Leader of the Government in the Senate mentioned. Honourable senators must know that in the last four years there have been 13 decisions of the Federal Court of Canada that have quashed decisions of the Ministers of Public Safety — Minister Toews, Minister Van Loan and Minister Day — in refusing the transfer of prisoners. It is the highest number ever in which the Federal Court has come to the conclusion that refusing the transfer of prisoners for the mere sake that it threatens the public safety of Canadians is not acceptable in Canadian law.

The last decision in relation to that was in February, last month, less than two weeks ago. The way the bill is drafted, especially by linking the decision of the minister to the fact that a Canadian who is in prison in the United States or somewhere else in the world might not have resided too long in Canada, would run contrary to section 6 of the Charter. That is the mobility right. The bill contains a kind of open motive, or any other motive that the minister might have to refuse the transfer, which in my humble opinion is open to challenge on the same grounds as in the 13 decisions I mentioned earlier.

Honourable senators, the fifth count is about the compensation for victims of terrorism. I am addressing myself to Senator Tkachuk, who has sponsored that bill. I have supported that bill and I continue to support the intention of the bill. The only problem is linked to two aspects of the implementation of this bill. The first is that the bill establishes a cause of action in the State Immunity Act, and that is contrary to section 92.13 of the Canadian Constitution, which gives the province responsibility in terms of property and civil rights. We have heard witnesses before the committee who have raised that issue. It would be against that section. It could not be within the State Immunity Act.

• (2020)

The second argument is that it would run contrary to international law. I want to cite a decision of the International Court of Justice, from February 3, 2012, less than a month ago. The court refused to allow Italy to bring Germany to court for

reparation for damages inflicted to Italy in the last world war because the court came to the conclusion that you cannot change state immunity to seek damages or compensation, even if those acts are as abhorrent as the ones the Nazi government inflicted on Italy and other countries. This very recent decision, in my opinion, questions the scope of this bill and the way it is drafted.

Finally, honourable senators, there are two other aspects of constitutionality that can arise from this bill. One has been mentioned, indirectly, by my colleague Senator Cowan. It is the fact that we will so increase the number of inmates in Canadian prisons that we will go over the threshold that the Supreme Court of Canada established in May 2011, less than a year ago. When the occupancy is over 137 per cent of the prison capacity, the Supreme Court of the United States has concluded that it is a violation of the Eighth Amendment — protection against cruel and unusual punishment — which is section 12 of our constitution. By reviewing, very quickly, the level of occupancy in Canadian prisons, I can mention to you that in B.C. the prisons are at 170 per cent and 200 per cent over capacity. This bill will have the unintended consequence of opening challenges on prison capacity against section 12 of the Charter.

I could mention, of course, the part of the bill that removes the concept of pardon to instead establish a record suspension. This, in my opinion, runs against the fundamental dignity and liberty of Canadians. Once you have paid your debt, society blesses you. Sorry to use a religious term, honourable senators. Society lets you free. No one has challenged that. I bring to your attention that this, in my opinion, runs contrary to one of the fundamental values of Canada.

Sorry to have been too long, honourable senators, in the short time.

[*Translation*]

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I am pleased to speak today to Bill C-10, the Safe Streets and Communities Act.

[*English*]

This bill includes measures from nine bills that had been tabled in the previous Parliament. Though it is a large piece of legislation, most of its clauses, which were part of several separate bills, have already been studied in the other place or in committee.

[*Translation*]

Before we go any further, I would like to quote a witness who, in my opinion, is representative of a good number of Quebecers.

> For the victims, Bill C-10 contains a tremendous message of hope. Whether the aggressor is an adult or a young offender, Bill C-10 introduces mechanisms to impose harsher sentences for violent crimes, sexual predators and drug traffickers. More severe and more vigilant criminal justice will also be earn more respect and be more credible. People's confidence will be bolstered. Society's disapproval of these types of crime has reached an all-time high. Bill C-10 provides concrete solutions, including mandatory minimum sentences, adult sentencing for young offenders who commit serious and violent crimes, and the publication of the names of violent young offenders who have a high risk of reoffending.

A recent poll indicates that 77 per cent of Quebecers want more severe criminal justice. This impacts the sentence handed down, and also the sense of security that all citizens should have for themselves and for their families. The current government has been very open with Canadians. Its criminal justice approach was well known and voters gave their stamp of approval by giving the government a majority mandate.

That is what a former Liberal justice minister from Quebec had to say to us.

Now, as there is very little time to discuss the various aspects of the bill in detail, I too have decided to target one aspect in particular and to study it at length, and that is minimum sentences.

Bill C-10 introduces, in various clauses, the principle of minimum sentences that must be imposed for various serious crimes. For some time now we have been hearing some very harsh criticism about this principle of minimum sentences. In December, during the debates in the other place on Bill C-10, just before it was passed at third reading, the Liberal Party justice and human rights critic, the honourable Irwin Cotler, a former justice minister, said that the principle of minimum sentences was an abomination that we absolutely must avoid. According to him, minimum sentences would have a negative impact.

Other members of our honourable chamber regularly speak out against minimum sentences, including Senator Hervieux-Payette, who never misses an opportunity to associate minimum sentencing with what she calls an ineffective and costly Conservative ideology. The leader of the opposition has also railed, again today, against minimum sentences. Member of Parliament Sean Casey, who spoke on behalf of the Liberal Party in order to express his party's position on Bill C-10 said:

> . . . this tough on crime legislation, the increasing of mandatory minimum sentences, does not work. . . . It is ideologically driven and it flies in the face of facts and evidence.

It is plain to see that the Liberal Party is staunchly against minimum sentences, but the MP goes further. According to him, the willingness to impose minimum sentences is ideological, which makes us the defenders of this ideology that flies in the face of facts. That was their position in fall 2011.

Let us look back nearly seven months earlier. The majority of the minimum sentences that are introduced in Bill C-10 originated in former Bill C-54 entitled Protecting Children from Sexual Predators Act. On March 11, 2011, at third reading, all the parties represented in the House of Commons, Liberal, NDP, Bloc and Conservative, voted in favour of the bill and all the minimum sentences therein.

More recently, on February 13, 2012, an Ontario Superior Court judge decided not to impose the minimum sentence of three years set out in section 95 of the Criminal Code because she was of the opinion that the sentence would be cruel and unusual punishment in this very specific case. Since then, the NDP and the Liberals have launched an all-out attack, blaming the Conservative government's ideology and criticizing the relevance of minimum sentencing.

For me, this was a starting point from which to conduct more detailed research on minimum sentencing, and I have decided to share some of what I discovered with you today.

• (2030)

The minimum sentence of three years set out in section 95 of the Criminal Code, which has been the target of an Ontario Superior Court decision, was passed by the House of Commons on November 26, 2007, with overwhelming support from all of the opposition parties — Liberals, New Democrats and Bloc members alike. In fact, only one member of the entire House of Commons opposed it. Yes, you heard me correctly: Denis Coderre, Gilles Duceppe, Stéphane Dion, Thomas Mulcair and Yvon Godin all voted in favour of this minimum sentence.

But there is more. In his October 26, 2007, speech about the bill that would impose this minimum sentence of three years, Liberal Brian Murphy, opposition critic, stated:

> I remember that it was a Liberal minister of justice who brought in the whole concept of mandatory minimums, which at the revolving door of the Conservatives' press circle was as if it was invented by them.

Such a statement led me to believe that the Liberals were the ones who invented minimum sentencing in Canada. So how do we explain the fact that the inventors of minimum sentencing are now speaking out against each use of their own invention?

Honourable senators, these obvious and surprising contradictions by members of the Liberal Party piqued my curiosity and, in order to satisfy it, I had to do a little bit of historical research on minimum sentencing in Canada. It is always interesting to know where we started in order to be able to see how far we have come, but especially to find out whether minimum sentencing is merely useless Conservative ideology as the Liberals claim.

This research was very enlightening in more than one way. It allowed me to discover that, contrary to MP Brian Murphy's claims, it was not a Liberal justice minister who first introduced the concept of mandatory minimum sentencing but, rather, the Right Honourable John Thompson, Conservative Prime Minister and Minister of Justice, who, in 1893, had the minimum sentence of three years passed for offences set out in sections 92 and 95 of the Criminal Code, namely, engaging in prize fighting. I would like to reassure Senator Brazeau that this offence no longer exists.

As for the global historical context of minimum sentences, here are some interesting facts.

From 1892 to 1921, minimum sentences were introduced into the Criminal Code by Conservative governments on 11 occasions. It was only in 1922 that the Right Honourable William Lyon Mackenzie King became the first Liberal Prime Minister to have a minimum sentence of six months' imprisonment adopted. For what type of offence? For the importation, possession, manufacture or distribution of narcotics and opium. At the time the Liberals seemed really concerned about drug trafficking. They were the first ones to pass a minimum sentence for drug trafficking.

Later on, minimum sentences were introduced on a regular basis. But could you tell me how many minimum sentences were added to the Criminal Code, by Liberal or Conservative governments? Honourable senators, in your opinion, which political party introduced the largest number of minimum sentences in the history of our country? Since 1892, a total of 53 minimum sentences were introduced into the Criminal Code. Of that number, 18 were introduced by Conservative governments, and 35 by Liberal governments. Therefore, the Liberals have used minimum sentences as punitive measures and deterrents twice as often as the Conservatives. Perhaps this is why member of Parliament Brian Murphy was under the illusion that the Liberals had invented the concept of minimum sentences.

Now, I have a little quiz for you. Which prime minister resorted to minimum sentences most often? Trudeau stands in third place with seven minimum sentences. You say Martin? He is in second place with nine. The number one is Chrétien, with 11 minimum sentences.

Honourable senators, as you can see when our friends try to depict the Conservatives as being ideologues advocating minimum sentences, I have some difficulty understanding their reasoning because they are the champions in that respect.

Talking about champions, I have another quiz: Which Minister of Justice holds the record for imposing minimum sentences? Which Minister of Justice passed the largest number of minimum sentences in the history of our country? None other than the current Liberal critic in the House of Commons, Irwin Cotler, the same individual who is now condemning the introduction of minimum sentences. It is during his stint as Minister of Justice, under Paul Martin, that he had nine sections of the Criminal Code amended to introduce minimum sentences. Former minister Cotler is Canada's all-time champion with nine minimum sentences in a single year. He is closely followed by his predecessor, the honourable Allan Rock, who had introduced eight minimum sentences, albeit over a period of several years.

In the end, one must realize that the only principle is really: Do as I say, not as I do.

What a fine way to deal with public safety!

Honourable senators, we live in a society governed by the rule of law, and people expect parliamentarians to pass the best laws to protect them. When it comes to certain social evils, the citizens who elected their representatives refuse to let partisan interests taint the decision-making process. Governments must listen to

them. When a system applied to certain types of crimes has gone too far in one direction and no longer achieves its expected results and objectives, we, as parliamentarians, must restore balance.

In 1995, the concern with firearms and violent crimes was a major one and it led to a series of measures, including the adoption of nine minimum sentences. We note that these minimum sentences had an impact. Gun crime has now decreased.

The Hon. the Speaker: Senator Carignan's time has expired. Honourable senators, is leave granted to allow him to continue?

Hon. Senators: Agreed.

Senator Carignan: Honourable senators, Canadians are asking us to protect children from sexual predators and drug dealers, so we have to send a signal to the courts that society no longer tolerates these aberrant behaviours and that the penalties associated with these crimes should be harsher.

I want to emphasize that this is a signal to the courts, because in the ruling that Senator Joyal quoted from earlier, the judge established her test for assessing the minimum penalty, for determining whether the punishment was cruel and unusual, but she did not take into account the fact that it was a mandatory minimum.

• (2040)

In her test, she did not take into account the unanimous will of the House of Commons, which wanted harsher penalties for this type of offence with a firearm. The courts must heed the will of Canadians, who will no longer accept these kinds of offences and lenient sentences. The courts must heed this signal, as they did with the nine minimum sentences introduced in 1995; as Pierre Elliott Trudeau did in 1969 to tackle the scourge of impaired driving; as Jean Chrétien did in 1995 to tackle the scourge of violent crimes involving firearms; and as Paul Martin did in 2005 to tackle the scourge of child pornography.

Honourable senators, I urge you to join us in tackling the scourge of sexual predators and drug dealers by fully supporting Bill C-10.

Hon. Maria Chaput: Honourable senators, I cannot in good conscience support Bill C-10, which was clearly conceived with very little consideration for the negative effects it could have if passed in its current state. Some might say that it does have some positive aspects, and that is true. However, we cannot ignore certain very worrisome aspects of the bill, particularly the devastating effect it will have on Aboriginal communities.

During the deliberations of the Standing Senate Committee on Legal and Constitutional Affairs, we had the privilege of hearing testimony from various stakeholders who all addressed specific points in the bill that troubled them. Many of them also wisely suggested possible solutions. It is absolutely inconceivable to me that anyone could rise here today and say that we did not hear anything during the many hours of testimony that might cast some doubt regarding the quality of at least one provision in this huge bill. It is inconceivable that anyone could say that we were unable to come up with any improvements, to even one part of this bill.

Yes, six amendments were accepted. Those amendments had been rejected in the other place, before the Conservatives realized that perhaps they were necessary. However, after the hours and hours of testimony at the Standing Senate Committee on Legal and Constitutional Affairs, it seems disingenuous for anyone to say here today that we did not find any other problems, some of them bigger than others. It also makes me uncomfortable knowing that the hard, passionate work of several witnesses was completely disregarded in the end.

We heard witnesses talk about the mental health problems that abound in our penitentiaries, about the endless waiting lists that exist for rehabilitation programs and about prosecutors who still do not have any means of targeting the most dangerous criminals, in other words, those who, incidentally, will not even be affected by the new mandatory minimum sentences.

We also heard witnesses talk about rehabilitation programs that focus on prevention among young offenders, community programs that are achieving positive, tangible results in terms of reducing crime and recidivism.

We have also heard a great deal about the need for a program for victim rehabilitation. Bill C-10 does not address any of this. It does not address the rather key issue of mental health. It certainly does not address prison crowding because it will be mainly incarcerating people under new minimum mandatory sentences and not hardened criminals that deserve harsher sentences.

Bill C-10 also does not address community programs, other than to diminish their scope by making more use of the prison system.

Contrary to what some people just keep repeating, there is not much in Bill C-10 to deal with the real needs of victims.

We heard hours and hours of testimony. However, although the senators who sat on the committee have been enlightened, Bill C-10 is none the better for it. I find that deplorable.

Nowhere is the lack of reflection and substance more evident than in the discussion of the impact Bill C-10 could have on Aboriginal communities.

Let us begin by citing the evidence: Aboriginal people are seriously overrepresented in the prison population. The committee report points this out in its comments but concludes, unfortunately, that this problem goes beyond the criminal justice system. It is true that efforts in other areas may help reduce Aboriginal overrepresentation in prisons. But to say that the criminal justice system does not play a role in Aboriginal overrepresentation is a huge leap. This conclusion has no basis and, with due respect for the authors, reveals a certain indifference.

According to the Correctional Investigator's 2009-10 annual report, rehabilitation programs do not have the same beneficial effects on Aboriginal inmates as they do on other inmates. It is

very important that we understand what this means. According to its mission statement, the Correctional Service of Canada, and I quote:

> . . . contributes to public safety by actively encouraging and assisting offenders to become law-abiding citizens, while exercising reasonable, safe, secure and humane control.

Still according to Correctional Service of Canada, the CSC's two primary fundamental values are:

> Respect [for] the dignity of individuals, the rights of all members of society, and the potential for human growth and development;

and:

> Recognizing that the offender has the potential to live as a law-abiding citizen.

If we accept that prison rehabilitation programs do not have the same beneficial effects on Aboriginal inmates, then we must conclude that the criminal justice system, in terms of the rehabilitation of Aboriginal inmates, does not do them justice.

Let it not be said that this same system bears no responsibility for the overrepresentation of Aboriginals in the prison system. Let it not be said that a bill dealing with this same system cannot acknowledge this problem either.

In committee we heard the Minister of Justice from Nunavut, Daniel Shewchuk. I think it is important to share what we learned in committee because you will find no indication of it in the bill before you.

According to the minister:

> Nunavut is likely to be the most affected by the new legal regime created by Bill C-10, particularly as it relates to Nunavummiut offenders and the reduction of our Judges' discretion in exercising their sentencing function. Bill C-10's emphasis on incarceration through its the mandatory minimum sentencing provisions will guarantee an influx of prisoners in our territorial jails, which are already overcrowded and will create an even larger backlog in our Courthouse.

The important thing to note is that the Government of Nunavut has already found ways to fight crime, and I quote Mr. Shewchuk again:

> A majority of the crime committed in Nunavut is fuelled by alcohol abuse — a sign that underlying conditions drive our high crime rates. A recent pilot program partnering our department of health and social services and the RCMP has demonstrated that most habitually intoxicated people are prepared to seek help for their addiction if they know where to go and what to do. In the first six months of the program 147 addicted people were arrested a least twice. Seventy-eight of them agreed to get help. Of those 78, 67 of them have not been back in custody. This is a small example of the cooperation and commitment from our institutions, and of the benefits of a rehabilitative-focused justice strategy that is working for Nunavut.

This is a very real example, which decreases recidivism and makes Nunavut safer.

• (2050)

Why not listen to him? Why say that incarceration is required to achieve safety? The federal, provincial and territorial governments all have to work within limited budgets. The federal government's decision to limit judges' discretion means that it is dictating to the provincial and territorial governments that they must allocate a larger portion of their resources to incarceration. I would like to remind honourable senators that, in the context of Aboriginal communities, the federal government is dictating that a larger part of their resources must be allocated to a system that does not respect them or meet their needs.

The federal government is also dictating to Aboriginal communities that they must ignore their traditional justice system. For example, traditional Inuit justice, which is recognized in the Nunavut Court of Justice's case law, is much more strongly based on restorative justice in the form of traditional community-based sanctions. It also produces better results. Of course, minimum mandatory sentences completely rule out this possibility. So once again, we are imposing solutions that are poorly suited to Aboriginal communities. Unfortunately, history seems to be repeating itself.

Here are some quotes from other witnesses who appeared before the committee.

[*English*]

Mr. Roger Jones, senior strategist, Assembly of First Nations:

> In 1996, the Royal Commission on Aboriginal Peoples drew two conclusions: first, that there is a consensus that the justice system has failed our people, and second, that notwithstanding the hundreds of recommendations from previous commissions and task forces, the justice system was still failing them in 1996. Tragically and unacceptably, nothing has occurred between 1996 and now, a period of 16 years, that allows us to draw any different conclusions.
>
> The failure that the royal commission pointed to is characteristic of all aspects of the criminal justice system, from policing to sentencing to imprisonment to post-release services. The current criminal justice system has profoundly failed First Nations peoples by failing to respect cultural differences, by failing to address systematic biases against our people and by denying them an effective voice in the development and delivery of services.

Another witness, Ms. Christa Big Canoe, Legal Advocacy Director, Aboriginal Legal Services of Toronto said:

> We believe that the Safe Streets and Communities Act will make the problem of Aboriginal over-representation in prison even worse, while at the same time not actually addressing the legitimate safety concerns of Aboriginal and non-Aboriginal people in this country. . . .

> When Aboriginal people only represent 4 per cent of the Canadian population but are one quarter of the people incarcerated in this country, there are obvious problems and failures within the justice system, both historically and currently. Courts have recognized the Canadian justice system has failed Aboriginal people in this country. We provide services to Aboriginal people to stave off or minimize the impact of those failures. We see this act, particularly in relation to mandatory minimum sentences and the prohibition of conditional sentences, has potential to cause further harm.
>
> Specifically, the increased reliance on minimum sentences means less opportunity for conditional sentences. This is problematic because it prevents the judge from considering them as a sentencing option.

Ms. Christa Big Canoe ends up by saying:

> I put this to you because as a First Nations woman who works in Canadian law representing Aboriginal people, the dream would be that one day there would be no need to have a provision in the Canadian Criminal Code that specifically asks us to pay special attention to Aboriginal people because the hope would be that the remedial nature of when the legislators put this in would come to fruition, that there would not be the continuing and systemic issues that Aboriginal people face. The reality is we are not there. In fact, reports and statistics demonstrate that Aboriginal incarceration is only increasing, not lessening. The mandatory minimum and the removal of certain types of conditional sentences on certain offences will only compound this and make it worse.

[*Translation*]

If there is one lesson to be learned from the testimony we heard in committee, it is that crime is a very complex issue. If we truly seek to understand crime, we must not be afraid to talk about mental health, rehabilitation, alcoholism, poverty, prevention, collaboration, restorative justice, true and lasting security, victims' rights, victim rehabilitation, the unique characteristics of communities, fair sentencing, and the circumstances surrounding every accused and every victim. We must not be afraid to talk about statistics either.

I cannot support a bill that amends the Criminal Code, yet fails to consider almost every factor related to crime. Such a bill cannot disregard the piles of studies — produced by both academics and individuals working in the field — that sound the alarm.

The government cannot get rid of crime simply by saying that it is now tough on crime. That may be a convincing catchphrase, but it does not work that way.

Many others have said that Canadians' confidence in the criminal justice system is shaky even though crime rates are consistently declining. If that is true, and if the government believes that there really is a lack of confidence, why not take the initiative to have a real discussion about crime? Or about how crime rates are dropping? Or about how crime rates could fall even lower if we invested more in prisoner rehabilitation and treatment of mental illness? Or about how victims get more support in provinces that are supposedly soft on crime?

The Hon. the Speaker: Honourable senators, is the honourable senator's time up?

Hon. Senators: Five minutes.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Chaput: Or about how Aboriginal communities should develop their own solutions to fight crime, which we should support? Are we merely trying to take advantage of this public perception for purely political reasons? I hope that is not the case. I am disappointed that, for all manner of reasons that I find unacceptable, we have not seized this opportunity and postponed having the real, in-depth conversation about crime and public safety that Canadians deserve.

Honourable senators, we were able to glimpse the unintended effects that Bill C-10 could have on the safety of our communities, and we made no corresponding amendments. Therefore, I cannot support this bill.

Senator Fraser: Would the honourable senator accept a question?

[*English*]

I would ask my question in English because I do not have the vocabulary in French. Senator Chaput was an assiduous member of the committee, and she will remember the testimony from Mr. Scott Wheildon, the lawyer who practises in Nunavut.

Senator Chaput: Yes.

Senator Fraser: He explained that Nunavut relies heavily on circuit courts, courts that travel, and he described what it is like for a small Inuit community where someone commits an offence and the community handles it in its age-old way and the community is reconciled and life gets back to normal; and then the court arrives, flies in, descends from the heavens and says, "Well, sorry, we do not care about traditional justice. You have to face trial." Now they will face even more mandatory minimums than in the past.

What does the honourable senator think that will do to the Inuit people's faith in our system of justice?

[*Translation*]

Senator Chaput: That is a very good question. I am thinking of what was said when discussing the importance of their traditional justice system, which has been recognized in case law and which is based on restorative justice.

There is no doubt that the result will be that they have less confidence in the justice system which, in my opinion, seems to be increasingly discriminatory towards them. It will be even more detrimental for these communities, and I regret it.

• (2100)

[*English*]

Hon. Dennis Glen Patterson: Honourable senators, I would like to ask Senator Chaput a question.

I have been listening to the comments about Nunavut and Aboriginal offenders being prejudiced by mandatory minimum sentences. I would like to ask the honourable senator if she knows that in the *Gladue* decision that has been spoken about in the chamber tonight, the Supreme Court said that the section in the code is not to be taken as a means of automatically reducing the prison sentences of Aboriginal offenders, but that, in fact, generally the more serious and violent the crime, the more likely it will be as a practical matter that the terms of imprisonment will be the same for similar offences and offenders.

Since Bill C-10 focuses largely on serious, violent crimes of repeat offenders, would the honourable senator agree that the *Gladue* principle largely does not apply to offences under Bill C-10?

[*Translation*]

Senator Chaput: The principle of the *Gladue* ruling states that judges must take into account the specific circumstances of an Aboriginal community as well as its traditional methods for dealing with whatever happens in the community.

If judges have that discretion, it does not mean that the entire community, every member of an Aboriginal community, will have any less. On the contrary, the judge must take the specific circumstances into account and render a judgement based on what is possible. This does not spare a hardened criminal from being punished. That is not this issue here. The specific circumstances must be taken into account in order to ensure that justice is served. That is my understanding of the ruling.

[*English*]

Senator Patterson: If I may ask another question, the honourable senator referred to Minister Shewchuk of Nunavut who talked about overcrowded jails.

The Hon. the Speaker: I am afraid, honourable senators, that the fifteen minutes plus five have been exhausted.

Continuing debate.

Hon. David Tkachuk: Honourable senators, I want to speak to the ninth report of the Standing Senate Committee on Legal and Constitutional Affairs tabled here. Many senators know that I had spoken to Bill C-10 at second reading and know how I feel about the bill. Today, I want to spend some time on the Justice for Victims of Terrorism Act, which is part of Bill C-10. I want to speak to it on the basis that nothing of value really happens in this place unless people are working together, not only my colleagues in this place, but the citizens outside of this place.

It has been seven years since the Justice for Victims of Terrorism Act was introduced in the Senate. It has not been a lonely journey, though. My travelling companions along the way included many stalwart members of the Canadian Coalition Against Terror. I want to mention some of their names here because they worked so hard in making this bill happen: Sheryl Saperia, Aaron Blumenfeld, Danny Eisen and, of course, Maureen Basnicki. They initiated the whole concept of the Justice for Victims of Terrorism Act. They sold it to me and others, and I was proud to carry it forward. Without their persistence over the last seven years, this act would not have seen the light of day.

For Danny and Maureen, both key members of C-CAT, this was not political. Justice for them was not an abstract concept; this was very personal. Danny Eisen lost his cousin and good friend in the attacks. His cousin was a young man only 31 years of age. His name was Danny, too, Danny Lewin, and he was on Flight 11. In our seven years of working on this bill, Danny Eisen never once mentioned this to me. I learned about it on the tenth anniversary of 9/11 in an article he wrote for the newspaper. In that article, he revealed that his cousin, a Special Forces officer, had been killed — stabbed and critically wounded — while fighting the hijackers alone and unarmed. Danny Eisen has been fighting the terrorists on behalf of his slain cousin ever since. He, too, has been fighting weaponless, but after Bill C-10, not anymore.

Maureen Basnicki's story is well known. She also had a family member murdered during 9/11, her husband Ken, a financial marketer for a software company. Ken Basnicki was on the 106th floor of the World Trade Center North Tower when the plane flew into it. As Danny wrote in his article, for Maureen Basnicki, there would be multiple burials as body fragments of her husband, Ken, would arrive in small packages by mail in the years that followed.

It is perhaps fitting, then, that this legislation came together in pieces over the years — a clause here, a clause there, an amendment here — until we finally arrived at an act that in its present form provides justice for victims of terrorism.

Of course, none of this would have happened without the people who sit here now or who have sat in this or the other place and supported it. Stockwell Day was an early supporter, and so was Nina Grewal. They introduced bills of their own on this. Irwin Cotler has also been a supporter of this act in one form or another.

The amendments made to the bill were C-CAT proposals to strengthen the act and have been included in earlier incarnations and renditions of this bill, but I want to thank Mr. Cotler for his persistence in introducing these amendments in the house. I think his persistence has paid off in the Government of Canada putting the amendments forward as government amendments.

Senator Wallace described these amendments in detail yesterday, so I will not go into them now. Let me just say that while Conservatives and Liberals may have disagreed about some details of this act, they never disagreed about the principles: providing justice for victims of terrorism, providing them with weapons to fight back and providing them means for deterring heinous crimes.

That is why I am grateful not just to our members but to all the members of the Standing Senate Committee on Legal and Constitutional Affairs as they sat in marathon sessions for five straight days last week to get this bill and this act introduced into this place. They introduced and passed important amendments to this act that make it more effective. The House of Commons failed to do it. We did not, and that is an argument for the Senate if there ever was one.

I am also grateful to past members of the committee and of the Special Senate Committee on Anti-terrorism who in previous parliamentary sessions conducted hearings on my private member's bill, the precursor of this act and the government's original bill.

In this regard, I want to mention a few senators by name: Senator Wallace, who ably chaired the Legal and Constitutional Affairs Committee during its hearings last week; Senator Fraser, who chaired an earlier incarnation of the committee during its hearings on my bill; Senator Runciman, the sponsor of Bill C-10, and who also kindly tabled all the important amendments; Senator Segal, the Chair of the Special Senate Committee on Anti-terrorism in the last session; and, finally, Senator Baker, who always supported this act and has spoken eloquently and knowledgeably about its legal and constitutional merits. I hope he speaks to Senator Joyal this evening.

Finally, I want to thank my leadership in the Senate, who encouraged me, especially our leader, Senator LeBreton. I want to thank the Prime Minister and the Minister of Justice for the initiative they took in turning a private member's bill into a government bill and seeing it through to its fruition. I urge all honourable senators to support Bill C-10.

Senator Jaffer: Honourable senators, would Senator Tkachuk take a question?

Senator Tkachuk: Sure.

Senator Jaffer: I agree with everything the honourable senator has said. He will agree with me that last week we sat for many days and studied this bill very carefully. I spoke earlier about something I was very concerned about — of which the government has now included as an amendment — being the right of victims to continue with the action once the action has been started. That is a recommendation I made in committee. It has now been accepted, so I am very happy about that.

I agree with the honourable senator in that we worked in a non-partisan fashion on this bill, and I believe we improved the bill. That is what we are saying. This place is one of sober second thought, where we need to take the time to improve on the bill.

• (2110)

I know Senator Tkachuk was not in subcommittee when this matter came up. I thought I knew this bill well until last week when two young professors, Hilary Young and David Quayat, came before us and spoke about their concern that the cause of action is a provincial jurisdiction, not a federal jurisdiction. They see that there may be some challenges for victims going forward.

I congratulate the honourable senator for the seven-year fight he had on this bill. He worked very hard and deserves all the credit.

However, the reason this bill needs to be studied once again is we still have the issue of the cause of action, whether it is provincial or whether the federal government can put in a bill a cause of action.

Senator Tkachuk: I am not a lawyer, and I certainly cannot argue all the constitutional arguments, but I am aware of the arguments that were put forth by those two or three witnesses.

I will go with the people who say that it is constitutional, and the Dean of Osgoode Hall Law School, Patrick Monahan, agrees that it is constitutional. He is one of Canada's foremost experts in constitutional law. Neil Finkelstein, another leader on constitutional law, whom many of you know and who has testified in the Senate in many committees, agrees this law is constitutional.

Of course, Senator Baker also agrees this bill is constitutional, so, like all bills, we have lawyers who disagree. I will take my lawyers over the three who testified on the committee.

Senator Jaffer: He is not here, but in committee when this issue of cause of action came up — my colleague here, Senator Fraser may also recall — Senator Baker said that was the first time it had been brought up, and he had some reservations about it. The bill is now before us, but that is another reason the bill should be studied further.

The Hon. the Speaker: Continuing debate, Senator Jaffer.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise to speak to third reading on Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other acts.

This omnibus bill groups together nine bills. Most of them have been dealt with separately during the third session of the Fortieth Parliament.

After hearing from 110 witnesses over 11 days, for over 50 hours, the Standing Senate Committee on Legal and Constitutional Affairs seemed to agree on several very important principles: all members from both parties wish to deter organized crime; all members from the Senate wish to protect our youth and our children from sexual assault; and, finally, all members wish to ensure that Canadian families live in safe communities with safe streets. That is the expectation that we are setting out with Bill C-10.

Honourable senators, although I agree in principle with Bill C-10, which is to promote public safety, I am quite concerned that this bill will be unable to fulfill this objective. Instead, Bill C-10 simply raises the expectations of Canadians but will undoubtedly fail to deliver the desired outcomes.

Bill C-10 will not only be unable to deter crime and make our communities safer, it will further oppress already marginalized groups, most notably people who suffer from mental illnesses, our youth and Aboriginal people.

As I mentioned, Bill C-10 is composed of nine different pieces of legislation and is 114 pages in length. Throughout our committee study, several aspects of this bill were called into question, and a number of very important and pressing concerns were raised. Although there are several components of this bill that I am particularly concerned about, time permits me to touch on only a few of these concerns.

As a result, I rise today to speak on mandatory minimum sentences and the adverse effects they will have on those who suffer from mental illnesses, on our youth and on Aboriginal people.

Honourable senators, many of the witnesses who appeared before our committee spoke about the detrimental effects that instituting mandatory minimum sentences would have on Canadians. Among the witnesses who spoke to this aspect of the bill was Daniel MacRury from the Canadian Bar Association, who stated:

> We believe that the substance of this legislation will ultimately be self-defeating and counterproductive if the goal is to enhance public safety. The bill takes a flawed approach to dealing with offenders in all stages of their interaction with the criminal justice system, from arrest, through to trial, to their treatment within the correctional institutions, to their inevitable reintegration back into society. It represents a profound shift in orientation from a system that prioritizes public safety through individualized sentencing, rehabilitation and reintegration, to one that puts punishment and vengeance first.

Honourable senators, although mandatory minimums are often said to deter, this will not be the case. Imposing mandatory minimum sentences will tie the hands of judges by limiting their ability to assess individual cases and use their discretion. It will also hinder the plea bargaining process and strain the justice system, which cannot meet the current needs, let alone the future needs, that will be created by this bill.

Throughout my career as a lawyer, I have learned many important lessons. One of those lessons has been that when it comes to sentencing, a cookie cutter approach will never work. No two cases are the same. Each case must be examined in its own unique context, and sentences should be imposed accordingly. Unfortunately, Bill C-10 fails to recognize this.

One group which will be harmed if this bill is adopted is those who suffer from mental illnesses. Thirteen per cent of males and 25 per cent of females currently in our correctional system suffer from mental disorders. During our committee study, we heard from Howard Sapers, who is a correctional investigator from the Office of the Correctional Investigator Canada. In his remarks, Mr. Sapers posed the following question:

> . . . the real question, I suppose, is how to deal with the fact that prisons are not hospitals, but some offenders are patients. It is about how to deal with the fact that you have chronically and acutely ill people in prison. Some will point their finger at law enforcement and say that at that point of intervention, a different decision should have been made; and some will point their finger at courts and say that when these mentally ill folks were brought before courts, the courts should have made different decisions.

Honourable senators, by imposing mandatory minimum sentences, we will be increasing the number of mentally ill people in prison as we would be limiting the court's ability to use its discretion. This bill takes an approach that is centred on deterrence and denunciation at the expense of rehabilitation and reintegration.

My law partner and mentor, the Honourable Thomas Dohm, Q.C., who was a lawyer and a justice of the Supreme Court of British Columbia, told me that when he was a judge he was always very aware that when he was sentencing a person to prison, he was not throwing away the key. Most offenders will someday have to be reintegrated into society, and he always told me that he considered what would happen to that person when he came back into society.

By adopting an approach that is so focused on deterrence and denunciation, rather than an approach focused on rehabilitation and reintegration, we are denying those who are suffering from mental illnesses the help they so desperately require.

Honourable senators, Bill C-10 raises our expectations by alleging to keep our streets and communities safer. However, we know that those who suffer from mental illnesses will not be helped. Therefore, our streets and our communities will not be safer.

Until those offenders who need to be rehabilitated receive the help that they need, our correctional goals will never be achieved and our streets and communities will not be any safer.

• (2120)

Another group that will be adversely affected by mandatory minimum sentencing is our youth. Canada is a signatory to the United Nations Convention on the Rights of the Child. Our government has a duty to assess proposed pieces of legislation in order to ensure that they are in compliance with this convention. Unfortunately, no such assessment has been tabled, so we as parliamentarians do not know what the assessment stated. This is exceptionally troubling, given that Bill C-10 appears to be in direct violation of Article 37 of the UN convention, which states detention "shall be used only as a measure of last resort and for the shortest appropriate period of time."

Honourable senators, Bill C-10 makes the assumption that being tougher on crime and punishing our younger people will force them to be held accountable for their actions. The problem with this is that we are making the assumption that these young people understand the concept of accountability.

During our committee study we learned that deterrence and denunciation are not effective in trying to deter youth crime. In fact, this leads to more young people spending long periods of

time in prison, which is unfortunate for many reasons, especially considering that prisons have been shown to be schools or universities to learn crime. They will receive a university education on how to become better criminals.

Our committee heard from Justice Merlin Nunn, who is often given credit for the reason we have this bill. He said:

> . . . all you can do when you are looking at an amendment is ask yourselves if it is in the best interests of the child because that is the standard that the government should be following. That is the standard they said they were going to follow. I am not picking on this government. It does not matter which side is in; I think this is bad. They must look at it from the point of view of the best interests of the child.

Bill C-10 has raised our expectations by stating that being tough on crime, even when it comes to young offenders, will make our streets and our communities safer. Unfortunately, this will not be the case. Not only will throwing young offenders in jail fail to keep our streets safe, it will increase the likelihood that these young people will learn more about crime in prison and reoffend.

Honourable senators, lastly, I would like to talk about the adverse effects this bill will have on Aboriginal people who are currently overrepresented in our prison populations. In the 1999 Supreme Court case of *R. v. Gladue*, several very important sentencing principles were outlined. The decision made in the case appropriately responded to the dramatic overrepresentation of Aboriginal Canadians within our justice system and was mindful of the historical poverty and abuse that many Aboriginal people in Canada have been confronted with.

The Supreme Court of Canada has stated that the number of Aboriginals in prison is staggering. These principles do not in any way imply that Aboriginal offenders will receive less harsh penalties than non-Aboriginal offenders. Instead, they insist that courts take into consideration the harsh realities many Aboriginal Canadians face when sentences are imposed. Unfortunately, with the mandatory minimum sentences that accompany Bill C-10, the principles set out in the *Gladue* case will now be ignored as the hands of a judge will now be tied.

Our committee had the opportunity to hear from Professor Michael Jackson who stated:

> I have, for 40 years, advocated as a professor, as counsel, as a member of committees of the Correctional Service of Canada and adviser to royal commissions, on the importance of recognizing and respecting the rights of Aboriginal peoples and the rights of those who find themselves in the deep end of the criminal justice system in Canadian penitentiaries.

Honourable senators, it is of utmost importance that we, like Professor Jackson, recognize and respect the rights of Aboriginal people. Although Bill C-10 has raised our expectations by promising to help keep our streets safer, throwing individuals who have historically been plagued by violence, abuse and poverty into prison, rather than giving them the help they require, will not make our streets any safer.

If we want to keep our streets and communities safer, we need to commit ourselves to getting to the very root of the problem. It is my belief that we should be investing our resources not in building big prisons but rather in rehabilitation programs that will in turn help vulnerable populations such as our youth, the mentally ill, Aboriginal people and minorities, and keep them from reoffending in the future.

Honourable senators, during our committee study, we heard from Mr. Howard Sapers, who pointed out certain facts that I found to be particularly troubling. He stated:

> The profile of the offender population is changing. They are getting older. They are more addicted and more mentally disordered. Visible minorities, Aboriginal people and women are entering federal penitentiaries in greater numbers than ever before. One in five federal inmates are aged 50 or older; 36 per cent are identified at admission as requiring some form of psychiatric or psychological service or follow-up intervention; 63 per cent of offenders report using either alcohol or drugs on the day of their current offence; 20 per cent is of the Aboriginal descent; and 9 per cent of inmates are Black Canadians.

Honourable senators, I want to remind you that in the document, *The Canadian Senate in Focus*, the duties of the Senate chamber are described:

> . . . its principal duty would be the revision and correction of legislation from the popular chamber, which would require "impartiality, expert training, patience and industry" in tandem with the representation of provinces, regions and minorities.

Honourable senators, it is our responsibility to represent provinces, regions and, in particular, minorities. We have not only a duty but an obligation to ensure that those who are mentally ill, our youth, visible minorities, Black Canadians and Aboriginal peoples are protected.

We have often heard this saying: It takes a village to raise a child. I want to add to that saying. It takes a village to raise a child, it takes a community to keep that child safe, and it takes a country to protect all of its citizens.

As members of the Senate of Canada, we must work hard to ensure that all of our citizens are protected. Although Bill C-10 sets out to keep our communities and our streets safe, it will not achieve this end. Instead, it will adversely affect populations that are already marginalized, populations that we as senators have an obligation to protect.

I urge honourable senators not to support Bill C-10.

The Hon. the Speaker: The senator is asking for five minutes.

Hon. Senators: Agreed.

Senator Fraser: Senator Jaffer, if I may, I would like to go back to the question of the best interests of the child and Justice Nunn's testimony. I think you can confirm for me that he confirmed that

the matter of "the best interests of the child" is not just a praiseworthy concept but it is part of our law, because our law — the Youth Criminal Justice Act — has incorporated by reference the international Convention on the Rights of the Child, which says that the best interests of the child shall always be paramount.

In that context, is it your recollection, as it is mine, that he said that making denunciation and deterrence principles of sentencing for young offenders was contrary to the best interests of the child?

Senator Jaffer: Yes, Senator Fraser, to answer your question, Justice Nunn did say that we had to look at the best interests of the child. We, in Canada, have accepted the Convention on the Rights of the Child. Article 40 of that convention specifically speaks to the fact that denunciation and deterrence should not be part of sentencing; they should be a last resort.

Honourable senators, in September we will be going to Geneva to try and defend this act because we are in contravention of the Convention on the Rights of the Child if this bill is passed.

• (2130)

[*Translation*]

Hon. Pierre Claude Nolin: Honourable senators, before I begin my speech, I would like to add to the topic of criminal justice for young offenders.

I would remind honourable senators that the Quebec Court of Appeal heard a reference and the ruling was very important. It relied heavily on the fact that when we amended the legislation in 2002, we referred to that convention in the preamble. There is no way we can ask the courts not to refer to rulings that have been made.

Honourable senators, I will limit my comments to part 2 of Bill C-10, more specifically to the amendments to the Controlled Drugs and Substances Act.

As is the problem with many omnibus bills, I agree with only certain parts of this bill. For instance, I agree with part 1, the part Senator Tkachuk referred to. I have no problem with the constitutional phenomenon. That principle will ensure that the Parliament of Canada has proper jurisdiction to address this problem, as we have already discussed.

Unfortunately, since I have only 15 minutes to speak, I must limit my speech to part 2 of the bill, which has to do with the Controlled Drugs and Substances Act.

When Minister Toews appeared before the committee, he made the following comments, which are rather significant and, I believe, identify the real problem:

[*English*]

> I, as well, do not get too hung up on the statistics. I am more concerned about whether there is danger out there.

[*Translation*]

You are probably wondering why I am referring to that quote. It is a way of introducing the worldwide phenomenon of drugs. I will come back to the letter from the global commission, which was sent to the Prime Minister and to each one of us.

It is important to bear in mind that when the minister talks about risk, he has decided that his worry was the risk: if there is a risk, I will take action. In my opinion, there is a risk. He and I do not agree on how to handle it, but there is a risk and it is serious.

Let us talk about the market. The following facts do not come from me. Senator Runciman referred to an organization earlier. The United Nations has an office that deals with drugs and crime, better known by the acronym UNODC. In its most recent report, this UN agency estimated the monetary value of drug trafficking around the world to be $450 billion U.S. annually. This number represents $50 billion more than international weapons trafficking. That just shows you the extent of the phenomenon.

Who benefits from this illicit market? It benefits organized crime, mainly drug traffickers, and helps them to diversify their activities. Organized crime, funded by drug trafficking, diversifies into weapons trafficking, human trafficking, piracy, and organ trafficking. Organized crime activities are funded mostly by drug trafficking.

Another growing phenomenon from this sum of $450 billion is the funding of terrorism. Terrorist activities are increasingly being funded by this money.

I would now like to draw your attention to two countries. The first is Mexico. Mexico has replaced Colombia as the country where the main drug cartel activity is concentrated. It is the largest cartel. Over the past 20 years, Mexico has taken over from Colombian traffickers. To give you an idea of the scope of the Mexican cartels, they are comparable to large corporations on the stock market, like Apple, Exxon or HSBC. Moreover, these cartels work the same way. They are run using the same economic principles as completely legal companies: significant financial weight, sales figures, international presence, industrial structure, human capital used. All of these factors make them comparable to the large companies I just mentioned.

The difference is essentially regulatory. In one case, the legal companies and all facets of their activities are regulated. In the other, activities are regulated in the sense that they are prohibited and everything happens outside the rules. All the activity in their industry is carried out illegally.

The UNODC estimates that the value of the cocaine market alone is $88 billion a year. The cocaine market in the United States is 41 per cent of the global cocaine market, or $36 billion. Ninety per cent of the cocaine on the American market comes from Mexico, transits through Mexico or is transformed in Mexico. The Mexican cartels control 90 per cent of the cocaine going into the United States.

A researcher from the Independent Technological Institute of Mexico, Mr. Buscaglia, says that the Mexican cartels are now involved in 47 countries around the world, including the United States, Canada, European countries and Africa. They are involved

in 48 of the 50 American states. They have 235 wholesale centres throughout the world. Money from the Mexican cartels has infiltrated 81 per cent of the Mexican economy. All this money and this parallel market have created turf wars, all caused by economic one-upmanship.

Drug traffickers build their reputations by demonstrating their aptitude for violence. That is how this phenomenon began in Mexico. Over the past four years, there have been 30,000 violent, non-accidental deaths in Mexico. Over half of those 30,000 people, or 15,273, died violent deaths in 2010 alone.

The second country to which I would like to draw your attention is Guatemala, Mexico's neighbour. It is small compared to Mexico, yet it is more violent. It is a major producer of drugs, including cocaine, poppies and cannabis. Similar territorial battles occur in Guatemala.

Earlier, Senator Carignan was playing a little question and answer game. Do you know how many people are killed every day in Guatemala? The answer is 18. On average, 18 people are killed every day in Guatemala.

• (2140)

The homicide rate per 100,000 residents is 46, which is three times higher than in Mexico. Remember the 30,000 deaths over the past four years that I just mentioned? Multiply that by three, and remember that the population of Guatemala is smaller than Mexico's.

Two weeks ago, President Pérez, elected just last November, decided that his country would advocate legalizing drugs to undermine the cartels' power.

There is the threat. These cartels are already operating in Canada. British Columbia is a major producer. And the market for cannabis produced in Canada lies beyond our borders, most of it ending up in the United States.

The threats the minister referred to and that I just described are clear and present. They are not imaginary. They exist, and they are lying in wait for us. We do not have the murder rates of the countries I mentioned, but the possibility is lurking nearby.

That is what the Global Commission on Drug Policy told us. We know who the Global Commission is, and it sent us a letter a little earlier this week. I would like to quote two paragraphs in order to put into context the dangers that I mentioned with regard to Mexico and Guatemala.

[*English*]

> As was the case with alcohol prohibition, evidence shows that increasing the intensity of drug law enforcement through mandatory minimum sentencing and other legal sanctions will not reduce the crime and violence associated with the cannabis industry. Instead, these laws will serve only to further entrench control of the cannabis market in the hands of violent criminals and waste precious tax dollars.
>
> This has been the experience internationally. In fact, among the things that are driving organized crime and violence in British Columbia and other Canadian provinces is, although on a lesser scale, just what is driving the violence in Mexico — demand for drugs in the United States. Tougher drug laws in Canada will not address this root cause. At this late date, we hope that Canada will elect to adopt an evidence-based approach to controlling cannabis, in the face of overwhelming evidence that the proposed path through Bill C-10 is destructive, expensive and ineffective.

[*Translation*]

I would have liked to propose an amendment — which is why I voted against the time allocation motion — but our Rules prevent me from doing so following such a motion. In my amendment, I suggested removing any and all references to amendments to the Controlled Drugs and Substances Act from Bill C-10.

As I am sure you have gathered, that is why I will vote against Bill C-10, even though, unfortunately, I agree with certain other parts of the bill. For instance, I agree with some of the new offences in part 2. I have some reservations about the sentences, but I agree with the offences.

One honourable senator mentioned earlier the notion of courts that rely on substance abuse treatment. The Criminal Code already has a provision, in subsection 720(2), for such treatment. I want everyone to understand that Bill C-10 did not create this as an alternative. Judges already have recourse to this option. Do not imagine that Bill C-10 just invented it.

I agree with the conclusion of the Global Commission on Drug Policy, and to quote that commission:

[*English*]

> The clear path forward to best control cannabis in Canada and other jurisdictions throughout the world is to move away from failed law enforcement strategies and to pursue a public health approach aimed also at undermining the root causes of organized crime. Canada has the opportunity to take —

[*Translation*]

The Hon. the Speaker: I regret, honourable Senator Nolin, that your time has expired.

Senator Nolin: May I have five more minutes?

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Nolin: Thank you, honourable senators.

[*English*]

> Canada has the opportunity to take a leadership role in implementing such policies. And it would be completely in keeping with Canada's global reputation as a modern, tolerant and forward-thinking nation.

[*Translation*]

Honourable senators, I truly would have liked the global commission people to have had the opportunity to address the Standing Senate Committee on Legal and Constitutional Affairs. I would have liked the committee to have heard from Canadian researchers who have influenced the work of the Global Commission on Drug Policy — and I referred to this research in a letter that I recently sent to each of you — Canadian researchers who have proven, after analyzing a number of international studies, that increasing enforcement efforts in urban centres leads to more, not less, violence. I would have liked the committee to have heard from these people, but it was not possible. The lists had already been drawn up.

For all these reasons, I will be voting against Bill C-10 and I encourage you to do so as well.

[*English*]

Hon. Elaine McCoy: Honourable senators, I am pleased to rise to speak to Bill C-10 today. The first thing I want to do is to congratulate the senators who have been debating these issues for several years. I did follow much of the committee work in this last go-round and was again very much struck by the civility of the exchanges between the hard-working members of that committee. I was struck once again by the demonstration that it is indeed possible to have a difference of opinion without actually hurling insults, demonizing one another's characters or labelling various invectives by some kind of colour. Certainly Senator Carignan, in a most amusing manner this evening, demonstrated once again the futility of imputing motivations and other labels to one another simply because we have a difference of opinion. I do congratulate everyone who has been involved with these many bills over the past several years, and I am pleased to see that good behaviour is being modeled.

I do wish to restrict my comments to one part of the bill only; that is the part that is dealing with controlled drugs and substances. I recognize there are many parts of Bill C-10 which are admirable. I regret that they are being brought to us in this one package, this one basket. I would have been pleased to support many of the provisions in the bill. However, I cannot support Bill C-10 because I think the sections on the Controlled Drugs and Substances Act are fatally flawed and that taints the entire bill. I simply cannot support those sections. There are two reasons for that, which I will get to. One of them has to do with what Senator Nolin has just been speaking of, and I will deal with that second.

• (2150)

The first has to do with what I believe to be the inability of the drafters of these sections, because even though this is the fourth time it has been before us, and even after all the good advice of all the witnesses and all the senators who have made various suggestions trying to improve this legislation; even after all that effort, there is still a fatal flaw in the drafting of this bill with regard to drugs, and that is that it has failed to make distinctions between a serious offence and a not-serious offence.

If the intention of the bill, as I believe it is, to address the evils that are brought about by serious offences had succeeded, then I think we would not have this debate. Had there been just a little more effort, or a great deal more effort, or if some of the advice of the witnesses and even of our own senators had been taken in the past four years, we would not be having this debate. Unfortunately, the bill as written is getting dangerously close to that old Dickensian time when people said one might as well hang for a sheep as a lamb, because that distinction has not been drawn properly. It bothers me, in a civilized country in the 21st century, that we, with all our grey hairs in this chamber and with all the experts who have been before us and with whom we have consulted, have not been able to get to that sophisticated level where we could make a distinction where a difference is warranted.

I spoke to a long-time constituent of mine who was a prosecutor for 25 or 30 years and asked for her opinion. Interestingly, she has moved into the private sector in the last two years. She is now defence counsel. She said to me, "Elaine, I am a better person for having done that." You have to understand that she and I have a very amiable relationship, but she is one of the most right-wing people I know. She lives in Calgary, so she is probably a supporter of many of the parties that have run successfully in Calgary over the years.

I must admit, to my chagrin, that I thought she meant that she was making more money. Well, it turned out that was not what she meant at all. She said, "As a prosecutor, I never dealt with the accused. I dealt with the accusations; I dealt with the police; I dealt with other prosecutors; I dealt with judges; but I never dealt with the individuals who were in front of us accused of one crime or another." She said that now, of course, she is dealing with them on a daily basis and she is spending a lot of time in remand centres and in prisons. She said she was totally appalled at what she discovered when she got into that position.

Her conclusion is that prisons are not the only answer or the whole answer, and jails do not do what we all wish they would do, in some part at least, and that is to rehabilitate. She tells me that she is a much better person because she is a more nuanced person and can now make distinctions where differences matter.

I have read a great deal of the evidence that has been brought before us and listened to all the arguments on both sides of the chamber this evening. I am impressed by the preponderance of what I will call expert opinion, professional experience, and I, therefore, will not support this bill.

When the Canadian Bar Association says that this bill will limit the flexibility required to resolve cases justly, that it will reduce the number of guilty pleas, that it will lead to more trials and more delays, and that it will require additional resources to prosecute and incarcerate more offenders, then I think we have not got it right, so I will not support it.

I am also impressed by what the Global Commission on Drug Policy said in its open letter to the Prime Minister. It is, of course, reflecting the global experience, which is what Senator Nolin was talking about. In truth, this is a debate we really should be having

removed from Bill C-10, because I think this is an emerging issue on many people's consciousness. I think that public opinion is changing and will change in Canada on this aspect. We have to start thinking beyond this war on drugs. The war on drugs has failed; there is no doubt about it. Experience has shown that. Even though you throw more money and more drug enforcement agencies at it and throw more people in jail, it is failing. It is just like prohibition in the 1930s. We have created one of the most lucrative industries in the world, and it is called "illegal drugs."

This may not be a concept that many people feel comfortable with. Again, there is probably a nuanced approach to this. Certainly I would rank marijuana as an easy entry into this issue, and we should perhaps spend some more time debating drugs like heroin or cocaine.

I am pleased to follow Senator Nolin in this debate, because in 2001 he chaired our Senate committee that put out a report on marijuana. It recommended that we take it out of illegal status and regulate it properly so that we are able to determine when and how it will be used, and we remove it from the temptation of drug cartels, youth gangs or whatever. That would remove all that temptation.

The huge profit that is being made in grow ops now is one of the factors that is pushing the violence and criminal activity in British Columbia, Alberta, and every other province in this country. It is time we had a look at this much bigger issue to determine whether it is time that we stop trying the same old responses to the same old problems, which is just making the same old problems even worse.

That is the fundamental fatal flaw underneath all of the other debate that is hindering the approach to controlled drugs and substances. I would hope that we would encourage Senator Nolin to lead another inquiry or another committee to update our knowledge base on that issue. I think it is high time we did so.

In the meantime, I am sorry not to be able to support so many of the very good pieces of this bill, but I do congratulate everyone, including Senator Watt, who has been indefatigable in attempting to bring a slightly more sophisticated approach to these thorny problems.

Hon. Larry W. Campbell: Honourable senators, I rise today to speak on Bill C-10, the safe streets and communities act. Before I start, I will have to invite Senator Nolin and Senator Runciman to the province of British Columbia so that I can show them that, on Galiano Island at least, we are safe and that the crime rate has not risen substantially over the past few years.

As I have stated previously on many occasions, this legislation is not good for Canada. Like many of the speakers, I am saddened that I cannot vote for portions of this bill that I support wholeheartedly, including the portion on terrorism.

• (2200)

This bill is grounded on ideology and political bias. The manner in which all scientific evidence to the contrary has been blatantly ignored while the government has pushed this bill forward has, quite frankly, been nothing short of ridiculous.

One would think that our government would objectively examine the mountain of evidence which shows that this will not create safer streets and communities. This evidence indicates that Bill C-10 will accomplish a number of other things that are not quite as positive, such as benefiting organized criminals and sending the wrong message to drug traffickers, wasting taxpayers' money and precious police resources, as well as over-filling already crowded prisons and putting additional pressure on already strained court systems.

We do not have a real assessment from the government on what exactly this bill is going to cost. I understand that, because it is like looking into a crystal ball and trying to figure out what will happen down the road. However, rest assured, we do know that there will be a financial impact. If we go by what is happening in the United States, we know that when they started their mandatory minimums they estimated that the cost would be $55.2 million over five years. In fact, it was $3.216 billion — 58 times the original estimate over the same five years.

We also know that the prison system in the U.S. is currently 38 per cent over capacity and we also know that states such as California have faced bankruptcy due to mandatory minimums filling up their prisons.

This bill does nothing to address the underlying causes behind drug crime in Canada, which will inevitably only worsen the situation for our already marginalized citizens. Our prisons are already disproportionately filled with specific populations such as Aboriginal people, the mentally ill and women.

The Correctional Investigator of Canada, Howard Sapers, has come forward saying that the legislation will worsen this problem and the Canadian Psychiatric Association has stated that this bill will exacerbate issues relating to the "warehousing" of prisoners as a last resort when treatment is not available to them.

One witness from an advocacy group representing the First Nations in Manitoba aptly summarized the negative effect this bill will have on First Nations, when he told the committee that:

> Bill C-10 will perpetuate the cycle that often begins when First Nations children are removed from their families and mothers and placed in foster care. Our children are more likely to be placed in youth detention centres and to wind up in jail as adults. . . .
>
> Bill C-10 will further the legacy of the Indian residential school system in Canada.

I will not plow this fertile field for any great length of time, and I am not going into the deeper problems related to prohibition, because I believe Senator Nolin spoke about that very eloquently.

The people who are advocating change here are politicians who live in countries that are directly affected by the supply and demand system created by the United States and their insatiable demand for drugs. That is the problem. It is an economic issue, and so we see Colombia, Guatemala and Mexico, and we will see the rest of Central America and South America joining into this and recognizing that they cannot stop this. They cannot stop the

drugs from coming from their country as long as the demand is there. We know, because of the monies involved here — the huge amount of monies — and the poverty involved in many of these countries, that it is just irresistible. They cannot stop and it escalates gang violence and contributes heavily to drug-related deaths.

According to a 2011 report of the Global Commission on Drug Policy — and I think this is important because in Vancouver we had a huge increase in HIV due to drug transmission among intravenous drug users — many countries that have relied on repression and deterrence as a response to increasing rates of drug-related HIV transmission are experiencing the highest rates of HIV among drug-using populations.

The supervised injection site opened in Vancouver and clean needles were supplied. The HIV rate and the hepatitis rate dropped and they have continued to drop to this day.

There is more to drugs than simply enforcement. There is prevention, there is harm reduction, and there is treatment. In this country we are not giving proper focus to the other pillars involved. In fact, this government denies harm reduction, period. It is not mentioned anywhere in their drug policy.

Conversely, countries that implemented harm reduction and public health strategies — i.e. Canada — have experienced consistently lower rates of HIV transmission among people who inject drugs.

Witnesses from our own police associations are telling us that, while this bill is measured, in and of itself it will make no difference. According to the representative from the Canadian Association of Chiefs of Police, sentencing is not the silver bullet that will bring us out of this. We will not arrest our way out of this problem. We will not incarcerate our way out of this problem. We have to approach this with a balanced approach across all of the continuums. Bill C-10 is part of that balanced approach. On its own, though, I fear it will make no difference.

Additionally, the arbitrary numbers included in this bill are not grounded in any real evidence and only serve to motivate small-time crooks to expand their operations. I do not want to go into any detail here for fear that honourable senators may think that I have learned this from something other than books and police experience, but when you put in a scale of 6 to 200 plants, and I am looking to make some money, I am not going to grow 6 plants and get 6 months. I will grow the 200. If you make it 200 to 500, I will not do the 200 either; I will do the 500. If you go to 1,000 and give me a deuce less a day, that is where I am going, because that is where the money is. Instead of a disincentive here, we have said, "Well, 6 will get you in trouble, but you are not going to get any more for 200."

The fact of the matter is that, as a police officer, I do not care what the number is. You can be a trafficker and only grow 6 plants. You would be a stupid trafficker, and I probably would not spend much time chasing you around, but you could do that. I, as a police officer, could investigate, and I could get the evidence, and I could take you to court, and I could get a conviction.

[Senator Campbell]

Numbers mean nothing, other than giving you lazy police. Why would you have to work at it? Find 200 plants and I would just take you and drive you. I could convict you of possession for the purpose of trafficking. No work, or very little work.

We should not be using numbers when it comes to setting criminal standards. Often they are way too low and, at the end of the day, the sentences that go with them do not mean anything.

In a recent article published in the *Ottawa Citizen*, Eric Sterling, who was a key player in the drafting of the U.S. federal mandatory minimum sentencing laws, stated that the quantities of plants identified for various minimum sentences in Bill C-10 are ridiculously low and suggest that most federal politicians have no understanding of the structure of the criminal industry they are trying to curb.

In the last incarnation of this bill, those who are on the committee will remember there was a criminologist from the University of the Fraser Valley. I said to him, "We are both from British Columbia. What do you think would be personal?" He said, "Well, I do not know. What do you think would be personal?" I said, "I do not know. One hundred plants?" He said, "One hundred plants?" I said, "Well, you have Christmas, New Year's, Hanukkah, Easter, birthdays, weddings, and funerals. By the time summer rolls around, there would be nothing left." He said, "Well, I might go with 30."

How do we know what the numbers are? We do not. It has to be proven.

Honourable senators, if scientifically-based research, hard facts or warnings from subject matter experts are not enough to sway this government, then surely the negative outcome of similar policies in the U.S. would cause them to reconsider. It is not that we are becoming the United States when it comes to our criminal justice system or our penal system. They are going the other way. They realize how much grief they have on their hands, what it costs to society, and what it costs in money. We are way beyond them; we are going in the opposite direction as they are coming out of it, and we do not seem to learn.

• (2210)

This government is blatantly ignoring recent events in the United States that clearly show how flawed this type of approach is. I have to say right now that I am not against all minimum sentencing. If it was the Liberals that passed it, then they were probably wrong too. I am not against all minimum sentencing. All I am saying is that if you are going to do it, there has to be a reason. It has to be proven, and there has to be real evidence that it will make a difference.

In addition, the government is turning a deaf ear to pleas from legal and judiciary experts in the U.S, who urge us not to make the same mistakes. I ask you, when are you ever going to see politicians from the United States apologizing? It does not happen. They know how bad this is. They know how much trouble they are in.

A letter recently signed by over 25 experts, including judges, lawyers, police officers and drug investigators, stated that when it comes to harsh minimum sentences for offences dealing with marijuana, these policies have bankrupted state budgets, as limited tax dollars pay to imprison non-violent drug offenders at record rates instead of to run programs that can actually improve safety. Many American states and districts have since reversed their policies, and 14 states are currently moving towards decriminalization of marijuana possession.

In closing, honourable senators, there is just an ignorance in the drafting of this bill. It has no common sense to it. Scientific evidence, common sense, and recent history all tell us this bill will not accomplish its goal to create safer streets and communities. In fact, it could make them worse.

To quote Mr. Sterling one last time:

> Countless lives have been ruined due to incarceration and criminal records for non-violent drug offences. Based on this irrefutable evidence . . . I can see only one reason why Canada's federal government and some provincial governments would want to go down this wasteful route: the belief it is good electoral politics to parade as tough on drugs or crime.

This is neither tough on drugs, nor tough on crime. Ten years from now, we will be here taking a look at this and reversing it.

The bill is not in the best interests of Canadians, and I cannot support its passage. Thank you.

The Hon. the Speaker *pro tempore***:** I think Honourable Senator Martin had a question. Honourable Senator Martin, did you have a question?

Senator Martin: Yes, I have a question for Senator Campbell.

With all due respect, I am a Vancouver resident. When the honourable senator was mayor, I lived in Vancouver. I still am there. What do we say to the Chinatown Merchants Association who, because of the drug issue and the problems that exist in our city, are faced with trying to protect their cultural legacy, 125 years in the city? What do we say to a young boy by the name of Trenton, about whom I spoke in Abbotsford, who lived on the same street as the infamous Bacon Brothers? Jonathan was killed last summer. He was a student of mine in grade 11. Trenton lived on this street and was held captive for months. The police resources in Abbotsford were exhausted because they had to somehow protect the criminals. His friends could not visit. He did not understand, and he spoke so passionately in his speech. What do we say to Eileen Mohan, one of the mothers of the victims in the Surrey Six case? She had only one son, and he was killed.

I understand that there is science and that there are experts and statistics, but I think about the victims and about so many innocent and law-abiding Canadians who need protection. My question to the honourable senator is this: What would we say to these victims and the families who are impacted so directly and so seriously?

The Hon. the Speaker *pro tempore***:** Honourable senator, before you reply, your allotted time for speaking has expired. Are you prepared to ask the chamber for more time to give a response to Senator Martin?

Senator Campbell: Yes.

Some Hon. Senators: Five minutes.

The Hon. the Speaker *pro tempore***:** Five minutes. Proceed.

Senator Campbell: For 20 years, I spent my life dealing with dead people, and, for 20 years, I spent my life dealing with victims. Someone said here today — I believe it was Senator LeBreton — "Who would possibly wish to walk in Senator Boisvenu's shoes?" I agree totally. There is nothing I can say, nothing I can do.

In answer to the Chinese question, when I ran for mayor, I went to them and told them I was going to put in a supervised injection site. I promised them it would not be in Chinatown. They voted for me. That is all I can say. Chinatown has always been under pressure in Vancouver because of its location. I support it totally. The Bacon Brothers and gangs like the Bacon Brothers are a product of our society. They are a bunch of sociopaths and losers who got together outside of high school. They got together and, by violence and probably with a lot of steroids going on board, have turned into this issue.

What do I say to the people who live on their street? I do not know. I have no answer to that. The Surrey Six is exactly the same thing. There is no way to say to someone who has lost a loved one that there is an answer out of this.

Would putting the Bacon Brothers in jail for the rest of their lives make me happy? Absolutely, no question about it. However, this is still part of society, and we have to deal with it. We cannot deal with it by saying, "Just lock them up, lock them up, lock them up." British Columbia does $7 billion a year in the trade of marijuana, unregulated and untaxed. I say tax the hell out of it. Take it away from the gangs, and they will go to something else. Do not ignore it. Take it away from them and make them go somewhere else.

I feel for victims. As I said, for 20 years, I spent my life, on a daily basis, talking to people who had lost loved ones, and I have to tell you that I never got very good at being able to answer their questions.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Honourable senators, it is with high emotion and great satisfaction that I speak to Bill C-10 today.

I am speaking not only as a member of the Standing Senate Committee on Legal and Constitutional Affairs, but also as a representative and defender of victims' rights in the Senate of Canada.

From the outset, I would like to thank and acknowledge the impeccable work of the chair of the committee, Senator Wallace. His great objectivity and diligence allowed all the witnesses who

appeared before the senators in committee to deliver their messages with confidence. For the senators who sat on this committee — a privilege that I share — he allowed us to do our work as responsible legislators with great serenity. I want to express to Senator Wallace my admiration for his work, which was not easy.

I want to commend Senator Fraser on her leadership with regard to the group opposite. She did excellent work. At times I even thought she was closer to our side.

I want to thank all the senators who sat on the committee and studied the bill very closely. I thank them for listening to the victims and the victims' groups who came to testify.

• (2220)

Never have so many victims of crime come to testify about a bill — it was a first in the history of the committee. We had a very good balance between victims who came to tell their stories and those who were defending the part of the system that manages our criminals. Victims decided to speak out and, my goodness, I sometimes get the impression that the fact that they are speaking out is shaking things up. It is shaking up a system that has not been disturbed for 30 years.

To all these victims, I say bravo. Bravo for breaking the silence. Bravo for having the courage to come and tell us about your experience with the justice system. And thank you for your support.

Honourable senators, since I arrived in the Senate, I have been travelling the roads of Quebec and New Brunswick to explain the measures set out in Bill C-10, which have been the subject of much discussion here in this chamber and in the other place. For almost two years now, I have been explaining most of the measures that have already been examined.

This week, a scientifically irrefutable survey showed that the majority of Quebecers are in favour of the measures set out in Bill C-10. This Quebec majority in favour of our bill is a true departure from the picture of opposition painted by the Quebec media. This explains why Bill C-10 has been so demonized and so strongly criticized and condemned, particularly in Quebec.

[*English*]

By whom has it been done? Not by the victims, not by the stakeholders, not by the majority of the population who are actually in favour of the bill, as the latest survey done by Focus Research proved a couple of days ago. The bill has mostly been criticized by certain media that are deliberately involved in a campaign of misinformation.

[*Translation*]

As proof, honourable senators, I have two examples drawn from the profusion of information conveyed by the media, information that deliberately distorted the scope of Bill C-10 and, by association, the Conservative government.

The first example is drawn from legislative measures intended for youth. According to some media outlets and those defending the status quo, Bill C-10 was going to destroy the Quebec youth penal justice model, and convicted youths could find themselves in prison before the age of 18 if they received an adult sentence. The Conservative government wanted to put children in jail. "Children," they said. Bill C-10 will affect just three per cent of youth convicts in Quebec, because the province will retain the power to apply the measures in Bill C-10 to young people aged 16 and 17.

The fact is that for 97 per cent of young offenders in Quebec, nothing about the system will change. The Quebec model, though questionable in terms of its performance as measured by Canadian crime statistics, remains intact. In Quebec, the under-18 crime rate dropped between 2000 and 2005, then surged by 12 per cent between 2006 and 2010. The troubling thing is that the most dramatic increase in crime, 30 per cent, was among 12- and 13-year-olds.

My second example has to do with tackling criminals who sell drugs, particularly those who sell in schoolyards. The organized misinformation media reported that those who get caught selling a few pot plants will automatically receive a prison sentence. That could not be further from the truth. The bill is very clear about that. The bill is about drug trafficking, not simple possession.

[*English*]

These are the perfect examples of false allegations that needed to be fought throughout the progression of the bill.

[*Translation*]

But it gets worse. An unacceptable, shamelessly partisan, socially irresponsible attitude among professional organizations, and some professionals and individuals practically amounts to institutional tyranny. It was evident among certain legal pundits and defenders of the status quo.

In recent weeks, things have not been easy around my office, and it was hard to stand up and defend the bill a majority of Canadians want. They tried to silence me through personal attacks made in public, by sending threats to my office, and by denying my right to speak based on the fact that I am not an elected member of Parliament. How is it that the media are the most vocal supporters of free speech, and yet these very same media told me to keep quiet?

A society where everyone does not have the right to speak is a dictatorship.

Marc Bellemare, a defence lawyer for victims of crime, gave a good explanation when he appeared before the committee. "Who do the Barreau du Québec and the Canadian Bar Association speak for?" he asked. For a small group of lawyers, he confirmed. Mr. Bellemare told the committee that he had never been consulted about the position taken on Bill C-10 by the Barreau du Québec or the Canadian Bar Association, to which he belongs. And why did dozens of lawyers, who I met in person, call my office to say that they support Bill C-10, but could not speak publicly about it?

We never gave up.

[*English*]

We never gave up. We know that Bill C-10 is a good bill. All victims know that it is a good bill. We made a promise to all Canadians and we support this bill.

Some Hon. Senators: Hear, hear!

[*Translation*]

Senator Boisvenu: Throughout the week, members of the committee heard testimony from several individual victims, representatives of victims' advocacy groups, the Federal Ombudsman for Victims of Crime, police chiefs and professionals who provide services to victims of crime.

I would like to share with you a few passages from their testimony.

Lianna McDonald, Executive Director of the Canadian Centre for Child Protection said:

> In today's society, children and youth are connected to a technological world that allows unprecedented access to them, and this largely unsupervised playground has opened the doors for adults to take advantage of them. These two new provisions are necessary and would greatly assist police in their efforts to charge individuals and better protect Canada's children.

Sheldon Kennedy, a former NHL hockey player, said:

[*English*]

> I think there is a difference between being offered treatment and actually doing it. A lot of offenders and a lot of criminals are offered all kinds of programs, but they do not have to do it. I know Graham did not do it.

[*Translation*]

Sandra Dion, a police officer from Quebec City and herself a victim of crime, said:

> As a victim, I see Bill C-10 as another small step in the right direction towards restoring victims' trust in the criminal justice system, because the purpose of the bill is to enhance public safety. For me, this bill represents the dawn of a new era in finding the balance between the rights of victims and the rights of offenders.

These statements reveal that victims of crime and their advocates unanimously support Bill C-10, which enshrines in the legislation the demands that they have been fighting for for decades. Victims want to have a stronger voice at National Parole Board hearings. They want greater access to the records of their perpetrators. They want the perpetrators of crime to pay a price that is proportional to the crime committed.

[*English*]

Yes, the actual legislation contains minor administrative measurements concerning victims of crime.

[*Translation*]

This is the first time that a government, our government, is going to recognize victims' rights and enshrine them in law once and for all.

Honourable senators, Bill C-30 will make up for 30 years of laxness and liberalism in our justice system, which has far too often favoured the criminal over the safety of victims and Canadian families.

Honourable senators, I also want to mention that all the victims of crime who testified before our committee thanked the Conservative government. They feel as though they have finally been heard, recognized and respected.

• (2230)

As one victim said:

> This bill will heal our wounds. A new era has begun, one of respect for the victims of crime by our justice system.

Many witnesses talked about how frustrating it is for victims to see criminals get lenient sentences. Their concerns are legitimate and go beyond the scope of federal jurisdictions. Bill C-10 is going to mitigate those frustrations.

The reality of the victims of crime is multi-dimensional because it encompasses the administrative and political responsibilities of various levels of government in Canada. The victims no longer want to be excluded from the justice system. It is important to involve them in developing policies and programs for victims organizations, with decision makers from various levels of government and the private sector. All the victims told us that effective measures for helping victims have to go beyond penal intervention.

As a result, perhaps the time has come to initiate a dialogue to address the overall challenges faced by the provinces, territories and the federal government in order to support victims of crime in Canada.

In this regard, I invite all the justice ministers across Canada to permanently add this topic to the agenda of their annual meetings. In 2012, in this magnificent country we call Canada, should not the victims of crime, as well as criminals, be treated equally and fairly from sea to sea?

The members of the Senate committee were deeply moved by the testimony of victims who are experiencing life-altering consequences as a result of the sexual crimes committed against them by people who were in a position of authority over them, most often when they were children.

Despite the fact that this bill will impose harsher sentences for these heinous crimes, we must consider more severe punishments for serial sexual predators. The bill should go further. According to these victims, Bill C-10 does not go far enough.

Many victims are seeking a balance between victims' rights and offenders' rights. The victims mentioned that finding a balance is not a question of revenge but, rather, a quest for a just and safe society, not only for them and their families but also for the entire population of Canada.

This is the recognition that we are giving them today, the promise that we are fulfilling, and the commitment that we are keeping: to pass Bill C-10.

I would like to end my speech with two testimonies that provide a very good explanation of how Bill C-10 will establish the desired balance between the safety of our communities and the rehabilitation of offenders.

The first quote is from Éric Bergeron, a psychologist who works for the Correctional Service of Canada and who serves as an expert witness for the Quebec criminal court. He said:

> For some offenders, repression is the most useful form of rehabilitation. These are young people who, from a young age, are highly criminalized and who have psychopathic personality characteristics — individuals for whom all research clearly indicates that interventions are ineffective.

[*English*]

The Hon. the Speaker *pro tempore***:** Would you like to ask the chamber for an additional five minutes?

Senator Boisvenu: Please.

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore***:** Continue.

[*Translation*]

Senator Boisvenu:

> In such cases, the lenient sentences they receive at the beginning of their career are not only ineffective, they teach the offenders more about crime . . .
>
> Those who believe that repression precludes rehabilitation are incapable of understanding that before rehabilitation can take place, individuals who express no remorse or regret for their actions must be punished for their crimes. Punishment is essential to setting clear limits for people who have never had limits or who have used violence to wipe out those limits . . .
>
> Repression and rehabilitation are two equally important approaches to a long-term solution to the problem of crime. As a society, we are sure to win once we stop thinking inside the box.

Yes, honourable senators, there are things we can do to reduce crime. There are things we can do, and Bill C-10 does them.

The second quote comes from Isabelle Gaston, an emergency doctor specializing in the treatment of sexually abused children and the mother of two children who were recently murdered:

> At the end of the day, for society to be the real winner, I believe that we must focus just as much on the victim as on the aggressor, because we do not tally up the cost when, 20 years later, we treat the victim who has attempted suicide. The punishment must be the start of rehabilitation for both. Unfortunately, at this time, there is a real imbalance between the criminal and the victim.
>
> The victim must be protected, heard, believed. Victims need to have a place in our justice system. We must stop setting rehabilitation against punishment. I sincerely believe that the best solution will combine both options.

Honourable senators, give a voice, your voice, to all the victims, all the families of victims who for too long have been unfairly relegated to the prison of silence.

In that way, the power you have to pass Bill C-10 will henceforth be the power that gives meaning to their tragedy, their hope, their life.

Thank you.

[*English*]

Hon. Art Eggleton: Honourable senators, I first want to draw your attention to a petition that I received at noon hour today. It is signed by 51,950 Canadians, and it was organized through Leadnow. It is in opposition to Bill C-10.

I also want to comment on Senator Carignan's amusing quiz. I am beginning to think that the government has a real inferiority complex. It has to refer to the Liberals all the time to justify its own actions.

One thing that needs to be remembered out of all of this is that the evidence is changing. The evidence that existed in 1892 or 1922 or even just three years ago is different from the evidence that exists today. When a government, whether Conservative or Liberal or any other political stripe, makes a decision, they make that decision based on the best evidence that is available at the time. At least, I hope they do. Some people would think it is more ideological, but I would hope we would make decisions based on the evidence at the time. We are getting more and more evidence all the time that says that bills like Bill C-10 are going in the wrong direction, particularly as it relates to mandatory minimums on minor crimes.

This bill goes against what other jurisdictions are telling us and what we are learning particularly from the United States. It focuses on punishment and not on crime prevention. It focuses on prisons and not on community safety. That, I think, is the wrong direction.

I am not going to go through all the different parts of the bill. It has some good points and it has other flaws. I want to focus on two things. The first is the mandatory minimums, especially for minor marijuana offences, not the big offences that some people have talked about on the other side; and the second is the disproportionate effect this bill will have on some of the most vulnerable people in our society.

I say that if you want appropriate penalties for offenders, then judges are in fact the ones we want to make the decisions. Based on the facts of a case, a judge crafts a sentence that achieves a balance between what the offender deserves and what the community needs, between the criminal and the victim. They are well trained to do this. They interpret the law, and they apply justice in a fair and just manner. I have confidence in them. If a judge believes that the offender is a danger to society and should not be let out, then lock them up. However, it also could mean giving the offender a second chance at life.

Their decisions, of course, can be reviewed. If the prosecution does not like the outcome of a case or does not like the sentence that was handed down to an offender, there is an appeal process by which the case can be reviewed. This ensures that we have an open and transparent system, a system, by the way, that has served this country well for 143 years.

• (2240)

However, this bill would not only limit a judge in devising what is an appropriate sentence, according to the Canadian Bar Association, it would "limit the scope of appellate review where a clearly unfit sentence has been imposed." They go on to say that a one-size-fits-all approach to every offence, regardless of the fact situation or the individual involved, could lead to unjust and disproportionate results. I repeat, can lead to unjust and disproportionate results. Those are startling words coming from a very prestigious organization.

Second, honourable senators, mandatory minimums, in many cases, simply do not work. As lawyers, judges and criminologists have pointed out repeatedly, there is little empirical data that shows mandatory minimums are effective in specific and general deterrence. Perpetrators generally do not consider the penal sanction before committing a crime. Instead, people will commit minor crimes and because of many of the new mandatory minimums, they will be left to languish in prison and to come out a worse criminal, all at the great expense of the taxpayer and without adding anything to public safety. They eventually do get out. If they come out worse, that is worse for the population, is it not?

In 1999, researchers at the University of New Brunswick examined 50 studies on recidivism that covered more than 300,000 offenders. Considering other factors such as an inmate's criminal background and age, they found that the longer someone spent in jail, the more likely they were to commit another crime when they got out. There is the research and the evidence. The researchers found the impact was most significant for low-risk offenders, suggesting prison may indeed be a school of crime that makes people worse, not better.

Also, honourable senators, we recently received advice from our neighbour to the south that has a long history of mandatory minimums. We have heard this before but I will repeat it again, 28 current and former U.S. law enforcement officials signed a letter telling us how wrong this direction is. Why would they do that? They are doing that to be helpful because they have recognized what has happened in their own jurisdiction. They stated:

> . . . incarceration and criminal records for non-violent drug offenders have ruined countless lives. Based on the irrefutable evidence, and the repeal of these mandatory sentencing measures in various regions in the United States, we cannot understand why Canada's federal government . . . would [go] down this road.

When they refer to ruined lives, it is not just the lives of some of the people who end up incarcerated, but it is their families and children as well. So many other people are affected by this.

In many U.S. states, honourable senators, mandatory minimums have left them bankrupt, and many states are now repealing their mandatory minimum sentences for minor drug offences. That little mention of the fishing trawler that takes so much in with its dragnet, yes, it takes in some big fish, and I know that is what honourable senators across the aisle are saying. It is the big fish they are after, but remember those nets also take in a lot of little fish, too. Once they are charged, they will be put through the process.

Honourable senators, the second major concern I have with this bill is that it will unfairly target the most vulnerable amongst us, specifically those in poverty. While all those who live in poverty are by no means associated with crime, the numbers simply do not lie. More than 70 per cent of those who enter prisons have not completed high school; 70 per cent of offenders entering prisons have unstable job histories. Four of every five arrive in prison with serious substance abuse problems, and if you do not factor in substance abuse, approximately a quarter of all individuals admitted to federal prisons show signs of mental illness.

Aboriginal peoples comprise 2.7 per cent of the adult Canadian population, but approximately 18.5 per cent of the adult offenders now serving federal sentences are of Aboriginal ancestry. The Correctional Investigator notes that 35 per cent of Aboriginal offenders report poverty in their background. In the area I come from, the Greater Toronto Area, neighbourhoods with the highest levels of incarceration are those are with lower incomes, higher unemployment, more single-parent households and lower education. As one provincial judge wrote, and this is an interesting quote:

> Poverty is the first fuel that drives crime. It becomes mixed in with the destabilizations of families, widespread substance abuse, child abuse, sexual abuse and domestic violence . . .

One problem begets another problem, as he clearly points out.

Instead of spending billions on mega-prisons to house all those new offenders and perpetuate the problem, we would be better off investing that money into comprehensive childhood development initiatives, affordable housing, youth mentorship programs, at-risk youth initiatives and rehabilitative programs. These programs have been proven to reduce poverty and crime. Steps like these will help reduce the growing income gap in Canada while at the same time giving people the opportunity to have a better life.

With a commitment to programs like these and an understanding that rehabilitation is more important than incarceration, we can create a Canada that is full of people who will be given every opportunity to succeed, will be less likely to commit crimes and more likely to become active contributors to our economy and society.

Hon. Linda Frum: Honourable senators, as a member of the Standing Senate Committee on Legal and Constitutional Affairs, I too want to take this opportunity to express my appreciation to our chair, Senator Wallace, and our deputy chair, Senator Fraser, for their efforts ensuring that we held thoughtful and respectful hearings on Bill C-10. I would also like to thank all of the witnesses for their compelling commentary, insight and perspective. The many different viewpoints allowed for a thorough understanding of the bill and its effects.

Over the first three weeks of February, the committee attended more than 100 hours of testimony. In addition to becoming much more knowledgeable about Canada's Criminal Code than I ever hoped to dream, I was also fortunate to spend so much quality time and late nights with my colleagues on both sides of the aisle, not unlike tonight.

One of the greatest responsibilities we have as a government is to protect Canadians and to ensure that those who commit crimes are held to account. Bill C-10 is a multi-faceted approach to ensuring the safety of Canadians and to increasing confidence in our Canadian justice system. This bill delivers by implementing harsher penalties for those involved in the types of crimes that erode our communities and the moral fabric upon which they are built. Bill C-10 allows both for justice to be done, as well as for justice to appear to have been done.

A significant tenet of Bill C-10 is the protection and consideration afforded to the people most directly affected by crimes — the victims. This may seem trite, but in discussion with an array of witnesses, it became startlingly clear that the role of the victim in the criminal justice system has been neglected. Bill C-10 increases victim involvement in the correction process, increases victim awareness of the status of assailants and aims at being harsher on crimes to preclude victimization overall.

Throughout testimony, we heard from victims advocate groups, including parents who had lost children to heinous crimes and from victims themselves. I would like to thank and congratulate these courageous witnesses for sharing their stories. Their insight is very much appreciated. Unfortunately, it illustrated areas that have long needed improvement.

As noted by Ms. Sharon Rosenfeldt, President of Victims of Violence and the Canadian Centre for Missing Children:

> . . . there is a widely held sentiment that the criminal justice process has left victims and their families behind and that our laws have failed to keep pace with the reality of serious crimes . . .

The victims of crime need to feel confident in the system meant to protect them and they need to feel safe in their communities.

Bill C-10 tackles this problem head on in several ways. The first is the punitive sanction that is provided for in legislation. Second, it allows victims to be part of the process. The third area is the options created for victims by the bill, such as the civil cause of action in Part 1 of the bill. According to Ms. Rosenfeldt, improvements in these three areas will help with the feeling of restoration. Furthermore, this will enhance feelings of overall community safety.

• (2250)

The response of Bill C-10 goes directly to concerns echoed by advocates such as, again, Ms. Rosenfeldt:

> When victims say there is no justice, they are referring to sentencing. It is very upsetting to them not to be involved with the criminal justice system and not to be respected by the police and Crown.

All of the victim advocates testifying before us supported the imposition of mandatory minimum sentencing for the selected offences for this very reason.

Based on the representation of some in the opposition, it may appear that Bill C-10 either invented mandatory minimum sentences or is implementing widespread mandatory minimums throughout the Criminal Code. These insinuations are both very misleading.

First, mandatory minimums are currently in place for a variety of offences throughout the Criminal Code, and they have been in existence since the enactment of the first Criminal Code in 1892.

Second, Bill C-10 only alters mandatory minimum sentences to a number of specific prescribed offences that are either dangerous sexual offences mostly targeted at child victims or drug-trafficking offences. To the latter point, Canadians are rightfully concerned about the fact that in 2010, child pornography offences were up by more than 30 per cent, and drug crimes have been rising since the 1990s. Canadians want answers.

Another contentious assertion has been that Bill C-10 and mandatory minimums would greatly increase the number of people in jail and bog down the justice system. In all the testimony heard, no evidence was presented to support this notion beyond the hypothetical. The presumption of such an assertion would be that Bill C-10 involves a significant broad overhaul to the current Criminal Code for a variety of offences.

Again, Bill C-10 does not target a wide array of offences but specific dangerous sex offences and drug offences involving trafficking and aggravating factors. Thankfully, these offences are somewhat rare due to their seriousness; however, they need to be treated drastically.

As noted by Ms. Rosenfeldt:

> One in five police-reported crimes are considered violent, and three in ten instances of victimization reported by the 2009 General Social Survey were of a violent nature. These may represent only a small percentage of crimes; however, they represent the most grave and serious offences and as such should be sentenced accordingly.

Therefore, Bill C-10 targets a small number but a significant class of offences. The allegations of uncontrollable dockets and vast increases in trials have not exceeded conjecture. Furthermore, I am one of the many Canadians who have difficulty understanding the problem with ensuring that the types of offences targeted by Bill C-10 receive strict jail sentences.

The criminal behaviour targeted by Bill C-10 needs to be deterred and very clearly denunciated by Canadian society, and to those who suggest that deterrence is an unachievable goal, I say these dangerous predators need to be incapacitated and precluded from doing greater harm to the vulnerable people upon whom they prey.

Regarding the need for reform in the area of sexual assault laws, Ellen Campbell, CEO and founder of the Canadian Centre for Abuse Awareness, pointed to the horrifying reality that:

> . . . victims do not come forward because they know it will be a very minimum sentence that the perpetrator gets, and it is just too difficult when they go through that difficult situation and they know they will get off.

She added:

> I think people see Canada as being soft on crime, specifically these crimes.

Mandatory minimum sentences for prescribed sex crimes target this very issue to ensure that our victims suffer no more than they already have and help to ensure that these crimes never occur in the first place. Sexual offences against children have no place in our society.

There was a recent case senators may recall in British Columbia where a young person videotaped an alleged gang rape. This individual received a sentence of one year probation plus the requirement that he write a 1,500-word essay.

Mr. David Matas, a lawyer with the human rights advocacy group Beyond Borders, noted to our committee:

> Within our own organization we were dismayed by that sentence.

Mr. Mark Allan, Director of Public Safety for the Canadian Centre for Abuse Awareness testified that:

> Many crimes can be prevented. Abuse and exploitation of children is a very hard crime to prevent because so much of it happens behind closed doors, much like domestic abuse. At least in domestic violence we have the opportunity to educate adult women as to how to they might be able to escape their abusers. When we are talking about children, it is very difficult.
>
> When it is a hard crime to prevent, we have to separate the abusers from their victims or potential victims, and that is where mandatory minimum sentences come in.

Bill C-10 embraces the terrible reality that sexual offences against children are distinct and the most dangerous and reprehensible crimes of all. They require a distinctive approach to encourage their prevention.

In the view of some witnesses and committee members, the mandatory minimum sentences could have been even higher for these offences, but those contained in Bill C-10 are at least sufficient to send the message that such events will no longer be tolerated by our courts.

Unfortunately, in the absence of these harsher penalties, existing jurisprudence suggests that our courts are indeed sometimes inclined towards tolerance. When a young man who has distributed the video of an alleged gang rape he filmed is given probation and an essay, which probably does not even rival the length of his English homework, it is clear there is need for reform.

After hearing the courageous testimony of victims and victims' advocates, it becomes stunningly clear that the justice system needs to crack down in this regard.

Bill C-10 also directs mandatory minimum sentences at drug trafficking offences. To be perfectly clear, Bill C-10 is not aimed at targeting casual drug users. It is not aimed at increasing arbitrary police powers. It is aimed at the irreparable harm that drug trafficking and the associated criminal activity can do to our communities and to our citizens.

Superintendent Eric Slinn, Director of the Drug Branch of the Royal Canadian Mounted Police, noted that:

> The well-being of communities is being undermined every day by drug dealers who have no respect for the well-being of our kids and our communities.

Every day, our members see the devastating effects that drug traffickers and producers have on all of our communities. Those police officers are the ones who constantly have to arrest the same drug dealers and producers over and over again and stop them from poisoning our children and grandchildren and robbing youth of their future.

He asserted that Bill C-10's stance on drug trafficking will help alleviate this problem because, according to him, cutting off the production and distribution of these dangerous and illegal drugs takes away the lifeblood of organized crime.

Much of the opposition disagreed with the focus on marijuana traffickers in the bill. However, Mr. Slinn informed us:

> Marijuana is undeniably the jet fuel that powers Canadian-based organized crime and allows it to finance its other illicit activities, not only in Canada but throughout the world.

He added:

> Organized crime continues to control the once recreational subculture of marijuana use and has turned it into a multi-billion-dollar industry. The health and safety of Canadian citizens is considered collateral damage in the turf wars and violence that indiscriminately erodes community well-being.

The effects of marijuana are not limited to its users; it is something that affects many different areas of the well-being of the Canadian public.

As a parent, it is particularly disgusting to me that the traffickers who are the target of this bill operate in utter disregard for the harm that their product causes to the youth of this country. Dr. Gabriella Gobbi, Neuroscientist and Associate Professor at McGill University, informed our committee that:

> Canadian adolescents have the highest rate of cannabis consumption in the world.

I am not sure this is a widely understood fact, but it should be, and we all have reason to be alarmed by it.

Honourable senators, truly, how many of you know that Canadian adolescents have the highest rate of cannabis consumption in the world?

Why does it matter? Consider this piece of testimony from Dr. Gobbi, an internationally recognized leader in her field. According to Dr. Gobbi, the damaging effect of cannabis on young brains is worse than originally thought, and daily consumption of cannabis in the teenage years can cause depression and anxiety and have an irreversible long-term effect on the brain. She told us:

> . . . people who used cannabis by the age of 15 or even earlier were found to be four times more likely to have a diagnosis of psychosis at the age of 26 than non-consumers. Several studies have also demonstrated the link between adolescent cannabis consumption and the increased risk of depression, suicide, antisocial behaviour and addiction to other drugs.

There is also a strong link between cannabis use and school dropout rates.

Let it be known that Bill C-10 aims to protect our vulnerable youth by targeting the predators that provide the catalysts of these problems with blatant, wilful disregard for the damage they are causing. Bill C-10 attempts to protect our youth and our communities by making it clear that those trafficking drugs will face jail time due to the dangers they cause to Canadians. The harms are felt by our youth to whom they market and by the communities that they ravage. This bill takes a firm stance on the intolerance of this practice.

Notwithstanding the harsh stance taken on combating drug trafficking, Bill C-10 contains an explicit safety valve pertaining to those convicted of drug offences. A judge may defer sentencing an individual found guilty of the drug offences in Bill C-10 if that individual attends a drug treatment program. If successfully completed, a judge is not bound by the mandatory minimum sentences, and he can impose a sentence seen fit to the particular circumstances. This acknowledges the hardships of drug addiction and allows judicial flexibility in appropriate cases while maintaining the rigid stance on drug traffickers that prey on Canadian communities.

• (2300)

One last misconception I wish to dispel is the concern that medical marijuana users are being targeted by Bill C-10. Firstly, this is not the target of Bill C-10. The bill does not pre-empt or nullify an existing valid licence or interfere with the current scheme. Furthermore, the only portions of Bill C-10 pertaining to marijuana involve trafficking thereof and involve the proof of aggravating factors. The bill is aimed at people who take advantage of the safety of Canadians, not ill persons receiving treatment.

Users of marijuana with valid licences will not be the object of Bill C-10.

A very rewarding aspect of attending the committee hearings was listening to testimony from brave law enforcement personnel from across Canada. The overwhelming consensus was appreciation for the variety of tools to fight against the dangers Canadians face from predatory criminals and criminal organizations ever evolving in sophistication.

Mr. Tom Stamatakis, President of the Canadian Police Association, stated the following:

> . . . the CPA entirely supports the goals and methods contained within Bill C-10. From the enhanced sentencing rules for those who commit sexual offences against minors to the restrictions on conditional sentences for some of the most serious offences, these changes will go a long way to ensuring that those criminals caught as a result of our investigations will face an appropriate punishment for crimes.

Mr. Slinn added:

> Any tool that law enforcement can get helps. Many of our police officers or drug enforcement officers are frustrated seeing the same people walking out the door, making millions of dollars. . . . There must be a consequence.

Bill C-10 is about restoring a feeling of safety and justice to victims and the community. This legislation and the mandatory minimum sentence provisions contained within it are not a sword to be used by law enforcement officials to target individuals who behave in ways currently considered lawful, but a shield to protect the most vulnerable from those they prey on with utter disregard for the damage they cause.

With the distracting discussion of the mandatory minimum penalties, many other excellent portions of the bill have been under-discussed. For instance, Part 5 of the bill contains within it tools that aim to crack down on the very serious problem of international human trafficking. This is a clear representation that Canada is not willing to allow this exploitation to occur.

The Hon. the Speaker *pro tempore***:** You have five more minutes.

Senator Frum: Our government is committed to ensuring criminals are held fully accountable for their actions and that the safety and security of law-abiding Canadians and victims comes first in Canada's judicial system. We will continue to fight crime and protect Canadians so that our communities are safe places for people to live, raise their families and do business. Bill C-10 can increase safety on the streets and assure the well-being of Canadian families. It provides added protections and offers tools for law enforcement.

Again, I would like to thank all of the witnesses for their thoughtful testimony over the last few weeks and all of my colleagues for their thorough assessment and analysis. I would urge all honourable senators to support this bill and, in doing so, to contribute to the safety and security of Canadians.

Hon. Grant Mitchell: I think I will probably be the last speaker.

I would like to start by saying that like many of us, and certainly as was expressed by Senator Eggleton, I, too, enjoyed Senator Carignan's historical exposé, if I can say that. However, as he was speaking, I was reminded of a theory that is getting more and more credibility, and that is when you cannot explain why it is Mr. Harper seems to be doing something, you have to look and realize he is doing something that either the Liberals did not do or is changing something that the Liberals did. He is always reacting to the Liberals.

As Senator Carignan was speaking, I thought: There is the breakthrough; just tell the Prime Minister that Liberals actually supported mandatory minimums, and instantly this bill is done. Let us get the blues right now; get them over there.

On a more serious note, I wanted to address the question that was a heartfelt, powerful question asked by Senator Martin: What do you tell these families that have suffered such tremendous pain and anguish at the loss of their children as a result of this crime? What I would say is you tell them the truth. You tell them the evidence. You do not tell them something that will not work just to make them feel good for a brief period of time.

In fact, the one thing we know above all else about this legislation is that it will create more victims. What I believe absolutely in my heart of hearts is that many young people, 18 years old with six marijuana plants, will end up being incarcerated, and their lives will literally be ruined.

What I also know for sure is you do not mitigate one tragedy by creating other tragedies. There is a better way to do this. We can fix this problem if we use the data, the understanding that we have gained over the years, the experience elsewhere and make it work in a way that helps the families that Senator Martin is talking about in a serious way that is effective and will really and truly help their lives.

So much has been said, and I do not want to repeat it. I would like to just emphasize a couple of things that maybe have not been emphasized as much.

One of them is the question of victims. Clearly, a central theme in the argument that is made by the government is that this bill will help victims. I racked my brain to try to figure out how that is the case. It is true. I noticed if the Conservatives say something over and over again, you have to assume immediately that it is wrong. The less likely it is true, the more likely it is they will hammer it and hammer it and try to make it true. The fact is it will create more victims, not fewer victims, because everything that we know about crime now and about incarceration underlines that in its excess, if excessive and not done properly, then it will create better criminals who will do more crime and create more victims.

The second thing is it will actually create victims in victimless crimes. That 18-year-old with six marijuana plants who is making a mistake, as 18-year-olds perhaps do — does not have to sell it, does not even have to give it away — will go to jail for a year: black and white, fait accompli, no chance for any kind of consideration of circumstances. That 18-year-old will likely become a victim, inhibited in their ability to progress through their lives, to become doctors or lawyers or police people or to have professional lives they might otherwise have had, to contribute, if they were to get through that case and have a second chance. They will very much more likely be better criminals and their lives will in many respects possibly be ruined.

It will not help victims, thirdly, because there is no compensation for victims in this bill. There are no programs for victims in this bill. It will make more victims because there will be more crime, and it will make victims of what really and truly are victimless crimes.

Finally, there is a real irony in the value of the principle of victimhood that is embodied in this bill and in the government's approach to the crime agenda. In recent weeks we have seen the Internet snooping surveillance bill that the government is arguing will prevent Internet predators — it will allow the catching of Internet predators — thereby protecting young people and others who would otherwise be victims. Let us say it does not. Let us say these young people do become victims, some of them because they have been abused by predators. Ten or fifteen years later when they act out criminally as a result of that, there will be no ability to have any discretion or any consideration in what to do with these victims because they acted out as a result of what occurred to them, as horrible as it was.

• (2310)

Therefore, here we have a government that says it wants to protect victims, but once they are victims — and they act in a way that would follow from that, often — there is no compassion, no understanding, and no discretion for an ability to deal with them in ways that people with judgment and experience — namely judges — could apply to meet and accommodate the specific circumstances of that young person, once a victim and now victimized the second time.

I would also like to talk about a segment of very vulnerable people who will particularly be disproportionately disadvantaged by this legislation: That is the subset of women in this country. Senator Eggleton made the point that this bill will really and truly harm particularly vulnerable people.

There is evidence that this will inordinately and disproportionately affect women for a number of reasons. One is that women often are not involved in violent crimes and so there is much more leniency to deal with them. However, much of that leniency will be gone. It is true, also, of course, that Aboriginal women have special circumstances and they will be particularly disadvantaged by this.

It is interesting to note that, as of August 2010, there were 512 federally-sentenced women incarcerated in federal facilities. In addition, there were 567 women offenders under some form of community release supervision — conditional sentencing. That number will be reduced dramatically because conditional sentencing will be much less available. Therefore, the incarceration of women will increase. In fact, it has already increased; over the last 10 years, the number of women admitted to federal jurisdictions and institutions has been up almost 40 per cent.

However, what is very startling is that, over the last 10 years, the number of Aboriginal women incarcerated at the federal level has gone up by almost 90 per cent. This will accelerate as a result of this bill.

What is also very telling with respect to women is their particular circumstances — women who offend and who are incarcerated. First of all, 77 per cent of women offenders have children; just over half have indicated some kind of experience with children's aid. In 2010, 86 per cent of women offenders reported histories of physical abuse; and 68 per cent reported a history of sexual abuse at some point in their lives. This has represented an increase of 19 and 15 per cent respectively over the last 20 years. Approximately 45 per cent of women offenders report having less than a high school education when they arrive in the penal system; 70 per cent of the women in the federal penal system have alcohol abuse issues; 78 per cent have drug abuse issues.

In addition to that, a recent study indicated that 29 per cent — almost a third of the women offenders — when they arrived at a prison institution had mental health problems; and 31 per cent in the system — other than that 29 per cent — have had mental health problems at some point in their lives leading up to that. In addition, just under half of the women in the system at any given time report having engaged in self-harming behaviour.

This underlines a series of very critical problems affecting this segment of women who are clearly vulnerable to offending and ending up in the system. None of the features of this bill will have anything to do with fixing that problem. People, women in particular, with problems like this — in this case in particular — will not, I am certain, and the evidence suggests strongly, be particularly inspired not to offend because of any kind of sentencing.

These problems are far deeper and need to be addressed. If you wanted to fix this problem, you would fix the problems that face women who are telling us, as they arrive in the system, that they have fundamental problems that have led to this and are in many respects beyond their control without some kind of help.

What is also very telling is that 80 per cent of incarcerated women were there for poverty-related crimes; 39 per cent of them were there because they failed to pay a fine. How will this be improved by incarcerating them through mandatory minimum sentences and by taking all discretion, or the better part of discretion, away from the judicial system that could in fact be able to help them and help those who will simply now increase their numbers?

It is interesting to note that many of them rely upon social assistance, when you think about them being involved in poverty-related crime. In Alberta, social assistance rates for a single-parent family have ranged as low as 52 per cent of the poverty line. It is 27 per cent below the poverty line, as well, in Newfoundland and Labrador.

These are the kinds of problems that need to be addressed, and they not addressed in a bill like this that embodies simplistic solutions that will not work for very complex problems.

Another feature of women in prisons is that 77 per cent of them have children. There is growing evidence that incarcerated women may be there with problems that would not make them the best mothers but, again, that is a much stronger argument for assisting them with programs to work on their problems that, one, would enhance their ability to be better mothers and, two, would keep them out of the system. However, the fact is that evidence is emerging that children of incarcerated mothers are infinitely more likely to begin to offend themselves, to feel alienated from society, and to have serious problems in their lives.

More women with children in prison simply means more children at risk, which means more young adults involved in criminal behaviour, and so the cycle continues.

I would finish by talking about one other thing, which is captured in a couple of quotes. I think it is obvious that underlying this bill is a sense of punishment, a sense of retribution. Intrinsic in that kind of approach is judgment — being judgmental, and I do not mean that in a good way — and of expressing some kind of anger or frustration. That, of course, usually skews good judgment.

Trinda L. Ernst, President of the Canadian Bar Association, said: "This bill emphasizes retribution above all else." Craig Jones, Executive Director of The John Howard Society, said: "This is not a crime agenda; it is a punishment agenda."

When I was studying and reading about this — and I will paraphrase this badly — I was reminded of a story of Nelson Mandela, one of the most elevated people on the planet. He got out of jail after 27 years of being incarcerated and absolutely treated unfairly for the most evil of conceivable reasons. He said by the time he got to the car, he had made a determination. He had been locked up behind walls for 27 years and would not allow anger and bitterness to keep him incarcerated for the rest of his life, so he through that away.

What I am saying is that it is, in some sense, a question of emphasis. Every major religion and culture has in it as one of its central value tenets a sense of forgiveness and compassion. They do, because it works and it reflects something in the human

condition. It says what we all know in our heart of hearts: Retribution does not help the victim or the perpetrator, and retribution in no way enhances or creates health and healing.

I request five more minutes, please.

An Hon. Senator: You may have five more minutes.

Senator Mitchell: Thank you.

Nelson Mandela got it right. What did he do? He was instrumental in creating the Truth and Reconciliation Commission, which was inspired in its ability to create healing and to bring a society together. In fact, we have had that model here in this country — or are making efforts to do so — with the Aboriginal peoples and their problems. I think that should not be lost upon us at all.

• (2320)

What I feel in my heart of hearts about this bill, among many other things, is that it addresses an issue, yes, that needs to be addressed, but it addresses it in exactly the wrong way. It will make it worse, it will not make it better, and in the process of doing it, the way that it addresses it will make all of us lesser. It will not elevate us. It does not come from a place of compassion or forgiveness. It comes from another place, and it is not becoming, and it will not make this country or this society better. It will make it harsher, angrier and more frustrated and, as said by one of my colleagues, we will be back here in five or ten years and we will be fixing this, but think of the number of lives that will be irreversibly damaged because of the mistakes that will be made in 40 minutes when this bill is passed by this government.

[*Translation*]

Hon. Jean-Guy Dagenais: Honourable senators, I am delighted to rise to address this chamber for the first time since my appointment to the Senate.

I would like to begin by congratulating Senator Wallace, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, as well as Senator Fraser. It is even more exciting to rise here, knowing that I am defending the contents of Bill C-10, which we just debated in committee and, which, I am convinced, will establish the new security parameters we want for our children, for victims of crime, for our seniors, and for all Canadians in this great county.

Bill C-10 comprises many provisions to improve public safety and to make criminals more accountable for the crimes they commit.

Bill C-10 represents the pendulum of justice swinging back, which is what Canadians have been waiting for for some time.

To put it briefly, this bill guarantees huge benefits for communities while preserving the rehabilitation programs that give Canada its reputation as a country of great justice.

Bill C-10 introduces measures that will finally take victims into account, measures that will keep dangerous offenders — who are almost guaranteed to reoffend and who represent a clear danger to society — off the streets.

Bill C-10 introduces provisions for minimum sentences that send a clear message to criminals that there is a price to pay for committing a crime in Canada.

Bill C-10 introduces provisions for mandatory minimum sentences that will effectively combat the production and distribution of illegal drugs, a scourge that destroys our young people, promotes intimidation and pays big bucks to organized crime.

Bill C-10 also introduces measures that will ensure better supervision of rehabilitation programs and parole for offenders who have agreed — and I would like to emphasize this point — who have agreed to take control of their lives and who want to be law-abiding citizens once again.

I can tell you, honourable senators, that we listened with open minds to the arguments against these new justice provisions.

Highly credible witnesses and Liberal senators with plenty of political experience drew our attention to certain elements of the legislation that worried them. We had cordial discussions with them about some of the points they raised, which we countered with other testimony that we had heard. After that process, we settled on what I sincerely believe to be the wisest, most contemporary, and most informed approach given current circumstances.

Now that the process is complete, I would like to personally thank everyone who participated in person or in writing in this debate, which is important to our country's future. Now it is up to all of us to complete the legislative process calmly, a duty that none of us will shirk.

As promised by the government, which received a majority mandate in May 2011, the Canadian Senate will pass Bill C-10 to give the nation improved legal rules to fight the criminals who threaten the safety of our children and our population in general.

Let us be frank for a few moments. Change always breeds fear. It happens in business as well as in politics. At committee these past few days, I quickly came to the conclusion that such important and far-reaching reforms would not be to everyone's liking. Some objections and some statistics, which could lend themselves to many arguments depending on which side of the fence you were on, were brilliantly brought to our attention. However, they must not block our will to reform the system and to increase the accountability of the major stakeholders in our justice system, which is already recognized as one of the best in the world.

I would like to remind the opponents of Bill C-10 that the terms "incarceration" and "rehabilitation" are concepts that can work hand in hand. And no matter what is said, that is exactly what Bill C-10 will accomplish, as long as we have offenders who are willing.

Some people may not have understood, or simply do not wish to understand. For that reason, I will say it again. The rights of the accused are not affected. But from now on they will be linked to a process that will consider the victims and community safety.

I do not know how much contact you have with your respective communities. As for me, I make it my duty to never miss an opportunity to find out what people expect from our justice system. I listen to them, I talk to them and I understand their perspectives. And that is exactly why we have to take action today to put an end to the cynicism that exists with regard to the sentences imposed and the ease with which offenders in Canada are able to get parole.

I would like to highlight, in my own way, some problems that will be remedied by the passage of Bill C-10.

I, Jean-Guy Dagenais, would not want to go down in history for having rejected the provisions of Bill C-10, which will make our laws on child pornography tougher and impose minimum sentences on child abusers. Bill C-10 marks an end to conditional sentences that allow pedophiles to get out of prison. This crime, which is up by 30 per cent, deserves to be severely punished.

I, Jean-Guy Dagenais, do not want women who are the victims of violence to one day walk up to me and blame me for not voting in favour of provisions that would grant them special status and give them the right to intervene and the right to be kept informed of any action that could lead —

The Hon. the Speaker: Honourable senators, I must interrupt the debate.

[*English*]

Pursuant to the order of the Senate, the six hours of debate having been concluded, I must put the following question to the house.

It was moved by the Honourable Senator Wallace, seconded by the Honourable Senator White, that the ninth report be adopted of the Standing Senate Committee on Legal and Constitutional Affairs, Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts, with amendments and observations.

Those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

And two honourable senators having risen:

[*Translation*]

Senator Carignan: Honourable senators, I seek leave of the Senate to move to the vote on the report. The whips could determine the length of the bells.

I would also like us to deal with third reading immediately thereafter and reserve an item on the orders of the day to address the usual administrative issues, namely the adjournment motion.

[*English*]

The Hon. the Speaker: Do the whips have advice for the bell?

Senator Marshall: Fifteen minutes.

Senator Munson: Yes, 15 minutes.

The Hon. the Speaker: Honourable senators, the standing vote will take place in 15 minutes; therefore, that will be at a quarter to 12. At 11:45, the standing vote will be held.

Do I have permission to leave the chair?

Hon. Senators: Agreed.

• (2340)

Motion agreed to and report adopted on the following division:

YEAS
THE HONOURABLE SENATORS

Angus	Maltais
Ataullahjan	Manning
Boisvenu	Marshall
Brazeau	Martin
Brown	Meredith
Buth	Mockler
Carignan	Neufeld
Cochrane	Ogilvie
Comeau	Oliver
Dagenais	Patterson
Demers	Plett
Di Nino	Poirier
Doyle	Runciman
Duffy	Seidman
Eaton	Seth
Finley	Smith (*Saurel*)
Fortin-Duplessis	Stewart Olsen
Frum	Stratton
Gerstein	Tkachuk
Greene	Unger
Housakos	Verner
Lang	Wallace
LeBreton	Wallin
MacDonald	White—48

NAYS
THE HONOURABLE SENATORS

Baker	Lovelace Nicholas
Callbeck	Mahovlich
Campbell	Massicotte
Chaput	McCoy
Cools	Mercer
Cordy	Merchant
Cowan	Mitchell
Dawson	Munson
Day	Nolin
Downe	Peterson
Dyck	Poulin
Eggleton	Poy
Fraser	Ringuette
Furey	Robichaud
Harb	Sibbeston
Hervieux-Payette	Smith (*Cobourg*)
Hubley	Tardif
Jaffer	Zimmer—37
Losier-Cool	

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

• (2350)

The Hon. the Speaker: Honourable senators, since the Senate has exhausted all time for debate under time allocation order, and pursuant to rule 62(2), the Senate is now at third reading of Bill C-10.

THIRD READING

Hon. John D. Wallace moved third reading of Bill C-10, An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts, as amended.

The Hon. the Speaker: Those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion please say "nay".

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker: The standing vote will take place forthwith.

Honourable senators, the question is as follows: It is moved by Senator Wallace, seconded by Senator White, that Bill C-10, which is amended by the adoption of the report, be read the third time. Those in favour of the motion will please rise.

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Angus	Maltais
Ataullahjan	Manning
Boisvenu	Marshall
Brazeau	Martin
Brown	Meredith
Buth	Mockler
Carignan	Neufeld
Cochrane	Ogilvie
Comeau	Oliver
Dagenais	Patterson
Demers	Plett
Di Nino	Poirier
Doyle	Runciman
Duffy	Seidman
Eaton	Seth
Finley	Smith (*Saurel*)
Fortin-Duplessis	Stewart Olsen
Frum	Stratton
Gerstein	Tkachuk
Greene	Unger
Housakos	Verner
Lang	Wallace
LeBreton	Wallin
MacDonald	White—48

NAYS
THE HONOURABLE SENATORS

Baker	Lovelace Nicholas
Callbeck	Mahovlich
Campbell	Massicotte
Chaput	McCoy
Cools	Mercer
Cordy	Merchant
Cowan	Mitchell
Dawson	Munson
Day	Nolin
Downe	Peterson
Dyck	Poulin
Eggleton	Poy
Fraser	Ringuette
Furey	Robichaud
Harb	Sibbeston
Hervieux-Payette	Smith (*Cobourg*)
Hubley	Tardif
Jaffer	Zimmer—37
Losier-Cool	

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Accordingly the motion is adopted.

(Motion agreed to and bill, as amended, read third time and passed.)

[*Translation*]

ADJOURNMENT

MOTION ADOPTED

Leave having been given to revert to Government Notices of Motions:

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

> That when the Senate adjourns today, it do stand adjourned until Tuesday, March 6, 2012, at 2 p.m.

The Hon. the Speaker: Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, March 6, 2012, at 2 p.m.)

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

THE SPEAKER

The Honourable Noël A. Kinsella

THE LEADER OF THE GOVERNMENT

The Honourable Marjory LeBreton, P.C.

THE LEADER OF THE OPPOSITION

The Honourable James S. Cowan

OFFICERS OF THE SENATE

CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS

Gary W. O'Brien

LAW CLERK AND PARLIAMENTARY COUNSEL

Mark Audcent

USHER OF THE BLACK ROD

Kevin MacLeod

THE MINISTRY

(In order of precedence)

(March 1, 2012)

The Right Hon. Stephen Joseph Harper	Prime Minister
The Hon. Robert Douglas Nicholson	Minister of Justice and Attorney General of Canada
The Hon. Marjory LeBreton	Leader of the Government in the Senate
The Hon. Peter Gordon MacKay	Minister of National Defence
The Hon. Vic Toews	Minister of Public Safety
The Hon. Rona Ambrose	Minister of Public Works and Government Services Minister of State (Status of Women)
The Hon. Diane Finley	Minister of Human Resources and Skills Development
The Hon. Beverley J. Oda	Minister of International Cooperation
The Hon. John Baird	Minister of Foreign Affairs
The Hon. Tony Clement	President of the Treasury Board Minister for the Federal Economic Development Initiative for Northern Ontario
The Hon. James Michael Flaherty	Minister of Finance
The Hon. Peter Van Loan	Leader of the Government in the House of Commons
The Hon. Jason Kenney	Minister of Citizenship, Immigration and Multiculturalism
The Hon. Gerry Ritz	Minister of Agriculture and Agri-Food Minister for the Canadian Wheat Board
The Hon. Christian Paradis	Minister of Industry and Minister of State (Agriculture)
The Hon. James Moore	Minister of Canadian Heritage and Official Languages
The Hon. Denis Lebel	Minister of Transport, Infrastructure and Communities Minister of the Economic Development Agency of Canada for the Regions of Quebec
The Hon. Leona Aglukkaq	Minister of Health Minister of the Canadian Northern Economic Development Agency
The Hon. Keith Ashfield	Minister of Fisheries and Oceans and Minister for the Atlantic Gateway
The Hon. Peter Kent	Minister of the Environment
The Hon. Lisa Raitt	Minister of Labour
The Hon. Gail Shea	Minister of National Revenue
The Hon. John Duncan	Minister of Aboriginal Affairs and Northern Development
The Hon. Steven Blaney	Minister of Veterans Affairs
The Hon. Edward Fast	Minister of International Trade Minister for the Asia-Pacific Gateway
The Hon. Joe Oliver	Minister of Natural Resources
The Hon. Peter Penashue	Minister of Intergovernmental Affairs President of the Queen's Privy Council for Canada
The Hon. Julian Fantino	Associate Minister of National Defence
The Hon. Bernard Valcourt	Minister of State (Atlantic Canada Opportunities Agency) (La Francophonie)
The Hon. Gordon O'Connor	Minister of State and Chief Government Whip
The Hon. Maxime Bernier	Minister of State (Small Business and Tourism)
The Hon. Diane Ablonczy	Minister of State of Foreign Affairs (Americas and Consular Affairs)
The Hon. Lynne Yelich	Minister of State (Western Economic Diversification)
The Hon. Steven John Fletcher	Minister of State (Transport)
The Hon. Gary Goodyear	Minister of State (Science and Technology) (Federal Economic Development Agency for Southern Ontario)
The Hon. Ted Menzies	Minister of State (Finance)
The Hon. Tim Uppal	Minister of State (Democratic Reform)
The Hon. Alice Wong	Minister of State (Seniors)
The Hon. Bal Gosal	Minister of State (Sport)

SENATORS OF CANADA

ACCORDING TO SENIORITY

(March 1, 2012)

Senator	Designation	Post Office Address
The Honourable		
Anne C. Cools	Toronto Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujjuaq, Que.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Ethel Cochrane	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.
Gerald J. Comeau	Nova Scotia	Saulnierville, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	South Shore	Halifax, N.S.
Noël A. Kinsella, *Speaker*	Fredericton-York-Sunbury	Fredericton, N.B.
Janis G. Johnson	Manitoba	Gimli, Man.
A. Raynell Andreychuk	Saskatchewan	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton, P.C.	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Rose-Marie Losier-Cool	Tracadie	Tracadie-Sheila, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Wilfred P. Moore	Stanhope St./South Shore	Chester, N.S.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Francis William Mahovlich	Toronto	Toronto, Ont.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Vivienne Poy	Toronto	Toronto, Ont.
George Furey	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Joseph A. Day	Saint John-Kennebecasis	Hampton, N.B.
George S. Baker, P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.
David P. Smith, P.C.	Cobourg	Toronto, Ont.
Maria Chaput	Manitoba	Sainte-Anne, Man.
Pana Merchant	Saskatchewan	Regina, Sask.
Pierrette Ringuette	New Brunswick	Edmundston, N.B.
Percy E. Downe	Charlottetown	Charlottetown, P.E.I.
Paul J. Massicotte	De Lanaudière	Mont-Saint-Hilaire, Que.
Mac Harb	Ontario	Ottawa, Ont.
Terry M. Mercer	Northend Halifax	Caribou River, N.S.
Jim Munson	Ottawa/Rideau Canal	Ottawa, Ont.
Claudette Tardif	Alberta	Edmonton, Alta.
Grant Mitchell	Alberta	Edmonton, Alta.

Senator	Designation	Post Office Address
Elaine McCoy	Alberta	Calgary, Alta.
Robert W. Peterson	Saskatchewan	Regina, Sask.
Lillian Eva Dyck	Saskatchewan	Saskatoon, Sask.
Art Eggleton, P.C.	Ontario	Toronto, Ont.
Nancy Ruth	Cluny	Toronto, Ont.
Roméo Antonius Dallaire	Gulf	Sainte-Foy, Que.
James S. Cowan	Nova Scotia	Halifax, N.S.
Andrée Champagne, P.C.	Grandville	Saint-Hyacinthe, Que.
Hugh Segal	Kingston-Frontenac-Leeds	Kingston, Ont.
Larry W. Campbell	British Columbia	Vancouver, B.C.
Rod A. A. Zimmer	Manitoba	Winnipeg, Man.
Dennis Dawson	Lauzon	Sainte-Foy, Que.
Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations, N.B.
Bert Brown	Alberta	Kathyrn, Alta.
Stephen Greene	Halifax-The Citadel	Halifax, N.S.
Michael L. MacDonald	Cape Breton	Dartmouth, N.S.
Michael Duffy	Prince Edward Island	Cavendish, P.E.I.
Percy Mockler	New Brunswick	St. Leonard, N.B.
John D. Wallace	New Brunswick	Rothesay, N.B.
Michel Rivard	The Laurentides	Quebec, Que.
Nicole Eaton	Ontario	Caledon, Ont.
Irving Gerstein	Ontario	Toronto, Ont.
Pamela Wallin	Saskatchewan	Wadena, Sask.
Nancy Greene Raine	Thompson-Okanagan-Kootenay	Sun Peaks, B.C.
Yonah Martin	British Columbia	Vancouver, B.C.
Richard Neufeld	British Columbia	Fort St. John, B.C.
Daniel Lang	Yukon	Whitehorse, Yukon
Patrick Brazeau	Repentigny	Gatineau, Que.
Leo Housakos	Wellington	Laval, Que.
Suzanne Fortin-Duplessis	Rougemont	Quebec, Que.
Donald Neil Plett	Landmark	Landmark, Man.
Michael Douglas Finley	Ontario—South Coast	Simcoe, Ont.
Linda Frum	Ontario	Toronto, Ont.
Claude Carignan	Mille Isles	Saint-Eustache, Que.
Jacques Demers	Rigaud	Hudson, Que.
Judith G. Seidman (Ripley)	De la Durantaye	Saint-Raphaël, Que.
Carolyn Stewart Olsen	New Brunswick	Sackville, N.B.
Kelvin Kenneth Ogilvie	Annapolis Valley - Hants	Canning, N.S.
Dennis Glen Patterson	Nunavut	Iqaluit, Nunavut
Bob Runciman	Ontario—Thousand Islands and Rideau Lakes	Brockville, Ont.
Pierre-Hugues Boisvenu	La Salle	Sherbrooke, Que.
Elizabeth (Beth) Marshall	Newfoundland and Labrador	Paradise, Nfld. & Lab.
Rose-May Poirier	New Brunswick—Saint-Louis-de-Kent	Saint-Louis-de-Kent, N.B.
David Braley	Ontario	Burlington, Ont.
Salma Ataullahjan	Toronto—Ontario	Toronto, Ont.
Don Meredith	Ontario	Richmond Hill, Ont.
Fabian Manning	Newfoundland and Labrador	St. Bride's, Nfld. & Lab.
Larry W. Smith	Saurel	Hudson, Que.
Josée Verner, P.C.	Montarville	Saint-Augustin-de-Desmaures, Que.
Betty E. Unger	Alberta	Edmonton, Alta.
JoAnne L. Buth	Manitoba	Winnipeg, Man.
Norman E. Doyle	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Asha Seth	Ontario	Toronto, Ont.
Ghislain Maltais	Shawinegan	Quebec City, Que.
Jean-Guy Dagenais	Victoria	Blainville, Que.
Vernon White	Ontario	Ottawa, Ont.

SENATORS OF CANADA

ALPHABETICAL LIST

(March 1, 2012)

Senator	Designation	Post Office Address	Political Affiliation
The Honourable			
Andreychuk, A. Raynell	Saskatchewan	Regina, Sask.	Conservative
Angus, W. David	Alma	Montreal, Que.	Conservative
Ataullahjan, Salma	Toronto—Ontario	Toronto, Ont.	Conservative
Baker, George S., P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.	Liberal
Boisvenu, Pierre-Hugues	La Salle	Sherbrooke, Que.	Conservative
Braley, David	Ontario	Burlington, Ont.	Conservative
Brazeau, Patrick	Repentigny	Gatineau, Que.	Conservative
Brown, Bert	Alberta	Kathyrn, Alta.	Conservative
Buth, JoAnne L.	Manitoba	Winnipeg, Man.	Conservative
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Liberal
Campbell, Larry W.	British Columbia	Vancouver, B.C.	Liberal
Carignan, Claude	Mille Isles	Saint-Eustache, Que.	Conservative
Champagne, Andrée, P.C.	Grandville	Saint-Hyacinthe, Que.	Conservative
Chaput, Maria	Manitoba	Sainte-Anne, Man.	Liberal
Cochrane, Ethel	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.	Conservative
Comeau, Gerald J.	Nova Scotia	Saulnierville, N.S.	Conservative
Cools, Anne C.	Toronto Centre-York	Toronto, Ont.	Independent
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Liberal
Cowan, James S.	Nova Scotia	Halifax, N.S.	Liberal
Dagenais, Jean-Guy	Victoria	Blainville, Que.	Conservative
Dallaire, Roméo Antonius	Gulf	Sainte-Foy, Que.	Liberal
Dawson, Dennis	Lauzon	Ste-Foy, Que.	Liberal
Day, Joseph A.	Saint John-Kennebecasis	Hampton, N.B.	Liberal
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.	Liberal
Demers, Jacques	Rigaud	Hudson, Que.	Conservative
Di Nino, Consiglio	Ontario	Downsview, Ont.	Conservative
Downe, Percy E.	Charlottetown	Charlottetown, P.E.I.	Liberal
Doyle, Norman E.	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Conservative
Duffy, Michael	Prince Edward Island	Cavendish, P.E.I.	Conservative
Dyck, Lillian Eva	Saskatchewan.	Saskatoon, Sask.	Liberal
Eaton, Nicole	Ontario	Caledon, Ont.	Conservative
Eggleton, Art, P.C.	Ontario	Toronto, Ont.	Liberal
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Liberal
Finley, Michael Douglas	Ontario—South Coast	Simcoe, Ont.	Conservative
Fortin-Duplessis, Suzanne	Rougemont	Quebec, Que.	Conservative
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Liberal
Frum, Linda	Ontario	Toronto, Ont.	Conservative
Furey, George	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Liberal
Gerstein, Irving	Ontario	Toronto, Ont.	Conservative
Greene, Stephen	Halifax - The Citadel	Halifax, N.S.	Conservative
Harb, Mac.	Ontario	Ottawa, Ont.	Liberal
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Liberal
Housakos, Leo	Wellington	Laval, Que.	Conservative
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Liberal
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Liberal
Johnson, Janis G.	Manitoba	Gimli, Man.	Conservative
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Liberal
Kenny, Colin	Rideau	Ottawa, Ont.	Liberal
Kinsella, Noël A., *Speaker*	Fredericton-York-Sunbury	Fredericton, N.B.	Conservative

Senator	Designation	Post Office Address	Political Affiliation
Lang, Daniel	Yukon	Whitehorse, Yukon	Conservative
LeBreton, Marjory, P.C.	Ontario	Manotick, Ont.	Conservative
Losier-Cool, Rose-Marie	Tracadie	Tracadie-Sheila, N.B.	Liberal
Lovelace Nicholas, Sandra	New Brunswick	Tobique First Nations, N.B.	Liberal
MacDonald, Michael L.	Cape Breton	Dartmouth, N.S.	Conservative
Mahovlich, Francis William	Toronto	Toronto, Ont.	Liberal
Maltais, Ghislain	Shawinegan	Quebec City, Que.	Conservative
Manning, Fabian	Newfoundland and Labrador	St. Bride's, Nfld. & Lab.	Conservative
Marshall, Elizabeth (Beth).	Newfoundland and Labrador	Paradise, Nfld. & Lab.	Conservative
Martin, Yonah	British Columbia	Vancouver, B.C.	Conservative
Massicotte, Paul J.	De Lanaudière	Mont-Saint-Hilaire, Que.	Liberal
McCoy, Elaine	Alberta	Calgary, Alta.	Progressive Conservative
Mercer, Terry M.	Northend Halifax	Caribou River, N.S.	Liberal
Merchant, Pana	Saskatchewan	Regina, Sask.	Liberal
Meredith, Don	Ontario	Richmond Hill, Ont.	Conservative
Mitchell, Grant	Alberta	Edmonton, Alta.	Liberal
Mockler, Percy	New Brunswick	St. Leonard, N.B.	Conservative
Moore, Wilfred P.	Stanhope St./South Shore	Chester, N.S.	Liberal
Munson, Jim	Ottawa/Rideau Canal	Ottawa, Ont.	Liberal
Nancy Ruth	Cluny	Toronto, Ont.	Conservative
Neufeld, Richard	British Columbia	Fort St. John, B.C.	Conservative
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	Conservative
Ogilvie, Kelvin Kenneth	Annapolis Valley - Hants	Canning, N.S.	Conservative
Oliver, Donald H.	South Shore	Halifax, N.S.	Conservative
Patterson, Dennis Glen	Nunavut	Iqaluit, Nunavut	Conservative
Peterson, Robert W.	Saskatchewan	Regina, Sask.	Liberal
Plett, Donald Neil	Landmark	Landmark, Man.	Conservative
Poirier, Rose-May	New Brunswick—Saint-Louis-de-Kent	Saint-Louis-de-Kent, N.B.	Conservative
Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Liberal
Poy, Vivienne	Toronto	Toronto, Ont.	Liberal
Raine, Nancy Greene	Thompson-Okanagan-Kootenay	Sun Peaks, B.C.	Conservative
Ringuette, Pierrette	New Brunswick	Edmundston, N.B.	Liberal
Rivard, Michel	The Laurentides	Quebec, Que.	Conservative
Rivest, Jean-Claude	Stadacona	Quebec, Que.	Independent
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Liberal
Runciman, Bob	Ontario—Thousand Islands and Rideau Lakes	Brockville, Ont.	Conservative
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	Conservative
Segal, Hugh	Kingston-Frontenac-Leeds	Kingston, Ont.	Conservative
Seth, Asha	Ontario	Toronto, Ont.	Conservative
Seidman (Ripley), Judith G.	De la Durantaye	Saint-Raphaël, Que.	Conservative
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Liberal
Smith, David P., P.C.	Cobourg	Toronto, Ont.	Liberal
Smith, Larry W.	Saurel	Hudson, Que.	Conservative
Stewart Olsen, Carolyn	New Brunswick	Sackville, N.B.	Conservative
Stratton, Terrance R.	Red River	St. Norbert, Man.	Conservative
Tardif, Claudette	Alberta	Edmonton, Alta.	Liberal
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	Conservative
Unger, Betty E.	Alberta	Edmonton, Alta.	Conservative
Verner, Josée, P.C.	Montarville	Saint-Augustin-de-Desmaures, Que.	Conservative
Wallace, John D.	New Brunswick	Rothesay, N.B.	Conservative
Wallin, Pamela	Saskatchewan	Wadena, Sask.	Conservative
Watt, Charlie	Inkerman	Kuujjuaq, Que.	Liberal
White, Vernon	Ontario	Ottawa, Ont.	Conservative
Zimmer, Rod A. A.	Manitoba	Winnipeg, Man.	Liberal

SENATORS OF CANADA

BY PROVINCE AND TERRITORY

(March 1, 2012)

ONTARIO—24

	Senator	Designation	Post Office Address
	The Honourable		
1	Anne C. Cools	Toronto Centre-York	Toronto
2	Colin Kenny	Rideau	Ottawa
3	Consiglio Di Nino	Ontario	Downsview
4	Marjory LeBreton, P.C.	Ontario	Manotick
5	Marie-P. Poulin	Northern Ontario	Ottawa
6	Francis William Mahovlich	Toronto	Toronto
7	Vivienne Poy	Toronto	Toronto
8	David P. Smith, P.C.	Cobourg	Toronto
9	Mac Harb	Ontario	Ottawa
10	Jim Munson	Ottawa/Rideau Canal	Ottawa
11	Art Eggleton, P.C.	Ontario	Toronto
12	Nancy Ruth	Cluny	Toronto
13	Hugh Segal	Kingston-Frontenac-Leeds	Kingston
14	Nicole Eaton	Ontario	Caledon
15	Irving Gerstein	Ontario	Toronto
16	Michael Douglas Finley	Ontario—South Coast	Simcoe
17	Linda Frum	Ontario	Toronto
18	Bob Runciman	Ontario—Thousand Islands and Rideau Lakes	Brockville
19	David Braley	Ontario	Burlington
20	Salma Ataullahjan	Toronto—Ontario	Toronto
21	Don Meredith	Ontario	Richmond Hill
22	Asha Seth	Ontario	Toronto
23	Vernon White	Ontario	Ottawa
24			

SENATORS BY PROVINCE AND TERRITORY

QUEBEC—24

	Senator	Designation	Post Office Address
	The Honourable		
1	Charlie Watt	Inkerman	Kuujjuaq
2	Pierre De Bané, P.C.	De la Vallière	Montreal
3	Jean-Claude Rivest	Stadacona	Quebec
4	W. David Angus	Alma	Montreal
5	Pierre Claude Nolin	De Salaberry	Quebec
6	Céline Hervieux-Payette, P.C.	Bedford	Montreal
7	Serge Joyal, P.C.	Kennebec	Montreal
8	Joan Thorne Fraser	De Lorimier	Montreal
9	Paul J. Massicotte	De Lanaudière	Mont-Saint-Hilaire
10	Roméo Antonius Dallaire	Gulf	Sainte-Foy
11	Andrée Champagne, P.C.	Grandville	Saint-Hyacinthe
12	Dennis Dawson	Lauzon	Ste-Foy
13	Michel Rivard	The Laurentides	Quebec
14	Patrick Brazeau	Repentigny	Gatineau
15	Leo Housakos	Wellington	Laval
16	Suzanne Fortin-Duplessis	Rougemont	Quebec
17	Claude Carignan	Mille Isles	Saint-Eustache
18	Jacques Demers	Rigaud	Hudson
19	Judith G. Seidman (Ripley)	De la Durantaye	Saint-Raphaël
20	Pierre-Hugues Boisvenu	La Salle	Sherbrooke
21	Larry W. Smith	Saurel	Hudson
22	Josée Verner, P.C.	Montarville	Saint-Augustin-de-Desmaures
23	Ghislain Maltais	Shawinegan	Quebec City
24	Jean-Guy Dagenais	Victoria	Blainville

SENATORS BY PROVINCE-MARITIME DIVISION

NOVA SCOTIA—10

	Senator	Designation	Post Office Address
	The Honourable		
1	Gerald J. Comeau	Nova Scotia	Saulnierville
2	Donald H. Oliver	South Shore	Halifax
3	Wilfred P. Moore	Stanhope St./South Shore	Chester
4	Jane Cordy	Nova Scotia	Dartmouth
5	Terry M. Mercer	Northend Halifax	Caribou River
6	James S. Cowan	Nova Scotia	Halifax
7	Stephen Greene	Halifax - The Citadel	Halifax
8	Michael L. MacDonald	Cape Breton	Dartmouth
9	Kelvin Kenneth Ogilvie	Annapolis Valley - Hants	Canning
10			

NEW BRUNSWICK—10

	Senator	Designation	Post Office Address
	The Honourable		
1	Noël A. Kinsella, *Speaker*	Fredericton-York-Sunbury	Fredericton
2	Rose-Marie Losier-Cool	Tracadie	Tracadie-Sheila
3	Fernand Robichaud, P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
4	Joseph A. Day	Saint John-Kennebecasis, New Brunswick	Hampton
5	Pierrette Ringuette	New Brunswick	Edmundston
6	Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations
7	Percy Mockler	New Brunswick	St. Leonard
8	John D. Wallace	New Brunswick	Rothesay
9	Carolyn Stewart Olsen	New Brunswick	Sackville
10	Rose-May Poirier	New Brunswick—Saint-Louis-de-Kent	Saint-Louis-de-Kent

PRINCE EDWARD ISLAND—4

	Senator	Designation	Post Office Address
	The Honourable		
1	Catherine S. Callbeck	Prince Edward Island	Central Bedeque
2	Elizabeth M. Hubley	Prince Edward Island	Kensington
3	Percy E. Downe	Charlottetown	Charlottetown
4	Michael Duffy	Prince Edward Island	Cavendish

SENATORS BY PROVINCE-WESTERN DIVISION

MANITOBA—6

	Senator	Designation	Post Office Address
	The Honourable		
1	Janis G. Johnson	Manitoba	Gimli
2	Terrance R. Stratton	Red River	St. Norbert
3	Maria Chaput	Manitoba	Sainte-Anne
4	Rod A. A. Zimmer	Manitoba	Winnipeg
5	Donald Neil Plett	Landmark	Landmark
6	JoAnne L. Buth	Manitoba	Winnipeg

BRITISH COLUMBIA—6

	Senator	Designation	Post Office Address
	The Honourable		
1	Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge
2	Mobina S. B. Jaffer	British Columbia	North Vancouver
3	Larry W. Campbell	British Columbia	Vancouver
4	Nancy Greene Raine	Thompson-Okanagan-Kootenay	Sun Peaks
5	Yonah Martin	British Columbia	Vancouver
6	Richard Neufeld	British Columbia	Fort St. John

SASKATCHEWAN—6

	Senator	Designation	Post Office Address
	The Honourable		
1	A. Raynell Andreychuk	Saskatchewan	Regina
2	David Tkachuk	Saskatchewan	Saskatoon
3	Pana Merchant	Saskatchewan	Regina
4	Robert W. Peterson	Saskatchewan	Regina
5	Lillian Eva Dyck	Saskatchewan	Saskatoon
6	Pamela Wallin	Saskatchewan	Wadena

ALBERTA—6

	Senator	Designation	Post Office Address
	The Honourable		
1	Joyce Fairbairn, P.C.	Lethbridge	Lethbridge
2	Claudette Tardif	Alberta	Edmonton
3	Grant Mitchell	Alberta	Edmonton
4	Elaine McCoy	Alberta	Calgary
5	Bert Brown	Alberta	Kathyrn
6	Betty E. Unger	Alberta	Edmonton

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND AND LABRADOR—6

	Senator	Designation	Post Office Address
	The Honourable		
1	Ethel Cochrane	Newfoundland and Labrador	Port-au-Port
2	George Furey	Newfoundland and Labrador	St. John's
3	George S. Baker, P.C.	Newfoundland and Labrador	Gander
4	Elizabeth (Beth) Marshall	Newfoundland and Labrador	Paradise
5	Fabian Manning	Newfoundland and Labrador	St. Bride's
6	Norman E. Doyle	Newfoundland and Labrador	St. John's

NORTHWEST TERRITORIES—1

	Senator	Designation	Post Office Address
	The Honourable		
1	Nick G. Sibbeston	Northwest Territories	Fort Simpson

NUNAVUT—1

	Senator	Designation	Post Office Address
	The Honourable		
1	Dennis Glen Patterson	Nunavut	Iqaluit

YUKON—1

	Senator	Designation	Post Office Address
	The Honourable		
1	Daniel Lang	Yukon	Whitehorse

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