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Chair

Mr. John Maloney

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•(1105)

[English]

The Chair (Mr. John Maloney (Welland, Lib.)): I'd like to call to order the 61st meeting of the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness.

Our witnesses this morning are, as an individual, Mr. Don Schiemann; specialist on Florida's 10-20-Life program, Mr. Steven Zaccor; and from the Canadian Bar Association, Adrian Brooks and Tamra Thomson.

The routine generally is to have presentations from our witnesses to a maximum of 10 minutes, following which there will be questions and answers—well, questions anyway—and hopefully some good answers from you.

Mr. Schiemann, would you like to go first, please?

Rev. Don Schiemann (As an Individual): Certainly.

I'd like to thank the justice committee for the invitation to speak on the matter of Bill C-215. I'm not a lawyer, I'm not a politician, I'm not a police officer, but I think I certainly have something to contribute to the discussion on mandatory minimum sentencing.

I have three children. One of them, Peter Schiemann, served as a constable in the Royal Canadian Mounted Police. He had almost completed his fifth year of service when on March 3 he, along with three other police officers, were murdered by James Roszko. Roszko had with him a 9-mm handgun, a long-barrelled rifle and a Heckler and Koch .308 semi-automatic assault weapon, which he used quickly and methodically to murder the officers. It has been almost nine months since that event.

Since that time, the families of the four officers have gotten together on a number of occasions. Initially it was to attend memorial services, but by August it was more intentional meetings to try to understand what had taken place. There's no way we could possibly conduct an investigation on our part, but what we tried to do is understand the systemic factors that led to the events of March 3. We consulted a number of sources, including media, politicians, police, corrections officers, lawyers, and in doing so we came to understand a number of things.

First of all, James Roszko was not mentally insane. This was not a psychotic moment on his part. Rather, he was an incredibly evil man.

Now, I realize in this day and age "evil" is a rather archaic term. One could argue, I suppose, that James Roszko was a product of his

environment, his heredity, his upbringing, his circumstances, or any combination of those things. The fact is that Roszko had several siblings, all of whom were dealt the same life cards, so to speak, but none of them chose the life of criminal activity chosen by James Roszko.

On a theological basis, I believe in the concept of evil. On a personal level, it has invaded my family and my life in the person and work of James Roszko. I know we're not here to talk theology, but there's a very important point that I wish to make later on in this presentation that pertains to this, about James Roszko and others like him.

Secondly, when Alberta Justice released its review of the prosecution history of James Roszko, it became painfully obvious to us that the justice system failed to do that which Canadians rightfully expect it to do.

I could spend a lot of time providing detailed information about Roszko's criminal history. But to make a long story short, as a result of what we have learned, our four families have resolved to lobby for, first of all, an effective national drug strategy; secondly, mandatory minimum sentences in the cases of the manufacture of and commerce in drugs identified in schedule 1 and cannabis in schedule 2 of the Controlled Drugs and Substances Act; third, in the case of sexual assault on a minor; fourth, in the case of an attempt to injure or kill a law enforcement officer or emergency service personnel; fifth, illegally importing a restricted or banned weapon into Canada and/or possession of an illegal or restricted weapon; and sixth, the use of a firearm in commission of an offence.

You may need to understand that our families in no way see this as a comprehensive list of all crimes deserving mandatory and/or consecutive sentences. Our choice of these items relate directly to the circumstances leading up to and including March 3.

Specific to the question of mandatory minimum sentences, the standard question seems to be, do they work? The most frequently used argument is that they do not serve as a deterrent to the criminal so as to prevent him from committing the crime. The federal government has recently suggested increasing the maximum penalty in a number of areas. The proposed bill, Bill C-17, for example, calls for a 10-year, and in some cases 14-year, maximum sentence for growing marijuana, where the previous maximum sentence was only seven years.

I had the opportunity to ask the Deputy Prime Minister what good this would do, since no one has ever received the maximum sentence of seven years. She referred to the principle of denunciation. Apparently, if you say that something is really bad, so bad that we might do something terrible to you—although we really won't—you would not do the bad thing. So the question is, does denunciation effect deterrence?

● (1110)

In the early 1980s, I can remember driving from Alberta to Ontario in our Ford Topaz, with three children under the age of 11 in the back seat. When they became a problem, and that was usually after the first 10 kilometres, I told them that they'd better behave or I'd leave them by the side of the road.

In late August of this year, I was at Pearson International Airport waiting to board my flight to Edmonton. Two exasperated parents were trying to tame their out-of-control son. As the aircraft began to board, the mother told her son that if he didn't behave, they'd leave him there.

Needless to say, in both cases, the children knew that mom and dad would never do what they threatened and so continued their misbehaviour.

The principle of denunciation is like these examples of poor parenting. It will not work if there isn't the possibility of a real penalty.

In the study *Marihuana Growing Operations In British Columbia Revisited*, published in March 2005, the authors observe:

In terms of sentencing, it is interesting to look at what would have happened to convicted marihuana growers in British Columbia if they had been sentenced in Washington State, where sentencing guidelines are in place. Under Washington State sentencing guidelines, 49% of the suspects convicted on marihuana production in British Columbia would have been sentenced to at least five years in prison (see Table 6.10). In British Columbia, no person was sentenced to five years or more in prison. Moreover, under the guidelines, 77% of suspects would have served a sentence of at least three months in prison. In British Columbia, only 7% of prison sentences were for three months or more. Given that there are hardly any marihuana grow operations in Washington State, and given that British Columbia has thousands of grow operations every year, it is difficult not to wonder if British Columbia might not be more effective in reducing the incident [s] of grow operations by increasing penalties for individuals convicted for involvement in marihuana growing operations. In the final analysis, the consequences for involvement in a grow operation in British Columbia, even where a person receives a prison sentence, are likely insufficient to reduce or prevent participation in marihuana grow operations.

A number of politicians have said that mandatory minimums don't work. In fact, the Criminal Code of Canada already calls for consecutive and mandatory minimum sentences for the commission of a crime using a firearm. There is already an assumption of their need and effectiveness in law.

Bill C-215 calls for an increase in the mandatory minimums. It identifies the need to impose non-negotiable significant sentences for a crime that is of a nature so serious that the lives of Canadians are at stake.

Second, mandatory minimum sentences for serious offences work inasmuch as they keep serious offenders off the street. There are times when the offender must be separated from society in order to maintain peace and order. There is a dangerous offender designation,

but its criteria are so narrow that people like James Roszko often slip beneath the radar.

Earlier in this presentation, I attempted to characterize Roszko and his behaviour. A couple of weeks after Peter was murdered, as we were cleaning out his study, we found a list in Peter's handwriting that he'd titled "known dangerous criminals in the Mayerthorpe area". There were 12 to 15 names on that list, one of whom was James Roszko.

Since then, other police officers have told me that every detachment has a list like that, whether it has two names on the list or 20 names. Multiply that by every rural detachment and every municipal police force in Canada, and know that there are thousands of people like James Roszko who slip beneath the radar of the dangerous offender designation, but have proven that they can indeed be capable of horrific crimes.

Bill C-215 will be instrumental in providing the kind of sentencing needed for one of the most dangerous of offences and will reduce the risk posed by criminals like James Roszko. Incarceration will be a valuable tool in protecting society and will provide a much better prospect for rehabilitation, where that's possible.

Finally, mandatory minimum sentences do narrow judicial discretion in sentencing. It still allows for the discretion to make wise decisions within the bounds of the minimum and maximum penalties, but it also limits the ability of judges to make foolish decisions, as in the case of the sentence given to James Roszko upon his second conviction on a sexual assault charge.

Let me digress for a second. In 1994 Roszko was convicted of sexual assault on a 10-year-old boy, which occurred over a period of six years on an average of once a week. He was sentenced to five years. Please understand that this conviction was considered so serious that he was automatically prohibited from owning any firearms and was tagged as a potential dangerous offender. He appealed the case, a mistrial was declared, and he was retried on the same charges.

In April 2000 he was again found guilty of the same charges. This time the judge determined that no long-term harm had been done to the boy, and on that basis he sentenced him to three years less a two-for-one credit for custodial remand, so he actually served two and a half years in prison.

● (1115)

I believe that because of decisions like this, the judicial system currently has a crisis of credibility among the general public.

Now we turn to the specifics of Bill C-215, the use of a firearm in the commission of a crime. Whenever a criminal takes up a firearm to assist in the commission of an offence, the danger increases exponentially. It must be assumed that the criminal intends to use the firearm, if and when necessary, in order to be successful. It may simply be to brandish the firearm to threaten and intimidate, but there's nothing to guarantee the criminal will not go to the next step and fire the weapon to injure or kill.

The decision to move from a simple robbery to an armed robbery suddenly makes the crime serious and the criminal dangerous. If sentencing is to be proportionate to the seriousness of the crime, we must be serious about significant mandatory minimums—five, ten, fifteen years.

I personally support Bill C-215, recognizing, though, that it is only one piece of the puzzle. So many other areas involving serious crime need to be addressed with serious and significant mandatory minimum prison sentences, for the reasons outlined above. This bill is a significant beginning, but it is only a beginning.

As a father who saw his son work for a justice system that was broken, as a friend of many police officers who recognize the brokenness of our system and who live daily with frustration and even at times a feeling of hopelessness, as a father who knows the pain of losing a son because our system is not working, I say change must begin here and now.

Winston Churchill said that all it takes for evil to prevail is for good people to do nothing. If nothing changes, if we bury our heads in academic sand and hide behind political expediency, then be assured that we will have to deal with another March 3, and if, for lack of change, the horror of March 3 happens again, the blood of those men and women will be on our heads.

Thank you.

The Chair: Mr. Zaccor, please.

Mr. Stephen Zaccor (Representative, Specialist on Florida "10-20 life program"): Good morning.

Let me start by saying what a privilege it is to appear before this committee and share with you my experiences with the State of Florida's 10-20-Life program, and more specifically, the successes of that program.

First, I'd like to explain to you the details of the State of Florida's 10-20-Life law and then highlight some of the accomplishments that law has achieved.

In the State of Florida, the 10-20-Life law is simply that if you use a firearm in the course of a violent felony, the minimum penalty is 10 years in prison. If you shoot that firearm during the course of that felony, the minimum penalty is 20 years in Florida State Prison. If you shoot and injure someone in the course of that felony, it is a minimum mandatory sentence of 25 years to life. Make no mistake, minimum mandatory means exactly that. The offender who is sentenced under that scheme will serve 100% of that time—no parole, no gain time.

One of the key portions of the law is that it punishes those offenders who actually possess a weapon. By way of example, if two individuals go into a convenience store and commit a robbery, and

individual A brandishes a firearm, while individual B has no firearm but collects the money from the clerk, they would both be charged with robbery with a firearm—the offender with the firearm for using the firearm, the offender without the firearm as a principal. But only the defendant who actually handled and used the firearm would be subject to the minimum mandatory penalties. The offender who collected the money or a getaway driver who never utilizes a firearm would not be subject to the 10-20-Life law.

Judges have no discretion whatsoever. If a defendant is charged with one of those offences and if a jury convicts the defendant and specifically makes a finding that the defendant possessed, discharged, or injured someone with the firearm, then the judge has no choice but to impose the minimum mandatory penalty. There is one small exception. If the offender commits the crime prior to his 21st birthday, Florida has a youthful offender provision that would allow the judge to take that particular defendant outside of the 10-20-Life rubric and sentence him under the youthful offender penalties, which, as you might imagine, are much less severe.

Maybe I should back up and tell you that I am a prosecutor in the state of Florida and I've been so for about eight years. The last eight months of my career have been dedicated to prosecuting those who are legally defined as career criminals in the state of Florida. Prior to that assignment, I was one of two founding members of my office's 10-20-Life program. My jurisdiction is basically Fort Lauderdale, Florida, which I know, as our neighbours to the north, you're all familiar with, especially in the winter months.

It's rather cold today, I might add.

We founded that unit to give specific attention to those crimes, because without fail, the most serious offenders on the streets in my jurisdiction are those who choose to use firearms. They are a major problem in our jurisdiction, and the 10-20-Life law has gone a long way to help curtail that violence.

I'll talk about some of the accomplishments that the 10-20-Life program has achieved. First of all, we now have on the books a punishment that fits the crime. As I said, these are our most violent offenders. An innocent civilian who has to look down the barrel of a 45-calibre weapon is changed forever, not just for 10 years. I don't have to go any further to tell you how it would feel to be someone who was shot at, or how Mr. Schieman's family has suffered, when someone is killed.

One of the other benefits of the 10-20-Life law is that it curtails judicial discretion. We had a problem in Florida where judges, for whatever reason, would give lenient sentences on violent crimes such as these; 10-20-Life takes that away. What it does more than anything in curtailing judicial discretion is it produces uniform sentencing. For instance, if someone in Fort Lauderdale commits a robbery with a firearm and someone in the city of Miami commits the same exact crime with similar circumstances, under the old rubric the man in Miami might get five years of probation, while the man in Fort Lauderdale might get 15 years in prison. That's not fair and it's not uniform. Now there is a basement, there is a bottom-level penalty that is imposed specifically for robbery with a firearm—10 years, as I've explained earlier.

I can share with you my professional experience as a prosecutor, dealing with witnesses, dealing with families like Mr. Schiemann's. It gives them a sense of confidence in the justice system, it gives them some sense of closure and relief, and it helps them come forward and be willing to participate in what is a very frustrating system.

• (1120)

Just as importantly, it aids in witnesses coming forward. When a witness is a store clerk who is the victim of a robbery and who knows that the offender is someone who lives in his neighbourhood whom he has seen before, he's afraid of doing his civil duty and coming forward as a witness if there's no potential that the person who violated his rights is going to be locked up and away from him. It gives witnesses a sense of feeling safe; it makes it easier for them to come forward, because they don't have to worry so much about the repercussions of that individual getting out of prison after six months or a year and seeking revenge.

From what I understand of the debate you are having, one of the big questions is deterrence. The 10-20-Life law, in my opinion, has a deterrent effect, but one of the main reasons it has a deterrent effect is the public information campaign. There are advertisements. If you've been in the state of Florida, you've probably seen them on I-95 or the Florida turnpike: large billboards saying "10-20-Life". Our catchphrase has been: "Use a gun and you're done." In every convenience store you walk into, there's a placard in the entrance: "10-20-Life — Use a gun and you're done."

It's not a fix-all. It doesn't cure all the ills, but this information is crucial. One other avenue that's been very successful in certain jurisdictions is that those offenders who are about to get out of prison for a drug offence or something else are informed that if they go out and commit another offence and use a firearm, 10-20-Life comes into play. They won't get a one-year sentence or a two-year sentence; they'll get a 10-20-Life sentence.

Our crime rate has been going down successfully in the state of Florida over the last several years, and by no means can I tell you that 10-20-Life is solely responsible for that decrease, but the numbers are staggering. Starting in about 1996, the State of Florida implemented several tough-on-crime types of measure, 10-20-Life probably being the most public or having the most notoriety. One of the other ones was our 85% rule, which says that those offenders who are sentenced under other laws, not 10-20-Life, will do 85% of their sentence and will not get parole.

But in the six-year period... These numbers come from the Florida Department of Corrections, which is the state agency responsible for maintaining all our prisons. They are our correctional department, and they control not only the supervised offenders but those who are incarcerated. They released a report in August 2005. In the 10-20-Life period, violent crime is down 30%. The staggering thing about that is that 10,567 fewer people were robbed, 380 fewer people were killed, and I think the thing that makes those numbers more staggering is that in that same period, the state of Florida's population increased 2.5 million, or 16.8%.

I'm a prosecutor. I'm in the courtroom every day. These laws are good; these laws work. And I'll be happy to share any of my experiences with you.

Thank you.

• (1125)

The Chair: Thank you.

The next witness is from the Canadian Bar Association, Ms. Thomson.

Ms. Tamra Thomson (Director, Legislation and Law Reform, Canadian Bar Association): Thank you, Mr. Chair.

The Canadian Bar Association is pleased to have this opportunity today to share with you our views on Bill C-215. The CBA is a national association that represents more than 36,000 jurists across Canada. The submission you have before you was prepared by the criminal justice section of the CBA.

Just a note about the criminal justice section: its membership comprises crown attorneys, defence counsel, and legal academics. Those three groups, which you might think would bring quite diverse experience to the analysis of Criminal Code bills, have brought this forward as a consensus view. These are principles they all agree should govern our criminal law.

Amongst the association's primary objectives are improvement of the law and improvement of the administration of justice, and it is with that optic that the section makes its comments today.

I will ask Mr. Brooks to address the substantive aspects of the bill, and then we would welcome your questions.

Mr. Adrian Brooks (Member at large, National Criminal Justice Section, Canadian Bar Association): Thank you, Mr. Chairman.

As Ms. Thomson has said, we appear on behalf of lawyers across the country, prosecutors and defence counsel, who experience sentencing every day in our courts. We appear on behalf as well of those in the universities who study what happens in our courts and what happens in sentencing on a regular basis. So we welcome the opportunity to share that significant experience with you here today.

I intend to make six points with you in order to go through why we oppose this bill.

First of all, this will not create safer communities. What I mean by that is simply this. You have already heard that the issue of recidivism for longer sentences means recidivism goes up. Common sense tells us that when individuals go into prison they have the opportunity to learn and become entrenched criminals. That does happen. That is the logic behind the statistic, which is clearly established. Recidivism goes up. That does not make for safer communities.

The second point is that this bill does not create deterrence. Deterrence operates on the assumption that individuals think about their acts before they do them. On the assumption that is the case, which is a very questionable assumption, we also have the issue that those individuals who do think about it clearly don't think they will get caught. They think they're too smart, and thank heavens they're not, but they do think that. As a result, there is not a deterrent impact, and if that is to be substantiated, you have already seen in our brief the social science literature, which is in support of that proposition.

The third point I wish to make is that this bill is inconsistent with the fundamental principles of sentencing. It elevates one principle, and one principle only, above all others. Our principles of sentencing say that sentences ought to be based on the individual circumstances for a judge to exercise his or her discretion. That individualized sentencing is part of our law, it is part of our tradition, and it has been accepted by the Supreme Court of Canada as part of what we do. This bill elevates deterrence and casts aside issues of rehabilitation and other principles of sentencing that go into an individualized sentence.

Fourth, this bill will incarcerate those individuals who we accept can be rehabilitated. There will be divergence of views as to what that proportion of individuals who get a minimum sentence can be rehabilitated. Is it 5%, 50%, or 95%? There would be great argument as to how many individuals could be rehabilitated who would face this sentence. But surely some will, and surely some will go to jail, and they will go into that training academy for a much longer period of time than they otherwise would have, when they were in fact individuals who could be rehabilitated by the proper exercise of principle.

My fifth point is that the courts of our land already have the laws necessary to deal with these issues. There is a four-year minimum that relates to the use of firearms. I read the transcript in which comments were made suggesting that people served simply months in jail. They don't. They get a four-year minimum in this country.

Sixth is the courts' use of the laws they have, and the courts are using these laws. I noted, from what Mr. Kramp said individually, the following comment from the Ontario Court of Appeal, August 25, 2005: "Death by firearms in public places in Toronto plague this city and must be deterred, denounced and stopped. Only the imposition of exemplary sentences will serve to deter criminals from arming themselves with handguns."

That's what our courts do. Our courts have heard the message and are taking steps to deal with this. We have one of the best judiciaries in the world, highly trained. In fact, they train the judiciary of other countries in the world. We have a judiciary that deserves our respect and ought to command our respect.

They do not ask for this legislation. They do not come forward in their judgments and say, "We are hamstrung in dealing with this issue". They belong to an independent judiciary that exercises its discretion. That discretion is fundamental to a system that operates on the basis of broad principles that apply to all cases.

● (1130)

Those are my six points. In closing, I say that if this bill is intended to serve as a clear message, it fails to do so. It sends a garbled message to those who are not listening anyway, and the message does not need to be delivered other than in the laws we have now. We have the laws to deal with these issues.

Thank you very much. I welcome your questions.

The Chair: Thank you, Mr. Brooks and Ms. Thomson.

We'll have Mr. Merrifield for seven minutes, please.

Mr. Rob Merrifield (Yellowhead, CPC): I want to thank you for coming in, all of you, actually, and for giving your perspectives on this situation. I've been impacted rather significantly, as Don Schiemann has. The incident he referred to, where his son was part of the tragedy, was in my riding. I know the situation very well, and I know the kind of dynamics that happen in a community in this kind of situation.

Mr. Brooks, when you say this bill sends a garbled message, I would suggest to you that what is happening in our community is a garbled message with regard to how the courts are applying the laws that you say are there.

First of all, I want to thank Don Schiemann for coming forward, because I know it's not easy for you to do so. I know this nation, from one side of it to the other, mourned with you and continues to do so. I want to thank you for what you're doing on behalf of Canadians. It's very important that you continue.

My first question is actually to Mr. Zaccor. I want to ask you, first of all, about the bill before this committee. It's not 10-20-Life; it's 5-10-15. What components are missing, or does it have what it needs to accomplish what you say has actually been accomplished in the state of Florida?

● (1135)

Mr. Stephen Zaccor: I don't know if we can say what's missing from the bill, but the crucial point is to let your citizens know of the law and that it will be imposed and that it is imposed. As Mr. Schiemann pointed out, using his experience at the airport and on the side of the road, the punishment that's never going to be imposed is a useless punishment. That's it exactly. It's a very true statement. The offenders must know that this is going to happen.

Mr. Brooks made a comment, and in part I agree with him, that this is going to be directed at those people who aren't listening anyway. If these people aren't listening anyway, then they're probably not good candidates for rehabilitation, and to keep the citizens of Canada safe they should probably be taken off the street for a lengthy period of time.

Mr. Rob Merrifield: This is something we wrestle with.

I suppose this is to Mr. Brooks. You say we have the laws in place right now. The judges are not calling for any stiffer laws. We can pull people off the streets. This bill would not be a deterrent. Yet there are two sides to it. One is whether it's a deterrent, and the other is whether we're going to have safer streets.

When I attended almost all of the memorial services from this tragic incident, I was talking with front-line RCMP who were telling me that they are more often becoming the targets of criminals, more often now than ever before. When a society loses the ability to protect itself from its own criminals, we're a society in serious danger. I have a difficult time hearing, in your message... Just because this isn't a deterrent, it doesn't necessarily mean that we shouldn't be protecting society from those individuals. If they're individuals who are using firearms in acts of crime, we should protect our society, should we not?

Mr. Adrian Brooks: Yes, and we do so already with the four-year minimum, which I emphasize to you is a significant deterrent. What we're talking about is whether we extend it longer than that. And to the extent that this might be called warehousing, to the extent that this might create people who are entrenched in the lifestyle they learn there, we are going backwards, not forwards.

Mr. Rob Merrifield: I'd just like to have Mr. Schiemann respond to that comment, reflecting on the incident with Mr. Roszko, somebody who had 44 different times been accused of crime and who had had 12 convictions, and whether the four years you say is there is actually something that happened.

I'd ask Mr. Schiemann to comment on those comments.

Rev. Don Schiemann: Certainly.

First of all, I want to apologize for getting a little emotional there. I don't want this committee to think that what we have brought forward as a family is a knee-jerk reaction that just responds from emotion. We take this thing quite seriously and have tried to think it out as best we can.

The prosecution history of James Roszko is available on the Alberta Justice web page. He was charged over 40 times and was convicted roughly 10 times. The crown prosecutor that reviewed the prosecution history of James Roszko indicated that the Crown had vigorously prosecuted Roszko, because they knew what a danger he was, but they seemed to have come up short in protecting society from Roszko, for two reasons. Number one is that there was not the kind of sentencing needed to keep him behind bars. Then it just seemed that in a couple of cases the judges really thwarted the efforts to try to control this man, and the case in point was the second sentence that was imposed on him, for the sexual assault charge.

To say that our judges are doing a good job is a pretty broad statement. The fact is that in some cases there needs to be some

limitations imposed, so that we can be assured of the quality of the jobs that the judges are doing.

• (1140)

Mr. Rob Merrifield: Don Schiemann doesn't live in the Mayerthorpe area; I do live in that area. The most horrendous stories weren't what you got from the courts, but what you got from the community, which was terrorized by an individual and afraid to say anything because of what the repercussions would be from that individual.

I'll say it again: when a society fails to protect itself from its criminals, society is in serious trouble. I believe that's where we're at in this country. That's why this bill has to be considered by everyone around this table in a very serious way. It is absolutely critical that we act and that we do something. It's not just one incident. This has also escalated, given what we're seeing in most of the urban settings or cities in this country, particularly in the Toronto area and the Edmonton area, and others.

The Chair: Mr. Merrifield, your time is up.

Mr. Rob Merrifield: I want to thank the witnesses for coming forward. I appreciate their coming.

The Chair: Thank you.

Mr. Schiemann, certainly your emotion is understandable and entirely justified. You don't have to apologize to us one little bit.

Mr. Lemay.

[*Translation*]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Mr. Schiemann, I'd like to welcome you here today. Just like the Chairman, I can understand your feelings. I've been a defence lawyer over the past 30 years. I've had to defend people who had criminal records and who have sometimes, I must admit, been released too soon.

I would like to ask you one question, ask the Canadian Bar Association another, make an observation for our representative from Florida, and then ask him one question. I'll ask my three questions and you answer them in order. That way I won't have to come back.

Mr. Schiemann, I see you've studied, analysed and pondered this matter over the past few years, more specifically during the terrible last year that you've been through. Don't you believe that in Canada the problem's not in our laws but in how they are enforced, in other words, in the sentences imposed by the courts? One day, when I was before the court trying to get a sentence reduced that I found too harsh, a learned judge of the Court of Appeal of Québec told me that if trial judges couldn't do their jobs, he would do his. Don't you believe that the real question is the work of the judges? I'm not saying they don't do their work properly; I wouldn't like to be misquoted. They should perhaps be given additional explanations and Crown Attorneys should provide them with complete information on the person coming before them who they have to sentence. We could perhaps avoid having mornings begin at 9:30 with six-month sentences and end around 12:20 with six-year sentences because the judge is tired of seeing burglaries, because today's his day for burglaries.

Mr. Zaccor, after the adoption of the 10-20 life principle, has there been more plea bargaining? I am speaking, of course, of agreements between prosecutors and lawyers. Have they increased? Have they remained the same? Has there been less plea bargaining?

My question for the Canadian Bar Association is this. On page 7 of the French version of your submission, we read that in your view sentences proposed by the Bill would be subject to challenge under section 12 of the *Canadian Charter of Rights and Freedoms*. Have you done more exhaustive research on the jurisprudence confirming this concept of challenges to Bill C-215?

• (1145)

[English]

Rev. Don Schiemann: Thank you.

As I understand your question you're asking whether the laws in place are not sufficient and if the problem is more with the judges. I think there is a difficulty with some of our judges. I do think, as I mentioned in my presentation, we need to limit judicial discretion in the area of sentencing within the bounds of the maximum but also with a minimum.

There is already of course a one- to four-year sentence mandatory minimum for commission of a crime involving a firearm. But given the danger that is involved in a crime when it is committed with a firearm, I think the mandatory minimum is far too low. It does not send a strong enough message that we, as Canadians, will not tolerate this kind of thing.

I think the people of Toronto are particularly aware of the need to do this. Even the people of Edmonton—proportionately we've had the same number of gun deaths as Toronto. The current laws, the current mandatory minimums, are not sending a significant enough message with respect to those kinds of crimes.

The Chair: Mr. Zaccor, do you have a comment on this question?

Mr. Stephen Zaccor: Yes. Regarding plea bargaining, in my jurisdiction there are two types of plea bargaining. The defendant is free to ask the judge and bypass my office, or they can try to negotiate with my office.

I don't have the numbers on this, so I can't give you statistics or percentages, but I can tell you that in my professional experience more offenders who qualify for youthful offender treatment plea bargain to avoid the 10-year minimum mandatory and to get that youthful offender-type treatment, which would be a maximum incarceration of six years in Florida and typically is not imposed for six years. Furthermore, it would be in a juvenile facility, not an adult facility.

I would say the plea bargaining with the state has become more uniform. Again, the offenders are treated equally regardless of where they come from or who they are or in what neighbourhood they committed the crime, because they're all facing that 10-year minimum mandatory penalty. That doesn't mean the defence bar doesn't still beg and plead and try to get my office to go below the 10-year minimum mandatory, but I would really say that imposing a negotiated plea between the state and the defence is about the same. In my jurisdiction, robberies with firearms, for instance, were typically treated pretty harshly anyway.

I'd say it probably reduced plea bargaining to the judge, because the judge cannot go below that 10-year minimum mandatory, unless of course, as I've already said, they qualify as a youthful offender. So as for the plea bargaining with the judges, I would probably say that's somewhat reduced, and I would say the numbers of actual trials have increased.

The Chair: Mr. Brooks.

Mr. Adrian Brooks: Thank you.

With respect to the issue of this bill running afoul of section 12 of the charter, the leading case with regard to the four-year minimum was *Morrissey*. That came as a result of divergent opinions across the country. Each province had individual fact patterns that were unique to that particular situation and led to a wide variety of opinions across the country as to whether a cookie-cutter approach to sentencing could apply to absolutely every circumstance. Eventually the Supreme Court of Canada said yes, it could, and upheld the four-year minimum. We know that the four-year minimum is constitutional, although we have in the past had a seven-year minimum with regard to drug importing struck down. So we know there are significant limits on how high a sentence can go.

And last, if I could refer to the general theme of the three questions as they relate to the issue of deterrence, I invite the committee members to look at the Florida Department of Corrections website, the section on 10-20-Life. There's a link to a 17-page article there about the sentencing of criminals to Florida's prisons. Please look at page 4 of 17. When you look at page 4 of 17, you will see that the admissions of individuals for sentences under the 10-20-Life law have remained the same. I suggest that the conclusion from this is clear. The deterrence message has not worked. The admissions are remaining consistent over time.

Thank you.

• (1150)

The Chair: Thank you, Mr. Brooks.

Mr. Comartin.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair.

I'm sorry, Mr. Brooks, I didn't understand that. Could you go back to it?

Mr. Adrian Brooks: Yes, I could.

I looked at the statistics from the Florida Department of Corrections web page in order to understand exactly what these statistics meant and to understand what I might be hearing from my friend. There is a page there that goes through the admissions of individuals. Now, if deterrence is working—

Mr. Joe Comartin: Can I just stop you there? When you say "admissions", you mean these are people who are being incarcerated.

Mr. Adrian Brooks: People who are going to jail.

Mr. Joe Comartin: Okay, and the absolute number has not changed.

Mr. Adrian Brooks: The admissions that occur each quarter of a year—and that's how they put them in.... And what I'm saying to you and to the committee is this: if the deterrence message gets out and people are learning the deterrence message, then they stop committing these crimes.

Mr. Joe Comartin: How far back did you go in that analysis?

Mr. Adrian Brooks: Their statistics start from when the law came into force—July 1999—and their statistics go up to June 2005.

Mr. Joe Comartin: I have some stats as well along the lines of what Mr. Zaccor referenced, and there was about a 30% drop in the actual commission of violent crime in Florida from 1995 to 2004. Those two chains don't seem to be flowing in the same direction.

Mr. Adrian Brooks: They do not. And I have been unable to follow my friend's course or explanation or background statistics that support his number, and I'm going solely by this one page I've referred to.

Mr. Joe Comartin: I just want to make a statement to you, Mr. Zaccor. I think you have to appreciate that when we take testimony from jurisdictions in the U.S., we come with some ingrained bias. The statistic I'm looking at, in terms of the rate of violent crime per 100,000—and this is after it's dropped over that roughly ten-year period—still shows a violent rate of crime that's four to five times what it is in our country. If we're looking for direction, we come with that bias. I would ask you if you could explain, if you understand what Mr. Brooks was saying and if you're aware of those numbers of admissions. They do appear to be inconsistent with this drop in the crime rate in Florida.

Mr. Stephen Zaccor: I think I understand his point. I can only explain it this way. Let me preface it by saying these are not my numbers; these are numbers of a report compiled by the Florida Department of Corrections. Apparently Mr. Brooks is relying on the same report. If I may look over at his book, I can see it's the same thing I have here.

What I can say—and this may sound strange at first, but once you think it through, I think you'll see my point—is that the crime rate, or number of crimes committed, doesn't necessarily correlate equally to admissions to prison. There are a lot of variables. Was an offender caught? Now, understand that when the crime rate is measured, every time a victim reports a crime, that is one crime committed. It's on the books. That doesn't mean someone was arrested. That doesn't mean someone was ultimately convicted by a jury. It doesn't mean someone was ultimately sent to prison.

Other variables come into play. You'll never have an equal correlation of crimes committed to admissions in Florida state prisons. If we were to do that, it would mean we would be the best prosecutor's office in the world and never lost a case. We would have the best police officers in the world who never made a mistake, or were always able to arrest an offender.

• (1155)

Mr. Joe Comartin: Can I ask two things, two more variables? One, there's already been a reference made—I don't know if it was by you or by Mr. Brooks—to the increased number of trials that we ended up with. I assume at least a certain number of those would end in acquittals—

Mr. Stephen Zaccor: Not my trials.

Mr. Joe Comartin: I was going to make some reference that you may want to come out and take some direction from our prosecutors, because our rate of conviction in Canada is actually significantly higher than that in the United States, but I won't say that.

That's certainly one of the additional variables. For the other one, I'll go back to Monsieur Lemay's comments about plea bargaining. Are we seeing plea bargaining, not specifically around the 10-20, but around the offence? You go in and you plead that you're prepared to plead to this so that you don't get caught under the 10-20 regime. Are we seeing an increase in pleas of that nature?

Mr. Stephen Zaccor: I can answer the second question first. We don't do that in my jurisdiction. If someone is arrested and charged with robbery with a firearm, there's no pre-filing or pre-indictment negotiation that says if you plead to strong-arm robbery, we won't put you under the 10-20-Life law. If an offender is arrested and convicted, it's been the intent of the legislature that they be prosecuted under the 10-20-Life law. Since our office's sole duty is to enforce that law, we don't make those choices. We charge them with what we have the evidence to prove; then we go to trial. Sometimes we lose, sometimes we win.

In our jurisdiction, it's not easy to win a jury trial. You have to prove to the exclusion of every reasonable doubt each element of the offence, and then, under the 10-20-Life scheme, whether or not they actually possessed a firearm or discharged a firearm. I live in a very liberal county, a county that isn't a big fan of police officers. To get a conviction at jury trial in front of a Broward County jury is an accomplishment. The fact that a jury finds someone not guilty certainly doesn't mean they didn't do it, it certainly doesn't mean that we didn't prove it; it just could have meant a social pardon, for lack of a better word.

Mr. Joe Comartin: Are there any stats on whether the ratio of acquittals has gone up since the 10-20 came in?

Mr. Stephen Zaccor: I don't have them with me. I probably could find them. I know our conviction rate is pretty good in Broward County. We're the second largest office in the States, second only to Dade County, which is Miami. I know we have one of the better conviction rates in the state. As for the numbers of jury trial convictions, in theory the 10-20-Life law should not affect a jury trial conviction in any way, shape, or form unless, because of our successful public information campaign, a juror knows about the 10-20-Life scheme. They're never informed that it is a 10-20-Life case. The jury never hears that. That's strictly a sentencing issue. The jury is instructed that sentencing issues are strictly for the judge.

Mr. Joe Comartin: But your advertising is pretty effective.

Mr. Stephen Zaccor: It's all over the place—every convenience store, every highway. It's everywhere.

Mr. Joe Comartin: I'm sorry, Mr. Schiemann, perhaps I can come back to you.

I know I've made this statement to you when we met earlier, a month or so ago. This committee was quite concerned. In fact, in the first meeting we had after the murders, there was some discussion about whether we should be doing anything. And one of the things was about an inquiry or investigation by this committee. We decided at that point to wait until we saw the outcome of the report from the Alberta jurisdiction. I have to say to you I'm not satisfied with the outcome of that report. I think there were points that were missed. And I understand from the families that they share this concern.

Have you actually called for a public inquiry, or a judicial inquiry, something along those lines?

Rev. Don Schiemann: No, we haven't. That's not to say we haven't thought about it. We've gotten so caught up in some of these other issues that we've decided that this is going to be our primary focus for now. But I think it's safe to say that I speak on behalf of all four of the families when I say that we have some concerns about the review by Alberta Justice, and that there are a number of unanswered questions that just leave us hanging. Perhaps that may be addressed when the criminal investigation is completed, and the fatality inquest.

• (1200)

The Chair: Mr. Comartin, would you like those statistics that Mr. Zaccor did not have available?

Mr. Joe Comartin: I actually was going to ask him if maybe there was a website that we could access.

Mr. Stephen Zaccor: Which statistics are we talking about?

Mr. Joe Comartin: The admissions one, and also the increase in trials, and the conviction rate or acquittal rate.

Mr. Stephen Zaccor: I can give you the Internet website address, if you'd like me to say that into the record, for what Mr. Brooks and I have been referring to, which is www.dc.state.fl.us/pub/10-20-life/index.html. And I can pass this around if anybody wants to....

Mr. Joe Comartin: If you would.

The Chair: Mr. Macklin, please.

Hon. Paul Harold Macklin (Northumberland—Quinte West, Lib.): Thank you very much.

Thank you, witnesses, for being with us.

I think clearly all of us are interested in looking at and trying to determine ways of making our streets safer and making our communities safer. I noticed as you spoke about the issue collectively, that clearly the concept of education seems to play a role within this piece. And it doesn't seem to be something that this bill necessarily reflects or represents, but I would like to get from each of you what you believe education should be doing, and for that matter what the government should be doing in terms of educating.

If your theory is right, that education is a component that is important in the deterrence process, in other words, educating what the penalties could be and that entire process, I'd like to know what you would suggest to make our legal system more effective from an education point of view—starting with you, Mr. Schiemann, please.

Rev. Don Schiemann: Sure. I think mandatory minimums provide a tremendous opportunity for education. Mr. Zaccor referred to the posters in the 7-Eleven kinds of stores, the billboards and so on. Was it "Use a gun and you're done"?

Mr. Stephen Zaccor: Yes.

Rev. Don Schiemann: It's a pretty straightforward message.

I think the education, though, comes into play primarily with an individual who has already served time, served a mandatory minimum sentence, for a gun-related crime. It's a very strong message that this time he has spent in prison will be repeated if he decides to repeat the offence.

The other area of education that I think is very important to consider is this. A number of references have been made to rehabilitation. In speaking with corrections officers, I've found that they say the kind of sentences that by and large are meted out today by the courts, even in the case of a one- or four-year term for commission of a crime with a firearm, is so minimal as to not be able to provide the necessary time for rehabilitation. So if we assume that a very important component of rehabilitation is education, then mandatory minimum does provide the time for a more effective rehabilitation and education program.

Hon. Paul Harold Macklin: Mr. Zaccor.

Mr. Stephen Zaccor: When you say "education", I presume you mean educating the public about the law.

Hon. Paul Harold Macklin: Yes, and how you believe the public should be educated about the law.

Mr. Stephen Zaccor: All I can really say is that a massive public information campaign would be appropriate. Some of the things that have been done in some of those smaller jurisdictions, the more rural jurisdictions in my state—not necessarily in my jurisdiction, because we're a fairly large jurisdiction—include prosecutors going out with armed police officers or investigators to the homes of recently released offenders and saying, “Hi, my name is Stephen Zaccor, I'm a prosecutor in your jurisdiction, and you need to know that if you commit a crime and you use a gun, you're done”. We basically let them know the law face to face, with a handshake.

I also know that offenders, when being released from prison, are basically given a “Welcome back to the real world” kind of packet. Part of that is letting them know about the 10-20-Life law. We also have another law that overlaps somewhat with the 10-20-Life law, called the prison releasee reoffender law. That law is also explained to the offender who is about to be released.

So it's anything you can to inform the public—everybody, not just the public or the potential offender, although that certainly is a large part of it. Another part of it is your future victim, so that if they are, unfortunately, victimized, they have the confidence in the system that their participation would be worthwhile.

• (1205)

The Chair: Mr. Brooks.

Mr. Adrian Brooks: Thank you.

I would add that the law provides for victims to speak in court in a way that traditionally they hadn't been allowed to. I can tell you, the impact of victims coming into court and saying what they have to say to the judge and to the offender is significant. I have been there, I have seen the emotion, I have seen the power brought into a courtroom by that.

So that is something that serves a very significant educational aspect. It tells us that what victims have to say is important and significant, and that message going into our communities is something that is going to serve that educational role. For the communities to hear the suffering that the victims have had is extremely significant, and would serve an extremely significant educational role. Of course, there have been steps made on restorative justice on that front as well with regard to victims and offenders. Those measures, too, serve an important educational function.

Hon. Paul Harold Macklin: Thank you.

On another topic, the topic of recidivism, Mr. Zaccor, have you any recent studies on recidivism as it relates to the individuals, or is it premature, based on the time your law has been in force, to know whether in fact this is having an effect in the longer term?

Mr. Stephen Zaccor: It probably is too soon. The law went into effect July 1, 1999, so anyone who received a 10-year minimum mandatory sentence or higher is still there.

Part of our 10-20-Life law, although it's not part of the title, is a three-year minimum mandatory for two offences. It falls under the 10-20-Life law, but obviously it doesn't fit with the name. I guess “3-10-20-Life law” was just too cumbersome to advertise.

Possession of a firearm by a convicted felon carries a three-year minimum mandatory, and aggravated assault with a firearm carries a three-year minimum mandatory. Those people, in theory, could be out before some of the earlier people who were sentenced under the three-year minimum mandatory sentence, but the thing to realize is that the three-year minimum mandatory, the 10-year minimum mandatory, are bottoms. For instance, robbery with a firearm in the state of Florida is a first-degree felony punishable by life. So an offender could get a life sentence with a 10-year minimum mandatory. Possession of a firearm by a convicted felon could get 15 years, with a three-year minimum mandatory.

So I think it's probably premature to have those statistics. We could probably get some of those statistics regarding the three-year minimum mandatories. That's one of the larger populations in terms of prison inmates. I don't have any hard numbers on recidivism.

The Chair: Mr. Warawa.

Mr. Mark Warawa (Langley, CPC): Thank you, Mr. Chair. Thank you to the witnesses for being here today.

Mr. Schiemann, I'd like to start with you and thank you for your thoughtful presentation and for not giving up and for fighting for a safer Canada. I thank you for the sacrifice your family has made.

I found your examples practical. My wife and I have five children. We had a van and made many trips in it and I could relate. I've found that what you say you have to carry out. Otherwise, the children quickly will not believe, then they very quickly will find that...and you shared about the minister sharing the principle of denunciation and, basically, the minimum.... The child has to know what the consequences will be. As adults, the same principle applies. We have to know what the consequences will be.

Mr. Brooks talked about a confusing message. I believe what you've shared exists in Canada right now; there is a confusing message and we need to fix that. It's part of why the system is broken. People don't know what the consequences will be, and Bill C-215 will clearly provide that. We heard from Mr. Brooks that it would be confusing and—what was his comment?—“sends a garbled message”. I believe Bill C-215 will clarify.

Mr. Zaccor, I have a question for you on your crime rates. You said that the crime rate went down 33%. Last Thursday we heard from a statistician who showed the crime rate in Canada over the last number of years. Those stats were per 100,000 population. Over the last number of years, offences with guns seems to be pretty consistent in Canada, if you use per 100,000 population. But if you compare the actual number of offences with the growth of population, you will see the numbers have doubled over the last 10 years.

If I'm living in neighbourhood *x*, you will see I'm going to be impacted by hearing a lot more gunfire in Canada now than I did 10 years ago, because of the actual numbers. So we have to be very careful with how we use statistics.

You said the crime rate went down 33%. Are you using actual numbers of offences or convictions, or is it per 100,000 population?

• (1210)

Mr. Stephen Zaccor: I'm relying specifically on.... Speaking of garbled messages, I guess that website I read into the record before doesn't qualify; it simply says—I can obviously share this with everybody—in the six-year period of 1998 through 2004, which they're calling the 10-20-Life period, violent gun crime rates have decreased 30%, and overall, our indexed crime rate is the lowest in 34 years and our violent crime rate is the lowest in 26 years, keeping in mind the somewhat massive increase in the state of Florida's population.

Mr. Mark Warawa: Okay. Thank you for being here today.

Mr. Brooks, I have a question for you. You commented that Bill C-215 will not create safer communities. The recidivism rate goes up when offenders go to prison. Also in your brief I think there was a comment about that.

My question is, what happens when somebody goes to prison? I actually heard reasons for not sending someone to prison. They may have an offender with a lengthy criminal record who has gone to prison. The justification for not sending them to prison for subsequent offences is, well, prison doesn't work for that person. I have difficulty with that logic. If the person continues to be a serious threat to communities, why not send them to prison? Well, prison didn't work for that individual.

My question relates to your comment that recidivism goes up when offenders go to prison. Maybe we need to fix how prison works.

I've visited a number of prisons. In some cases, or in the cases that I saw, the prisons looked very comfortable. There was no motivation, really, to seek therapy for the issues that they may be dealing with so that when they are released, at warrant expiry or when it's statutory release time, they don't present a serious problem. Also, when they are released into our communities, that warrant expiry does not exist. There is no support system. Maybe prisons need to change—how we send people to prison—so that if Bill C-215 does become law, when they go to prison and are released in 10 years, 20 years, or whenever it is, they no longer present a risk to our communities.

I would like you to comment on that: recidivism goes up when offenders go to prison. How can we fix that and make prisons a better place, where people will become safer and their issues will be dealt with?

Mr. Adrian Brooks: Thank you very much for that question.

I raised the issue of recidivism, and it appears from what was said earlier by Mr. Daubney from the Department of Justice...he made reference to a 2002 Solicitor General of Canada examination of 111 studies. That's where that comes from. It was found at page 21 of the transcript that I looked at, so that's where I got that from.

I would like to come more directly to your issue of prisons. The issue of prisons is a difficult one; there's no question about that. I would like to share this experience for your consideration. Certainly when people go into prison...the prison programs, in my experience, are all full. If you want to get into a program right after you've received your sentence, it's very difficult to do, because they say, "No, we have other people to come first. We'll wait until later in your sentence", by which time the motivation to change has died because you're getting near the end of your sentence. The resources inside the jails to make it a true place of rehabilitation and to give it that real opportunity are absolutely fundamental. They're overburdened now. They don't exist now.

• (1215)

Mr. Mark Warawa: Are you suggesting that resources are too limited within the prison environment?

Mr. Adrian Brooks: That's exactly what I'm saying.

The Chair: Mr. Warawa, thank you.

Mr. Marceau.

[*Translation*]

Mr. Richard Marceau (Charlesbourg—Haute-Saint-Charles, BQ): Thank you very much, Mr. Chairman. I apologize to the witnesses for arriving a bit late. I had some urgent matters to deal with. I thank you for your presentations.

My first question is for Mr. Zaccor. Last week, Statistics Canada gave a presentation on the rate of homicides committed using firearms in certain countries. We were given a comparison between the United States, represented by a blue line, and Canada, represented by a red line. We could see that the rate in the United States is much higher than in Canada. However, we note that there has been a marked decrease beginning in 1993 in the rate of homicides committed using a firearm in the United States, although it seems to have plateaued since 2000.

How do you explain this decrease? Have laws like those adopted in Florida been adopted throughout the United States? Is it primarily, or exclusively, because of these laws that we saw a certain decrease in the late 1990s?

[*English*]

Mr. Stephen Zaccor: Your question, I understand, is for the entire United States. That's tough. In our 50 states we have 50 different sets of laws. Florida was the first to impose a 10-20-Life type of program. My understanding is that California, which probably has the largest population in our country, attempted to pass a similar law, but I'm not sure if they were successful.

As to the decrease in the crime rate across the United States, there are a lot of variables, and that would really be beyond my expertise.

As for the state of Florida, I can only say that 10-20-Life is a part of the decrease in the violent armed criminal population terrorizing the innocent civilians of our state. It's not the only thing; it's by no means a magic pill, but several other initiatives were imposed around the same time as 10-20-Life, and collectively they all seem to be working well.

[Translation]

Mr. Richard Marceau: Do you have anything similar for edged weapons such as knives? Again according to Statistics Canada, the percentage of violent crimes—attempted murder, sexual assault, homicides, assault, robbery or abductions—committed using edged weapons is much higher than for violent crimes committed using firearms. At the present time, do you have a similar law for edged weapons? If not, are there discussions about adopting one?

[English]

Mr. Stephen Zaccor: There are no minimum mandatory penalties on the books for the use of weapons other than firearms. It has been Florida law for a very long time that if you commit a robbery or a burglary and you use a deadly weapon—and the deadly weapon could be a knife, gun, or really anything one might use as a deadly weapon—the degree of the crime increases. So if burglary is a second-degree felony and you use a knife, it can become a first-degree felony. That potentially increases your exposure to a longer prison term, but it does in no way, shape, or form impose a minimum mandatory. I know of no legislation on the books to impose a minimum mandatory for weapons other than firearms.

[Translation]

Mr. Richard Marceau: Does anyone else wish to reply to these two questions?

I direct my question to the Canadian Bar Association. I would like you to explain to me what motivates your organization's visceral reaction against any form of minimum sentence. Parliamentarians often say they are very worried. Increasing maximum sentences has had no effect on the sentences actually imposed. This sometimes leads them—it happened in the case of Bill C-2 as you know—to tell themselves it's no use increasing maximum sentences and it would be better to impose a minimum sentence in order to show as clearly as possible that they are dissatisfied with the sentences being imposed in certain cases. Is your denunciation of minimum sentences intended to be general or particular to this case?

• (1220)

[English]

Mr. Adrian Brooks: My recollection of CBA policy is that they have supported the drinking and driving minimum punishments. I hope I'm right about that; I think I am. It's directed more specifically to this and to the amount of time an individual is going to be in custody. They are going to be in custody for many years, and that has a significant negative impact on those who can be rehabilitated and who, we all agree, might well be rehabilitated. That is the reason for the reaction.

[Translation]

Mr. Richard Marceau: Thank you.

I would like to ask one final question. I come back to you, Mr. Zaccor. I don't think you have these numbers, but I would like you to

tell us how to find them. What percentage of the State of Florida's budget is devoted to the prison environment? Then, since the adoption of the 10-20 life principle, has there been a significant percentage increase in the prison environment budget? And if so, what is this percentage?

[English]

Mr. Stephen Zaccor: I do not have the numbers. I do know that since 10-20-Life came in, the Governor of Florida has supported increases for the corrections area in the state budget. I can't give you specific numbers. I do know that at one point my office and my fellow prosecutors were a little disappointed there wasn't a little bit more money in the budget for us, but it did go to corrections—and it was needed.

You should be able to find that very easily, I would think. Florida has some very open government laws and a very good website, myflorida.com, which is where you'll find what we spoke about earlier. That should be easily accessible.

[Translation]

Mr. Richard Marceau: Thank you.

Mr. Chairman, could you have these numbers sent to me through the research service?

[English]

The Chair: Yes.

Mr. Richard Marceau: Merci.

The Chair: Ms. Sgro.

Hon. Judy Sgro (York West, Lib.): Thank you.

I don't know where to start, but let me initially say to Mr. Schiemann I was at the funeral and you have my deepest sympathy. My family has experienced two separate incidents of this kind of thing, so I understand all too well. Yes, I would throw away the keys and never let them out again.

I am interested in what Mr. Zaccor has said as well as what the representatives of the Canadian Bar Association have said. I'm looking at your numbers, though, Mr. Zaccor, and the reality has to be that to some degree, if you have a 24% decrease, the demographics in Florida are clearly changing. I would tend to think that would also give you a decrease in the numbers.

But the question is this. I may have my philosophy of "lock 'em up and throw away the key", but the point is that after 10 years they are going to get out. There may be some hope of their being different and leading the kind of life we would like them to lead, but everything seems to show us that 10 years of living in one of these jails just hardens them and makes them come out worse than when they went in.

What are you seeing? Of course, you won't have seen any of that in particular yet, but is that not part of a concern you might have in attempting to achieve the safer community, which is what we all want?

Mr. Stephen Zaccor: The way our system is set up, I don't have the luxury of being concerned. It's the law on the books and I must enforce it. That's the oath I swear when I take my office.

As to personal concern, there seems to be a core difference. People are either the "lock 'em up and throw away the key" type or the "we can save everybody" type. Maybe somewhere in the middle is the right place to be, but there comes a point in time.... I as a public servant have a job to serve the public, and if serving the public means locking one person away for a long time to keep the rest of us safe, then that's an easy fallback position for me.

If Mr. Roszko had been treated appropriately, Mr. Schiemann would have his son.

• (1225)

Hon. Judy Sgro: You talk about going into the 7-Eleven and seeing the sign "Use a gun and you're done". That's just great messaging, and congratulations on your campaign.

Mr. Stephen Zaccor: I can't take credit for it, but I'll pass it on.

Hon. Judy Sgro: But if you look at who's doing this, who do you see as the criminals out there? A lot of them know they run the risk and a lot of them know they've got a big chance of getting caught, but guns are just part of the accepted usage and mentality in many of these places. Do you really think some of these people think about it?

Forget the domestic violence; that's a different issue. A lot of these folks who are using guns know darn well, whether it's in the U.S....

We've got a four-year minimum here, mandatory. In Canada a lot of it is about the application of the law, I think, more so than anything else. We do have laws on the books; it's a question of getting our judicial system to apply them to the extent Mr. Schiemann and I clearly would like them to be applied.

But if the guy is going to shoot someone and he has a gun in his pocket, is he going to care, really? If he reaches that point in a robbery, is he going to decide not to use a gun just because you've attempted to educate everyone on what the 10-20 means?

Mr. Stephen Zaccor: Obviously there are those people. Those are the people who can't be rehabilitated and who aren't going to be affected by this message, and those are the people who should be put away for 10 years at a minimum, probably longer.

I've seen it myself in police reports—if it wasn't so tragic it would be funny—where an offender who was caught after committing a robbery with a BB gun but a BB gun that looks like a .45 calibre tells the police officer he wasn't going to use a gun because there's that 10-20-Life law. They're aware of it and they still commit the crime.

There are those people, and no law or social program will do away with that. Those are the people who prey on the innocent citizens, and those are the people we need to protect society from.

Hon. Judy Sgro: To Mr. Brooks or Ms. Thomson, the frustration on this end—I should just speak for myself, I guess—is the application of the law. I have been told on and on in time that we have the laws but it's a question of getting the judicial system to work. In both of the incidents regarding my family, neither one of them worked sufficiently to make me feel our judicial system acted appropriately.

How do we get messages out there to the judicial system that we want less plea bargaining? Is it the crown attorneys who are the problem, or is it the justice system and that there's just an overwhelming amount, or are they insufficiently resourced?

Mr. Adrian Brooks: There's no question that the courts do take seriously these kinds of events. That's why I read that particular quote. The idea that the judges are completely out of touch with everything happening in the country is taking it too far.

Bringing the applicability of the sentences more in touch with the concerns of the community is a function of resourcing for prosecutors in order that they are able to bring before the court the statistics that show the prevalence of crime and of a particular crime in a particular community. In my experience, that is rarely done, and that has to be an issue of resources for hard-working prosecutors.

Hon. Judy Sgro: The issue of discretion is important here, and that's really at the heart of a fixed term. The judges just seem to be using too much discretion in an effort to keep people out of the correctional institutes.

I represent an area that has a lot of gun crime. It's very discouraging when you continue to see people get out or released on house arrest. When they turned around the day before and tried to rob somebody, they were put on house arrest rather than being kept in. At least keep them in until you get to the trial.

It seems like there are an awful lot of these young people—and I'll say they're young even though they may not deserve that title—who seem to be just getting out on house arrest, so the witnesses who would have given testimony, of course, are clearly terrified. We lose any support in the community by releasing these people on house arrest until their trial comes up.

How do we influence that when we don't want it to happen? How are we going to get these people to come out and be witnesses if, when they know darn well who the shooters are in these neighbourhoods, they're in fear for their own lives if we go ahead and get the guy arrested and he's released on bail the next day?

• (1230)

Mr. Adrian Brooks: If an individual is released on bail, it is as a result of satisfying a judge about certain facts that would allow that person to be on bail. Certainly, contact with witnesses is one of the criteria that keep individuals in jail on a regular basis. For a serious gun crime, bail is looked at very seriously by all judges across this country.

Is it something about which prosecutors need to bring the information to judges so that they know there have been problems with witnesses that relate to this accused? Yes, that's the information that will make the difference.

The Chair: Thank you, Mr. Brooks.

Mr. Thompson, please.

Mr. Myron Thompson (Wild Rose, CPC): Thank you, and welcome to all of you.

Mr. Schiemann, I just can't tell you how much I appreciate your words. I agree with everything you've said 100%. I wish you well in your endeavour. If there's anything I can do to enhance that, please let me know.

Welcome to Canada, Mr. Zaccor. This must be fairly interesting to you, because I have been in that country a few times and I know the difference in philosophy, or whatever you want to call it.

In Florida, does this 10-20-Life law apply to an age limit? Is there a minimum age?

Mr. Stephen Zaccor: No. Anybody we choose to prosecute as an adult could be subject to this law. The only time age comes into play is if the offender has committed the crime prior to his 21st birthday. The judge would then have the discretion to declare him a "youthful offender"—which is a term of ours—and not impose the 10-20 or 25-to-life minimum mandatory.

Mr. Myron Thompson: What about knives? Is there any difference in the fact that the weapon might be a knife?

Mr. Stephen Zaccor: From the victim's perspective, obviously no. I think they'd be just as terrified. But the only law that has been passed has been for firearms. I think firearms are inherently more dangerous because they can do damage from distance, so that's why they were targeted.

I do not know why the Florida legislature chose to eliminate knives from 10-20-Life law, although I do know that at the time, kind of like what I'm seeing here, firearm crimes were a hot topic.

Mr. Myron Thompson: You are pretty familiar, then, with what's happening in some of our cities in this country, particularly Toronto, because it's been in the front-page news. Do you honestly believe that your 10-20-Life rule, if it were brought into effect in the Toronto region, would have the kind of effect we would want it to have?

Mr. Stephen Zaccor: Well, I think, first of all, it has a specific deterrent effect, in that it will get an individual violent offender off the street for a period of time, and at least keep the community safe from that individual. I think there will also a spillover effect by way of....

I saw a horrible story on the news last night. Apparently, some young man was killed by a gun, and then at his funeral an attendee was killed by gunfire. I don't know anything more about it than that, but it was just a horrible story.

Once the community—and this is where the public information campaign comes in—is made aware, and especially when the gangs start to see their friends go away for long periods of time....

There's always a debate as to whether or not a minimum mandatory penalty will be a deterrent; there's no doubt about that.

Certainly, sending someone into prison for six months and then home is not a deterrent to committing a violent offence. So I can only think that it will have a positive effect on the gun violence in your cities.

Mr. Myron Thompson: Thank you.

I certainly agree with your words in regard to consistency. I think it's extremely important that we take into consideration that there be some consistency in what happens, regardless of what the Bar Association said in regards to different ethnic groups. They seemed to allude to a point that there should be a difference based on some other factors of race or ethnicity, or whatever these might be. I think it's a shame that they would mention these. In my view, a criminal's a criminal and a victim's a victim. We can't look at these factors; it's not an issue what particular values they believe in, or what particular backgrounds they have. But that's my opinion.

To the Bar Association, I want to perfectly frank with you. I hope you don't take these comments as being derogatory in any way, but honestly, I've been in this Parliament for 12 years and with the justice committee for the last 12 years, and if I walked into any Tim Hortons or any coffee shop in Canada and said we have the best justice system in the world, I'd be the laughingstock of that café for the moment. I do not believe that ordinary Joe and Mary Canadian believe that at all. We hear these comments from people like you, but I can assure you that the public does not agree with you.

Mr. Warawa brought out a very important point. When we have zero tolerance for drugs in our penitentiaries and we all know drugs are a major problem, there's something wrong. When guards and witnesses have indicated to this committee in the past that gangs operating in the penitentiaries are an extremely serious problem to our justice system as a whole, and we're not doing anything about it, there's a very serious problem.

I really take offence to this idea that we have the best judicial system you could ever believe in, as projected by the bar, when I do not believe Canadians would go with that statement whatsoever. If you care to prove me wrong, please do so.

These victims groups have had thousands of members over the years. There was CRY under Chuck Cadman—we all remember that—and Priscilla de Villiers, and thousands and thousands of people have worked with victims of crime all across the country over these 12 years. Yet if the people of Canada are happy with the judicial system, why are there so many organizations trying to get changes? Why do we constantly insist that we have the best judicial system in the world? I'm really mind-boggled by that.

● (1235)

Mr. Adrian Brooks: Well, we'll have to meet at the Tim Hortons and argue it out.

Mr. Myron Thompson: I wouldn't advise you to do that in some places.

Mr. Adrian Brooks: My point of view, which I just want to leave with you, is that, yes, there are tragic circumstances and there are individual circumstances that are terrible. There are ones in which an argument can be made that justice was not done, but they come in situations in which there should be an appeal in which all of the facts should be brought out and an analysis done, in order to make sure that it doesn't happen again.

It will not be perfect every time, and it can't be perfect every time, but if we operate on the basis of the proper principles and operate in a principled way, we're more likely to get to the right conclusion.

Mr. Myron Thompson: I guess I'm just going to have to ask you why we know of very effective penitentiaries with stringent rules from 6 o'clock in the morning till 9 o'clock at night, and programs, education, and all of that—not in Canada that I know of, but in Cottonwood, Idaho, where I've been and spent a week—with phenomenal results in regards to recidivism, whereas in this country, even the guards and the wardens in the penitentiaries that I've visited over these twelve years have said they are seeing far too many people returning to the penitentiaries? They're in and out, in and out, and back.

The recidivism is not projected properly, or something like that, in accordance to what they tell you at these sites. I'd like to know why that difference exists.

The Chair: That's the last question.

Mr. Adrian Brooks: I don't disagree with you that we have many things to learn in how to properly rehabilitate people and how to do that. We do have things to learn, and we ought to learn from them; there's no question about that or disagreement with that idea.

The Chair: Thank you.

Borys, please.

Mr. Borys Wrzesnewskij (Etobicoke Centre, Lib.): Thank you, Mr. Chair.

I'd like to express my condolences to Mr. Schiemann.

I'd also like to thank you and your families for the courage that you displayed since that tragic occurrence.

I'd like to turn to Mr. Brooks. Unfortunately, because of time limitations, I'll go through 10 points, after having taken a look at the analysis and commentary that you provided. Perhaps you may choose several of those to address at the end.

In your analysis, you raised four issues and you numbered them.

One is that mandatory minimum penalties do not advance the goal of deterrence, and you referred to international social science research. My problem is that you're dealing with very different cultural environments. Most of the research is from the United States, and I'm not convinced that cultural environment and the conclusions arrived at from that research would necessarily apply here. Secondly, the Minister of Justice has in fact said that when you look at the research dealing with gun crimes, it is ambivalent. It doesn't necessarily seem to point in one direction or another, and we're dealing with gun crimes here.

Your second point is that mandatory minimum penalties do not target the most egregious or dangerous offenders. I would think that

anyone with a gun should be defined as someone who is egregious and dangerous. That's exactly what we're trying to do here. I don't understand the logic of this assumption that mandatory minimum penalties do not target the most egregious or dangerous offenders.

Your third point is that mandatory minimum penalties have a disproportionate impact on minority groups that already suffer from poverty and deprivation. If you travel into these at-risk neighbourhoods—and I spend a great deal of time there—by not removing the threats and the people involved in crimes and violent crimes in those neighbourhoods, you are in fact ghettoizing those neighbourhoods. They do in fact have an impact on those minorities and a lot of the newer immigrant communities in Canada. By not removing them, you're victimizing those groups. By not removing the threats from those neighbourhoods, you're making victims of those minority groups.

Your fourth point is that mandatory minimum penalties subvert important aspects of Canada's sentencing regime, including individualization and the discretion of the judges. Well, no, we're in fact providing a minimum, and there is a maximum. There's a discretion that the judge can use within those boundaries. The judge will have discretion.

On some of the points you raised, you said that criminals learn to become entrenched criminals in prison. If you extrapolate that logic, you could say that we shouldn't send anyone to prison. If it's an environment that's going to increase the level of criminality, we shouldn't in fact send anyone, if you follow that rationale. I think statistics will show that people who get involved in criminality progress over the years to the level of criminality in which they'll involve themselves. That's the vast majority; it's obviously not all of them.

You then said that the lack of a deterrent is because they do not think they will be caught. Your exact words were: "They do not think they will be caught". They don't think they'll be caught, because they know that witnesses in their communities are intimidated and won't step forward.

Toronto is a perfect example of that. Witnesses do not step forward. There were plenty of witnesses to the shooting of the 17-year-old over a week ago, or the 18-year-old, but they will not step forward. One of the reasons is that they know they won't be caught. People are intimidated and won't step forward, because they know these people won't be removed from their communities.

On the minimum of four years, you say we already have a four-year minimum. There is plea bargaining. There's also a situation where you have this whole two-for-one formula of incarceration, pre-trial and remand. In Toronto we're sometimes hitting three-for-one. In fact, four years does not mean four years. You spend over a year in prison, you've been convicted, and you're back out on the street.

• (1240)

I'm glad you actually pulled out the statistic that in Florida the conviction rate has been flat. What you did in fact was demonstrate the effectiveness—and there may be other factors—of that particular law. If there are 30% fewer crimes of that nature being committed, yet you have the same level of convictions, that's a factor of 1.43—a 43% increase in convictions. You factor in the 16% increase in population, and that turns out to be a factor of 1.6588, or a 66% increase in convictions, when you relate it back to the number of crimes committed.

What that tells me is that witnesses are more forthcoming, and that because there's a lower level of crime, the police can more effectively do their job in terms of identifying those criminals and bringing them to justice.

Those are 10 points relating to the analysis you provided and some of the statements you made. Pick and choose the ones you'd like to address.

Thank you.

• (1245)

Mr. Adrian Brooks: Thank you. I hope I hit the ones that are most important to you.

With regard to the Florida statistics, the idea of deterrence is that people will learn there is a more serious sentence and will change their behaviour accordingly because of it. What we have—by the statistics I have quoted—is the following statement: the admissions trend for the 25-to-life mandatory sentences continues to increase. That is to say, people are going in at a greater number under the auspices of the 25-to-life mandatory sentence. If they were getting the message, those numbers would go down. They're not; they're going up.

With regard to the logic, you indicated as well that if prison is a bad place we shouldn't incarcerate anyone. Clearly, that isn't the position that's being taken here. It is an acceptance that there is going to be incarceration and that the courts are going to step in at times—as they are doing in Toronto right now, I would respectfully suggest—to say that gun crimes are going to be punished much more harshly. That is the sentencing regime we are speaking in favour of.

The reference to minority groups was simply that people who are in the poorer segments of society and those who are unrepresented when they come to court because of failures of the legal system are the persons who bear the brunt of sentences much more harshly.

As to whether social science research applies here when it's done on an international basis.... It certainly would be preferable to have our own research in Canada, and at this stage I'm not aware of any. But at the same time, that doesn't mean we should cast aside the social science research from other countries. It is thorough, it is well reasoned, and it is done by some of the most respected people in the social science field.

Those are my comments.

The Chair: Thank you, Mr. Brooks.

Mr. Breitkreuz, please.

Mr. Garry Breitkreuz (Yorkton—Melville, CPC): Thank you very much.

I also appreciate all the testimony we've heard here today.

As I reflect on the contrast between Mr. Schiemann, Mr. Zaccor, and the Canadian Bar Association, I can't help but point out that public perception of our justice system is essential in maintaining law and order and public safety. That's where I see a real contrast between our witnesses. On the one hand you're concerned with that public perception, and on the other hand there seems to be a focus on individuality and rehabilitation.

I believe laws don't have a deterring effect unless they are seen to be effectively enforced. Mr. Schiemann, as you travel around—and I suspect you have done a considerable amount of that—could you describe how your message is received by the general public? Do they perceive that our laws are effectively deterring these...? Could you just reflect on that premise that I came up with?

Rev. Don Schiemann: That's a very important question to ask. When you're dealing with the general public, you're dealing with the people who have to live under the laws, people who sometimes are the victims, sometimes people who cross the line and break the law.

What I like about this legislation is that it's what I would call contextual. It's a private member's bill. The private member is a former police officer.

Any police officer I've spoken to is fully supportive of this bill. I have yet to run into any John Q. Public who says this goes beyond the limit of reason and compassion. I think that's very important to note. There are people—and I can kind of understand their perspective—who would want to lock them up and throw away the key. I never had to deal with that, because Mr. Roszko killed himself. So I didn't have to think about him. But so many people who have been victimized by a criminal get the sense that the focus is primarily on the welfare of the criminal rather than on justice being served on behalf of the victim.

So I think the general public views it as a real imbalance in our justice system. That's number one.

Number two, in talking with John Q. Public, I've found there's no credibility with the justice system, by and large. I've used the case in point with James Roszko, but you can point to one after another after another, and people just kind of shake their heads and wonder; if the laws are in place and if the laws were applied effectively, we wouldn't have some of the problems. The fact is that the laws are not being effectively applied and there are major gaps in the laws, and we need to strengthen them and properly resource the justice system. That's the message I get, time and time again. I have yet to run into anybody who says that what we as the four families are suggesting is unreasonable.

I think a lot of the legislation needs to be more contextual. Personally, I believe if we rode along with a police officer for a month, we'd get a better sense of how the laws need to be written.

•(1250)

Mr. Garry Breitreuz: Thank you. I think that's a good summary that we need to take as we leave this meeting.

Mr. Zaccor, is there not more accountability in the Florida justice system? It seems that we have a huge problem in Canada, as you're beginning to sense as you're here. Don't judges need to send a message to the public that criminals are being taken off the streets?

How do we get the courts to send that message? I don't know why they're not doing it here in Canada. I looked at the headlines; the police are upset in Toronto. According to this, a policeman said it's really the sentencing that is disappointing from the police perspective. We have people in Toronto calling and asking for the army to come in, to step in now with what's happening.

People are not coming forward. They're not being witnesses, because people aren't ending up in jail. We have a real problem in Canada. How did you reverse that in Florida?

Mr. Stephen Zaccor: The biggest fear any judge in my jurisdiction, and probably in any jurisdiction in the state of Florida, has is being perceived as soft on crime. Our trial court judges are elected by the public. In some cases they're appointed by the governor, but ultimately they will all have to answer to the people—not that our judicial elections are perfect, but there is a large perception amongst the jurists that they do not want to be soft on crime. So that has a driving factor in controlling our judges.

I'm in the courtroom every day. I'm not out on the street with the police officers. I work with them hand in hand, and they love this law. They love it for a variety of reasons, but the two most important are that, one, they feel that their efforts are worth it, that they're getting the bad guy off the street; and two, it's making the community that they patrol safer because that bad individual is taken off the street.

That's what I can tell you.

Mr. Garry Breitreuz: So there is more accountability.

Mr. Stephen Zaccor: Absolutely. No doubt.

The Chair: Thank you, Mr. Breitreuz.

Mr. Comartin, if you have time for one penetrating question, we'll allow it to proceed, as long as there's a quick response.

Mr. Joe Comartin: Mr. Brooks, this legislation is clearly going to be challenged if it stays the way it is. We're looking at ways of insulating. There are some proposed amendments to reduce some of the more severe parts of the penalty, especially the one with the add-on in the life sentence, so that's coming.

One of the proposals I had made is to include a sunset law, probably five years, in a way of being able to say, ultimately, if it goes all the way to the Supreme Court, that we had a major problem in our society, much as we did with impaired driving, we imposed the minimum mandatory, and there, you accepted that. Would a sunset clause add some weight to the argument to ultimately convince our courts that this is not offensive to the charter?

Mr. Adrian Brooks: A sunset clause would be extremely unusual. That there would be such a sunset clause is a rare thing in legislation. Might it help an argument to support the constitu-

tionality of such a law? It might help, yes, but the overwhelming factor about this bill is that five, 10, and 15 years are such harsh sentences.

•(1255)

The Chair: Thank you very much.

I'd like to thank our panellists this morning. It's been a most interesting session. Thank you for being here and offering your assistance on this statute.

We have two interventions. I'm not going to set our hearing aside for a couple of minutes; I just want to go right into the intervention because of time.

Mr. Macklin, you're first, and then it is Mr. Marceau.

Hon. Paul Harold Macklin: Thank you very much.

I simply wanted to double-check with the witness list to see if in fact we have two organizations on there that I believe should be on the list. One is the Barreau du Québec. Is that on our witness list?

The Chair: No, it's not.

Hon. Paul Harold Macklin: Is the Criminal Lawyers' Association?

The Chair: The Barreau du Québec was invited, Mr. Macklin. They couldn't make it within our schedule.

Hon. Paul Harold Macklin: Was the Criminal Lawyers' Association invited?

The Chair: No.

Hon. Paul Harold Macklin: I would like to extend an invitation to them, and there are three professors I would like to have. They are David Paciocco at the University of Ottawa, Allan Manson out of Queen's, and Kent Roach from the University of Toronto. I think they should be added to our list.

The Chair: Are there any comments from the committee?

Mr. Warawa and Mr. Thompson, can you guys hold on for a minute? Mr. Marceau's intervention is rather crucial.

Are there any comments on the request?

Mr. Comartin.

Hon. Judy Sgro: Mr. Chair, we just have to remember that we do have a deadline of December 15 to report back to the House on this bill, if everything works the right way.

The Chair: If Parliament continues, we can meet that deadline.

Hon. Judy Sgro: I'm continuing to be positive.

The Chair: We're scheduled for clause-by-clause consideration next week, so it may be interesting.

Mr. Comartin.

Mr. Joe Comartin: Given the political realities of what we're faced with—and I'm not as optimistic as Ms. Sgro that the government is going to come to its senses—I would like to suggest we move clause-by-clause study up to this Thursday, in an attempt to get this legislation in place before Parliament collapses.

The Chair: On Thursday we have the John Howard Society, the Canadian Association of Elizabeth Fry Societies, the Church Council for Justice and Corrections, and Mr. Kramp again.

Do you have something, Mr. Kramp?

Mr. Daryl Kramp (Prince Edward—Hastings, CPC): If there's any possibility of moving this forward, to be able to give you time I would willingly withdraw my participation at that time. I honestly have no idea why there seems to be a mood at this particular point to extend beyond, beyond, beyond the submissions that had been made before this committee, submissions that could even be made in writing. This is obviously just a...quite frankly, I'm a little disgusted with the politics of this situation.

The Chair: Mr. Marceau.

[Translation]

Mr. Richard Marceau: I would really have liked to receive the witnesses on Thursday. In the best case scenario, even if we complete the clause by clause study by Thursday, expecting the Senate to automatically adopt this bill, with minimum sentences like these, is like dreaming in Technicolor, in my opinion. It is too bad for Mr. Kramp, but I don't think the Senate is going to accept anything like this. I propose that we continue doing the work properly, with interesting witnesses like those we heard today, who have helped me a lot. I would like to hear the John Howard Society and the Barreau du Québec, which won't surprise anyone. We will then continue, whatever happens. This is something very important and it would be unfair to this bill not to do the work properly.

[English]

The Chair: It would appear that there's no real consensus here. Do you want to make a motion and put it to a vote?

We have clause-by-clause consideration scheduled for next Tuesday. The reality is that we may not be here next Tuesday.

Mr. Joe Comartin: I don't expect to be here next Tuesday, Mr. Chair, but I'm prepared to move a motion that we go to clause-by-clause on this Thursday.

An hon. member: I'll second that motion.

• (1300)

The Chair: Okay. Are there any comments on the motion?

Hon. Judy Sgro: There are some amendments, I understand, that have been discussed with Mr. Kramp and some additional things to be done here in order to get something that is comfortable to many of us. I think there still needs to be some work done on that.

I want to support the bill. But we both know that there was a problem with 15 and we have to deal with five and 10. I mean, we can pass it because it will make us feel good—and I'm being honest—but I want something that's going to stand up and go through the process and not be passed by a committee and go nowhere. Our intention is to do something more, so I want to have something that's passable.

The Chair: Thank you.

Mr. Warawa, then Mr. Comartin.

Mr. Mark Warawa: Mr. Chair, I support the motion that we deal with clause-by-clause on Thursday, and also having the witnesses here. I think it is possible to do both if, as part of the motion, we would vote to hear from the witnesses and have a longer meeting. Right now, we're scheduled from 11 a.m. to 1 p.m. Maybe we could go from 10 a.m. to 1 p.m. or from 11 a.m. to 2 p.m. and make the length of the meeting sufficient to accomplish both hearing from the witnesses and doing the clause-by-clause at the end.

The Chair: Well, we have a motion on the floor.

Mr. Comartin, I'm sorry, you wanted to comment again.

Mr. Joe Comartin: Only to respond to Ms. Sgro's concerns. I share the concerns that we do need those amendments, and that's what we would do in clause-by-clause. I certainly intend to move an amendment, as I've already indicated, with regard to a sunset clause. In speaking to Borys, I expect he's going to be moving amendments, and I understand Mr. Kramp's prepared to accept amendments. I expect we'll clean up the bill so that it would be acceptable to the majority of this committee.

The Chair: Mr. Macklin.

Hon. Paul Harold Macklin: On a point of order, there's not 48 hours' notice on this motion anyway.

The Chair: Good point. Without consent, we have a problem.

Mr. Garry Breitkreuz: I thought he just said there is no 48-hour notice.

Hon. Paul Harold Macklin: I said without 48 hours' notice.

The Chair: Without consent, the motion would be out of order.

Mr. Garry Breitkreuz: Is there consent that we proceed with this motion at this time?

Mr. Mark Warawa: Mr. Chair, there would be 48 hours' notice if the meeting, the clause-by-clause, went from 1 p.m. to 2 p.m.

The Chair: Perhaps give us notice. We'd better go by the book.

Mr. Mark Warawa: I'd like to do that, give notice of motion.

The Chair: Okay, we'll move on from there then.

The second intervention is that Mr. Marceau is the chair of our Subcommittee on Judicial Appointments. He advises that they will deal with that report next Monday, and likely it will be a unanimous report. He has requested that this committee convene immediately after that meeting on Monday at 11 a.m., which is out of our natural order. Is there consent that in order to get this into the House, we report it Monday afternoon? I understand it's a unanimous report—

Mr. Richard Marceau: Possibly unanimous report.

The Chair: Okay. There is consensus that this committee would meet at 11 a.m. on Monday. That might want to factor into your situation as well.

Hon. Paul Harold Macklin: Read it first.

Okay, we have no further business. We're adjourned.

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