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Chair

Mr. Kevin Sorenson

Standing Committee on Public Safety and National Security

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•(0845)

[English]

The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)): Good morning, everyone. Welcome here this morning. It's an early morning for us.

This is meeting 48 of the Standing Committee on Public Safety and National Security on Tuesday, December 14, 2010.

This meeting has been requested by four members of our committee to discuss their request to commence clause-by-clause consideration of Bill C-23B, An Act to amend the Criminal Records Act and to make consequential amendments to other Acts.

I am confident that our committee will want to entertain this request.

Mr. MacKenzie.

Mr. Dave MacKenzie (Oxford, CPC): As I said yesterday, we will certainly move that pursuant to the motion being carried, the Standing Committee on Public Safety and National Security shall immediately begin clause-by-clause consideration of Bill C-23B.

The Chair: Thank you.

Mr. Davies.

Mr. Don Davies (Vancouver Kingsway, NDP): I was just adding my name to the speakers list, Mr. Chair.

The Chair: It's your turn.

Mr. Don Davies: So the motion has been moved.

The Chair: Yes.

Mr. Don Davies: Good morning, everyone.

Mr. Chairman, as I think all members of Parliament know, and certainly all Canadians know, in June of this year Parliament acted swiftly to make necessary and I think well-considered changes to the pardon system in this country. Some relatively urgent circumstances caused Parliament to act.

In particular, two cases came to the public's mind. One was the imminent opening for Karla Homolka to apply for a pardon. The other situation that quite reasonably upset Canadians was the quiet pardoning of Graham James, who had been convicted of a number of sex offences against young men in his charge as a hockey coach.

At that time, back in June, the government tabled a comprehensive pardon bill that contained some positive measures. It also contained some measures that not only required further study, careful

consideration, and deliberation, but were on the face of it absolutely the wrong way to go in terms of pardon policy in this country.

Back in June, Mr. Chairman, the New Democrats worked cooperatively and productively with the government to fix the imminent mischief in the pardon legislation. In particular, we dealt specifically with the Karla Homolka and Graham James situations. We did a number of things, as committee members will remember.

The first thing we did, which was very important, was we fixed the problem the pardon granting institution had. They had very little discretion to deny a pardon if the application was made. Prior to our changes in June, there were two waiting periods: a three-year period for summary convictions and a five-year period for convictions by indictment. But if a person waited that length of time after they served their full sentence—not only any period of incarceration, but also any period that may have been served on probation or on parole in the community—provided they had not reoffended in that time period and provided upon a cursory police check they had not triggered the attention of the police in any way, the granting institution really had no discretion but to grant the pardon.

One of the good things that I think was in the government's bill back in June was a provision that would give the parole board the discretion to grant a pardon or to refuse a pardon in any circumstance that would bring the administration of justice into disrepute. For the first time in Canadian history, we gave the tools to the board to deny a pardon in any circumstance in which that test was met.

It was my view then and it's my view now that this tool is sufficient to deny a pardon application by Karla Homolka, were she to make it. I think it also may be broad enough to empower the board to refuse to grant a pardon to Graham James, were he to make that application today. That's what Parliament did through all-party cooperation, including cooperation from the New Democrats. It was also the New Democrats' suggestion to add manslaughter to the list of offences that would require someone to wait 10 years to get a pardon.

We might also remember that back in June the other important measure Parliament took was to increase the time periods offenders had to wait to get a pardon in certain types of offences. We took sex offences against children and increased the time period to wait for a pardon from five years to ten years, and for summary conviction offences, from three years to five years.

• (0850)

At the same time, as I said, what the New Democrats insisted upon was that manslaughter be added to that list of offences for which a person would have to wait ten years. We did that specifically because that's the offence that Karla Homolka was convicted of.

I want to pause here and just talk for a moment about something else that's important. The former Minister of Public Safety, Stockwell Day, three or four years ago, reviewed the pardon system. The government did a review of the pardon system at the time Graham James was in the news. In fact, it was another sex offender, I believe, who was in the news at that time who spurred the government to do a review. The government did a review of the pardon system and made very minor changes to the system at that time, in 2007 if I'm not mistaken. Then we reviewed the pardon system in a very in-depth and profound way in June of this year.

I think that all-party cooperation in June produced a very important and progressive development in our pardon system. It gave the pardon system the opportunity to refuse to grant a pardon and gave them the discretion. It ended what Canadians have always perceived as being a rubber stamp, so that if you waited the three or five years, as it was then, and made your application, pretty much the pardon was automatic. We fixed that problem by putting the discretionary aspect in.

We also, I think, addressed something that Canadians said was a great concern, which was whether three or five years was a long enough period of time to wait for someone to apply for a pardon. In many cases, we thought it wasn't. In a lot of cases, and particularly sex offences, we should make an offender demonstrate a longer period of rehabilitated behaviour, that being ten years. That, I think, was also a positive step.

We've heard some testimony before this committee that if a person is going to reoffend, they do it within five days, five weeks, or five months. If someone has actually not reoffended for a period of five or ten years, then the evidence that we've heard so far—and I think we need to hear more evidence on this—is that it is highly unlikely that the person is going to reoffend.

So here we are today. The government came back this fall and put in some further proposals to change the pardon system, which I think are worthy of merit and further careful deliberation. I think they also, it's fair to say, have continued to pursue some of the flawed aspects of the bill that was presented in June, and that of course is the bill before us, Bill C-23B.

Now, whereas in June, Bill C-23A, as it's now known, made the necessary and important changes, what we have left in Bill C-23B primarily are some issues with regard to which we must, I believe, tread very carefully. When we haven't made any pardon changes in decades in this country, when this government looked at the pardon system in 2007 and thought that it didn't need any changes at all but a couple of minor administrative changes, and when Parliament made important changes in June, there is no need for urgency at this point today.

We have had only three days of hearings so far. For any of the Canadians watching, three days doesn't mean three full days but three meetings of two hours apiece, and in that two-hour period we

have had 15 minutes carved out for dealing with committee business. So we have so far, it's fair to say, maybe about four and a half hours of discussion and hearing from a few witnesses on the issue of pardons in this country. From the two hearings at which we heard actual witnesses—and we heard from only a handful of witnesses—I think it's already quite clear that this bill has been exposed as having some serious deficiencies. Some would call them deep flaws. Each time a flaw is exposed, it causes us as parliamentarians and policy-makers to stop and think that we had better move carefully in this area.

So we're just getting started studying this bill, and it's obvious that there are many problems to be dealt with. Now, instead of hearing that evidence, the government wants to shut down testimony and rush through this bill, without having the necessary and careful deliberation. In my submission, that is not a responsible way to deal with a very serious issue.

• (0855)

I want to talk about one of those major flaws. This government has put in this bill—they did it in June and they're coming back with it now—what's called the “three strikes and you're out” rule. There's a provision in this bill that says anyone with more than three indictable offences would be ineligible for a pardon forever. I'm going to say that again. You get more than three indictable offences, and the Conservative government wants to pass pardon legislation that says you will forever be ineligible, barred from receiving a pardon.

The New Democrats arranged to hear from a few of the people who would be most affected by this, former offenders who would be denied pardons forever under this proposed legislation. These are people who have had more than three indictable offences. They came and testified right here at this table before this committee.

We also heard from organizations that work with ex-offenders. Here are some of the things we've heard so far.

We heard that proceeding with this provision hastily might actually endanger public safety. That's because we've heard some evidence—only a little bit so far—that shows that the pardon system and the pardon process is one tool in the rehabilitation process. It's a very important tool. We've heard from people who work with offenders and offenders themselves that having the prospect of getting a pardon, being able to work towards a pardon, helps them to get their lives back on track and not reoffend.

If there is one overreaching goal in the carceral system that we should be working towards and that all parties should be in agreement with, it's that we should always favour policies that help offenders not to reoffend, not only because it's good for the offenders and their families, but also because it's good for our communities. When that person goes back into the community, I want that person not to reoffend, not to endanger any other family, any other person, any other property. I want our people to be able to walk safely in our communities. That means that I, as a parliamentarian, will take it very seriously when I hear people tell me that a particular measure helps them not to reoffend. This piece of legislation, this particular provision of the bill—three strikes and you're out—would endanger that principle. It will take away one piece of hope, one piece of motivation, one piece of policy that, we have a taste of evidence to suggest, is instrumental and helps people in not reoffending. So we've heard the valuable role that pardons play in improving community safety.

In testimony from department officials, we also heard that 25% of the applications for pardons are from people who have more than three indictable offences. When we say “more than three indictable offences”, I'm sure Canadians react the same way I reacted when I heard that, which is that someone with more than three indictable offences should never get a pardon. That's what I thought, until we actually started talking to people who have experience with this process, and to former offenders themselves.

We put three live human beings in front of this committee, only three. Out of the tens of thousands of people who may be affected by this, we heard from three only. We put them here to be subjected to questioning from our side and from the government side. What did we hear? We heard from one person who was convicted of 24 indictable offences, which sounds horrible, until you hear his story. The story we heard is that these were convictions for selling steroids. We heard that this is a person whose wife passed away from cancer when he was a young married man. He had a mortgage, and he went into deep grief. He had financial problems so he started selling steroids. He told us that one transaction of selling steroids would result in multiple convictions: possession, trafficking, conspiracy, and fraud.

● (0900)

So someone who sounds like a person showing an intractable trend, an irremediable criminal, is actually a person who sold steroids over a period of six months and ended up with 24 indictable convictions as a result, because there are multiple convictions from single transactions.

Who is he now? I hope Canadians actually have seen this man. This man has gone for years without reoffending and is now an executive in the media industry, someone who has a mortgage and a new marriage and who occupies a position of responsibility and of probity. This was a person who presented an absolute success of what happens when prison works in the right way. This was not a thug and a hooligan or the type of criminal whom the government likes to portray—the stringy-haired criminogenic monster whom the government likes to hold up as the model for all of their criminal policy. This was a real person who had for a brief stretch of his life a problem, and he has put his life back together in admirable fashion.

The second person we heard from was a young aboriginal man. We all know that aboriginals are terribly disproportionately represented in our criminal justice system and in our prisons. This person told us that he's a recovering alcoholic who committed offences that were property offences. Yes, they were serious; I don't mean to minimize the offences. He committed robberies. He himself said that he knows the pain and the fear he caused when he went into stores and robbed those stores.

But he also is a person who has gone for years without reoffending. He is now a person who has a family and children. He talked about how he wants a pardon so that he can get a better job to support his family.

All three individuals talked about how getting a pardon is an incentive for them and a very important part of their rehabilitation plan to help turn their lives around.

Even, I dare say, some of the Conservatives' own witnesses, people who I think have a lot to tell Canadians about the criminal system—that's the victims groups... We heard from Sharon Rosenfeldt and Sheldon Kennedy, two people who have suffered at the hands of criminals in a way that none of us can truly understand. Ms. Rosenfeldt lost a child to convicted killer Clifford Olson, and Sheldon Kennedy as a young teenager suffered under the sexual offences of his coach, someone under whose charge he was put, who should have been caring for him and should have been watching out for him, but who violated that trust. We have to take their testimony seriously.

We heard from both of those individuals that neither of them, I don't think, would be terribly in favour of removing the possibility of a pardon from someone forever just because they had more than three indictable offences.

We heard testimony from the minister that the figure of three or more than three indictable offences was an arbitrary one. We asked him if he had any data to support the number three. Is there some data to support that someone with more than three indictable offences is somehow less prone to qualify for pardon than someone with two? Or is the magic number four?

His answer was surprising and I think very disturbing. It was that it just seems right. He has no data—no empirical data, zero. This is someone who has the resources of the Department of Public Safety and probably of the Department of Justice, who has the full resources of government to provide studies and data and facts, who came to this committee and said he had nothing; three just seems right. One's not enough, he said; two's not probably right; but three seems right.

Mr. Chairman, that's Goldilocks policy. That's making policy the way children do: this one is too hard, this one is too soft, and this one is just right.

This policy would preclude tens of thousands of Canadians from ever getting a pardon for the rest of their lives. And it's based on a feeling, a hunch? That's not the way to make carceral policy in this country, and it's not, I think, what Canadians send us to Parliament to do. I think Canadians send each and every one of us to Parliament to carefully consider facts and evidence, to make the best effort we can make to come up with policy that is thoughtful and effective.

● (0905)

Again, the minister admitted no evidence, no data, no studies to show how adopting this law would help in any way to make our communities safer.

I also want to just talk for a second about this. This government has stood in the House time and again and said that the very best social safety tool that a person can have in this country is a job. You won't hear any one of the members of the government contradict that today, because they themselves have said it, because they believe it. And in some ways, Mr. Chairman, it's actually true. A job is a pivotal part of Canadians' abilities to care for themselves and care for their families.

We've heard absolutely unarguable testimony so far that getting a pardon is a critical part of having a person re-establish themselves in the employment world. We all know that when you apply for a job, there's a section on an employment form that asks: "Have you ever been convicted of a criminal offence for which a pardon has not been granted?" The ability to check off that box or not check it off is the difference between someone's getting a job and not getting a job, in many cases. If we want offenders to come back out of prison and to reintegrate themselves into society and start repaying their debt to society, and start acting as we expect our citizens to act and not be a burden on the taxpayer and not be a burden on the state, don't we want them to get a job? Of course, we want them to get a job if they've demonstrated that they deserve that kind of trust again.

The New Democrats are totally in favour of making a pardon process that is strict, that gives the pardon process the ability to deny that pardon, that makes the offender demonstrate that they have truly rehabilitated themselves through an extensive period of time of proving that; not through their words, but through a period of time during which they have shown that they have not reoffended—and make that period of time a good, substantial one; make it a long one, in some cases. But getting a job is critical, and this "three strikes and you're out" proposal would harm that process.

I also want to talk about lengthening the wait times. This bill proposes to double the ineligibility periods before applying for a pardon. It would go from five years to ten years in some cases, and three years to five years for summary convictions.

This is a concept that's worthy of further discussion, worth learning more about. What kinds of offences should go from five to ten years? As I've already said, New Democrats have already indicated our support for moving sex offences against children from five to ten years, and it may even be the case that there are some sex offences against children for which a person should never get a pardon. New Democrats are prepared to look at that.

But what this does with a broad brush...what this government says is that all indictable offences of every type should go from five to ten years. In a Criminal Code that is very thick and has every single type of indictable offence, from impaired driving to shoplifting to forging a testamentary instrument to passing a bad cheque, there are all sorts of offences that Canadians would recognize fall on a spectrum. They fall on a spectrum from the minimally serious to the moderately serious to the heinous.

There are some offences that I think we can all agree may qualify for the "never getting a pardon" process, but absolutely the vast majority of Canadians would agree, because they're reasonable people with common sense, that there are some indictable offences for which you shouldn't have to wait ten years to get a pardon. My colleague in the Liberal Party has brought up a very good example on several occasions of a young woman, perhaps a single mother, who gets into trouble—she's in her early 20s, she ends up writing some bad cheques, or she ends up shoplifting, maybe—because she is low-income and needs to have clothes for her children. She makes a mistake and she has one indictable offence.

● (0910)

This government would say that you have to wait 10 years after you serve your sentence, which in many cases would probably be 12, 13, or 14 years. Additionally, Mr. Chairman, we've also heard from businesses that exist to help people get pardons that the pardon process itself usually takes a year or two years.

So that one young woman who might have made a mistake at 20 years of age might, under this legislation, have to wait 15 years before she can get a pardon. That is not "considered legislation", in my respectful submission.

In terms of basic drafting, this bill has been rushed so quickly that we can determine that there are drafting flaws in the bill. We have the so-called problem, which we have finally teased out of the minister and out of the support staff—I think they acknowledge that there is a drafting flaw in this bill—concerning the people who are convicted of sex offences against children and the way it works with respect to young offenders: a 16-year-old and a 14-year-old, or a 17-year-old and a 14-year-old. The close-in-age provision is incorrectly drafted in this bill. So we even have a flawed drafting issue here.

I also want to talk a bit about what I will say, with the greatest of respect, is a little bit of Conservative hypocrisy. We brought those three offenders as committee witnesses to show Canadians and this committee the types of people who would be personally affected by this legislation. Again I think it's fair to say that we heard compelling and touching stories of people with criminal pasts who had turned their lives around, who have completely turned their lives around. Conservatives to a person said to these people' faces, we're really proud of what you've done; we really admire the way you've turned your life around. I could be wrong, but I think one or two of them may even have suggested to these witnesses: "We don't mean you. You're not the ones we mean to prohibit from getting a pardon forever. We mean those other people." But of course, those three are exactly the people who will not get a pardon as a result of this legislation.

Worse, after sitting here in this committee, each of the Conservatives talking to those ex-offenders and treating them with respect and praising them stood up in the House the very next day and made outrageous statements disparaging those very courageous individuals who came to tell their stories.

I won't mention the name, but I'll quote one of the members in the House, the day after these former offenders came and bravely testified—on television—about their criminal past and how it was turned around. It took more courage than I have seen many Canadian demonstrate in a long time. The Conservative member said:

...yesterday the public safety committee heard pleas from the convicted criminals to keep Canada's pardon system as is. Like so many times before, the Liberal public safety critic showed that he put the rights of criminals before the rights of victims.

That, of course, is not true. This is part of the rhetorical nonsense you hear from the government, which accuses anybody who might want to bring some study and some subtlety and some intelligence and some facts to the debate of crime...they accuse us of putting criminals before victims. What nonsense! But they did it, and worse was their two-faced way of telling these people to their faces how much they admired them and the next day going into the House of Commons, where they have parliamentary immunity, and portraying them to the Canadian public as if we had a bunch of common criminals who wanted the pardon system liberalized. It was about the biggest piece of hypocrisy I've seen in a long time.

I want to talk again about evidence. So far the Conservatives have not tabled one piece of evidence, one statistic, one study, or one piece of data before this committee that shows why these changes are needed or how the changes would improve community safety.

I want to talk again about the Conservative approach to making legislative changes based on politics and based on fear and not based on facing evidence.

● (0915)

When they put Bill C-5, the international transfer of offenders bill before this committee, it was unanimously panned by the witnesses. The Conservatives couldn't find one witness, not one, who supported the bill.

They brought Bill C-17, and we heard this expert panel yesterday express grave concerns about the impact on free speech and basic—

The Chair: Mr. Davies, obviously we're in a filibuster here, as you are trying to prevent us from going to clause-by-clause.

I am trying to give you as much leeway as possible. You have been speaking about pardons. You've done a remarkable evaluation and review of all witnesses who have appeared before our committee up to this point. But if you're going to start going back to the other pieces of legislation, which you prevented us from moving ahead on as well, then I'm going to call relevance and I'll move to Mr. Holland.

If you want to stay on the pardon system, I'll give you as much leeway as possible. But when you start going on to transfer of offenders and some of those other pieces, then I'll try to reign you back in a bit.

Mr. Don Davies: Certainly, Mr. Chairman, I'll be happy to get back to pardons. I have a lot more to say about it. It was simply to point out the flawed approach of the government.

I will say I object very strongly, Mr. Chairman, to your characterization of what I'm saying as a filibuster, or to impugn a motive to what I'm saying. You have never done that, Mr. Chairman,

to any one of the members on your side when they have obviously filibustered, and they do so repeatedly.

The Chair: If you have a half-hour speech going on, that's fine.

Mr. Don Davies: Mr. Chairman, I'm speaking. I have the right to speak. I have the floor. Please don't interrupt me.

The Chair: I'll interrupt you when I feel like I'm going to interrupt you.

I'm asking you to keep this relevant to the discussion of moving this bill to clause-by-clause. A lot of what you've referred to are technical amendments, technical changes. We're prepared. There have been amendments made and brought forward. Keep it to the bill.

Mr. Don Davies: Mr. Chairman, I will. I have spoken on nothing but relevant information to the pardon bill up to now.

I understand your point, and I have accepted that. What I'm talking about is your editorializing to characterize unfairly what I am speaking about. I'm speaking about Bill C-23B and the motion here, and if I have a lot to say, that does not constitute any attempt to block anything. There just happen to be a lot of flaws. It takes a long time to point them out.

I want to talk about serious gaps in what the committee has heard. One thing we have to remember is that the current law right now says that a person convicted of a sex offence will always have that record searchable. Canadians need to know that whenever anybody has been convicted of a sex offence, that always is subject to an organization—particularly ones that work with children—having the police search that and give them the information.

Sex offences are never erased. Again, there is a database that exists that can be searched, and it should be searched, because for anybody convicted of a sex offence, we should be very vigilant to make sure those people never work with children, and that they never, ever are put in a position where they can harm again.

I want to also mention that we've heard evidence that 96%—if I'm not mistaken—of those granted a pardon over the last 40 years do not have those pardons revoked. I see Mary Campbell here, and I hope she can correct me on this if I'm wrong, because it was her testimony. I think it was 96%. That means those people never reoffend, so that should tell us that right now the pardon system, in practice, is working relatively well. We also need to remember that people who are granted pardons automatically have those pardons revoked if they reoffend, so there are some built-in safeguards here. But this bill would seek to create broad categories of offences for which individuals may never apply for a pardon.

So what I'd like to say, Mr. Chairman, and move to here, is that before making these drastic changes, I want to hear from more witnesses. I want to hear from more former offenders. I want to hear from more victims. I want to hear from more professionals who work in the field of corrections. I want to hear from more people who work in our prisons.

I want to hear from parole officers. We have not heard from one parole officer. The very people who work with former offenders and know them best: we have not heard from one of them. I have already lined up, just myself, half a dozen witnesses that I would like to hear from, including some from the government's own ministry. I want to hear from researchers, who can come before this committee and give us some data about how the pardon system works and what kinds of changes we can actually make that can improve the pardon system, so that we make sure we are giving pardons to people who deserve them and we're not giving pardons to those who don't.

Now, sound policy and legislation are based on facts, not myths. They are based on knowledge, not ignorance. They are based on improving public safety, not rushing to make knee-jerk laws that end up making us less safe.

The government side had all fall session to push Bill C-23B. They came up with a motion last Friday to go in the last week before the Christmas break; it was just on Friday, for the very last week. We're probably going to end this tomorrow or maybe on Thursday. They waited until this week to bring a motion to go to clause-by-clause on Bill C-23B when they know we have more study and more evidence to hear.

Why did they do that? Because they're playing politics. I have no doubt that the Conservatives are going to run out of this room and spin this to the Canadian public by saying that the opposition is holding up pardon legislation. They're not going to tell Canadians any one of the 10 facts I just mentioned and that they had all fall to deal with it and threw in a motion at the last minute to try to make it look like they're dealing with something they haven't dealt with.

They're not going to tell Canadians that we haven't heard from a single parole officer or a single person who runs a halfway house, who deal with former offenders. They're not going to tell Canadians that we heard from three people who have experience with rehabilitating their lives.

I ask, Mr. Chairman, what are the Conservatives afraid of? Are they afraid that Canadians will actually understand that their bills are put forward and their actions are put forward for political purposes and not for sound legislative reasons? Do they want Canadians to know that their bills are hastily written, ill conceived, and designed with politics in mind?

I think Canadians want us to make sound policy, Mr. Chairman, and I'm going to oppose this motion for one final reason.

• (0920)

I want sound pardon policy in this country. I want to make sure we give pardons to those who deserve them and not to those who don't. This requires us to take a bit of time. There is no urgency to this. We have waited decades for pardon reform. Again, Stockwell Day reviewed this just three years ago and thought no changes were necessary.

This committee made changes back in June. This Parliament made changes back in June that were substantial and profound and needed. We can afford to take our time a little bit on this, and that's what I would suggest.

So I'm going to vote against this motion, Mr. Chairman.

• (0925)

The Chair: Thank you, Mr. Davies.

We'll now move to Mr. Holland.

Mr. Mark Holland (Ajax—Pickering, Lib.): Thank you, Mr. Chairman.

I will start off with something that I hope you don't deem to be irrelevant, because I think it's important to mention. This bill was introduced about six months ago. Now, of course, in the summer we couldn't do anything, as we obviously weren't sitting. We've had three meetings on this. We've been going through and hearing from a number of witnesses.

What I find curious and passing strange is that I was sitting in the House yesterday, speaking.... In fact, unfortunately, Mr. Chairman, I know that much to your disappointment, I had to miss part of the meeting yesterday in order to speak on Bill C-43. But the curious fact is that when speaking on Bill C-43...we're getting nowhere on that bill. That's a bill that was introduced maybe eight months ago. It's on unionization of the RCMP, and we can't even beg or plead with the government to move it forward.

Take the lawful access bill. I was just speaking to my assistant about it, thinking that I had spoken on it twice and wondering when it would come back here. But no, I found out it's been introduced yet again. It's been sitting there for five years—five years. The government is bringing out the whip and saying, "Pass this tomorrow, because you, the bad opposition, are holding things up."

If you want examples of holding things up, how about your representation by population bill? Where the heck is that thing? It was introduced in April and has been sitting around, languishing, collecting dust.

So here we are. In the time we've had this before us, we've had witnesses. We've been diligently trying to work on this bill, and then all of a sudden we get this motion.

What is outrageous is the statements you get in the House by members. I think Mr. Davies spoke very eloquently about how ridiculous it is, but I really think it descends into farce. When I walk into the House and every day there's a question under Standing Order 31 about me or another question about me, it's very nice to see that you care so much, but the reality is, do you think anybody believes this nonsense?

When you stand up and—

The Chair: Mr. Lobb, on a point of order.

Mr. Ben Lobb (Huron—Bruce, CPC): I appreciate Mr. Holland's comments, but what is the relevance to what we're discussing today?

The Chair: Mr. Holland did say he was going to take a little bit of liberty in his introduction while moving towards Bill C-23. I think he's moving in that direction, but I will encourage Mr. Holland, as I did with Mr. Davies, to keep it relevant to the discussion.

Mr. Mark Holland: I think this is really germane to the discussion.

Mr. Lobb, to you directly, this is about this bill. There are members standing up, Conservative members standing in the House, saying that I side with pedophiles, that I side with sex offenders. How dishonest when members themselves, through the course of committees and talking to witnesses, express sympathy for their situation.

We hear from a young aboriginal man who went through the horror of the residential school system and who had to deal with the pain of being a victim and going through that system. He unfortunately acted out in ways that he probably wished he hadn't. Committee members expressed sympathy for him. They expressed happiness and congratulations that he's moved beyond that; he's now moved into a life where he's successful, and for a long time he's been clear of any criminal wrongdoing. The committee members expressed that sympathy, and then the next day they talked about them as hardened criminals who we should have no sympathy for. It's pretty rich.

When I've expressed concerns with this bill, it's not been with respect to serious sex offenders; it's been with respect to circumstances, as I've outlined earlier, where you could have somebody who is a young mother, who's finding it very difficult to make ends meet, who makes some bad decisions, who writes some fraudulent cheques. That series of decisions could put her in a situation where she's never eligible in her entire life for a pardon.

When I ask questions of the minister, the minister himself acknowledges that there are weaknesses in the bill that need to be amended. For posing those questions, even when the minister agrees with me that the bill needs to be changed, the next day in the House of Commons, and for many days thereafter, I'm talked about as being soft on crime. I understand the objective, which is purely political, but I think it's a darned shame, because at the end of the day there are actual lives tied up in these games. There are people who are actually going to be impacted by the politics that are being played here.

When we sit at this committee and we have an opportunity to debate this bill and the government attacks anyone who asks thoughtful questions, when the government goes after and maligns and smears somebody who simply wants to ensure we pass good legislation, shame on you. You do an enormous disservice to this place. You do an enormous disservice to good legislation and to good debate.

I think members really need to reflect upon that, upon the reasons they're sent here to committee like this. When you have witnesses like we had here, people who are often caught in cycles of victimization, victims themselves who then play out a cycle of victimization and criminality, who have broken it, who clearly have gotten better, who put that in the past....

There was the gentleman who I think we were all taken by, who in a difficult time in his life was selling steroids, who acknowledged the

mistake, acknowledged that it was something he shouldn't have been doing. Folks, that gentleman who you were expressing sympathy to, who you were commending for the improvements he'd make in his life, under this bill would potentially never in his life be able to get a pardon.

The other thing that bothers me, Mr. Chairman, is that when we take a look at the amendments that have been given to the committee, we really can't.... I was here at about 5:30 yesterday when we were in receipt of the amendments. We had an emergency debate last night on Haiti. I don't know about some of the members, but I didn't leave the House until 11 p.m. I was about 19 hours on the road this morning—it's to make a point. There were pretty horrific roads this morning. My point, Mr. Chairman, is this. When are we supposed to look at these things? I suppose if I had foregone sleep last night, I could have had the opportunity to look at the government's amendments that they so kindly gave to us late last night—and I can see Mr. McColeman feels very badly for me.

● (0930)

My point is, if we're here and we're going to be debating this matter, how can we seriously debate amendments that we haven't even looked at?

The second point I would make—and I would ask this directly of the government. The minister acknowledged, and, Mr. Chairman, I saw in your own comments that there was room for this bill to be amended and there were areas where it needed to be improved. Yet I don't see any of those amendments before us. We got a couple of days' notice that we were going to be dealing with this. I suppose the government's intention is that we should fix their bill in that period of time, that I should have been sitting by candle through the night writing legislative amendments. This is what is ridiculous about this, this notion that we have to move on this now, when the government itself has acknowledged that this bill needs amendments and it needs to be changed.

I would ask the government, where are those amendments? Are they willing to bring them forward? Are they willing to aid us in drafting them? I can give them very specific areas where this legislation needs to be amended and improved. I have no problem at the appropriate time moving to clause-by-clause and moving forward with the bill once those amendments are ready.

Once we've had an opportunity to look at—how many pages here—15 or 16 pages of amendments that we got late last night, once the government has had an opportunity to draft and deal with some of these items, and once we'd had an opportunity to finish hearing from witnesses, we would be happy to move forward.

There are several witnesses who are still on the table that different members want to hear from that we've not heard from, Mr. Chairman. I'm concerned, for example, that we haven't heard from any groups representing women offenders. Obviously, this is going to have serious ramifications for female offenders. Yet at this point we still have not had an opportunity to hear from any of them.

At this point, Mr. Chair, if the government could comment on some of those items, we can see if we can move forward. I can repeat them if Mr. Mackenzie isn't clear. When can we get those kinds of amendments? What about hearing some additional witnesses? What about giving us a little bit of time to look at the 15 or 16 pages of amendments that you've given to us?

If you're serious about this bill and you're serious about passing good legislation and not playing games, can you give us those kinds of answers?

• (0935)

The Chair: I'll go to Madame Mourani. I don't know about anyone on the government side.

Madame Mourani.

[*Translation*]

Mrs. Maria Mourani (Ahuntsic, BQ): I thought Mr. Mackenzie had the floor.

[*English*]

The Chair: No, he passed.

[*Translation*]

Mrs. Maria Mourani: Very well, Mr. Chairman. Allow me to speak to this bill. I have several points to cover.

First, I have to say it is rather disappointing. From a very objective point of view it is my impression that this government does not want to change its technique, it just wants to put on shows. Once again today it is putting on a show. Why? Unfortunately, this government does not understand that public safety is important, fundamental, and that we cannot put on a show when people's lives are involved.

Personally, I also think it is extremely insulting to have this thrown at us today, and to be told that there have been amendments and that we are going to be doing clause-by-clause consideration. It is even more insulting because we have not even heard some witnesses. I would like to hear these witnesses, for example the Association québécoise Plaidoyer-Victimes, which is a group that has been dealing on a daily basis with victims for several years. Unfortunately they could not come because of the time restrictions, but they wanted to come. I would like to hear their opinion on this bill. I would like to hear the voices of victims.

We heard the minister speak to us about the notion of the three violations. It is my impression that he included this in the bill just because he felt like it. This idea is not backed-up by numbers. It just seems logical to him and that is all. I would like to hear those individuals who can back statements up with numbers, and who are familiar with the outcome of similar measures in the lives of individuals. We have heard individuals who are directly affected by this and who have dealt with the justice system. However I would also like to hear the victims.

This government has called itself the champion for victims. Yet, to date, we have not seen anything and we are still waiting. We will see if they will support our Bill C-343 at third reading—a bill for victims. I apologize for my digression, Mr. Chairman.

The government has said it is the champion for victims, however we have not heard from any victims. Of course, one individual came

to speak to us about what she had experienced and that was very interesting. However, I would also like to hear from groups that represent victims and that can tell us what the people they work with think about this. When I say people they work with of course I am referring to victims.

Furthermore, I think it is somewhat unfortunate that today we are debating how this bill will move forward. I sincerely believe that everyone around this table is here in good faith and wants to move bills forward that are important for public safety. That at least is true for us, in the Bloc Québécois.

On that issue, Mr. Chairman, I do not understand the urgency. Let's be realistic. If we would vote in favour of this motion today, when would we be doing clause-by-clause consideration of this bill? No doubt it would happen next year, when we come back. Everyone agrees that even if we were to vote unanimously in favour of this motion, we could not begin consideration. We would have to do this when we come back. So this is simply for show and it is disappointing.

I have thought about this issue and I have asked myself what we could do to approve this bill, given that we have not heard from everyone. It is quite possible that other groups have other good ideas to suggest.

For the benefit of the committee members, Mr. Chairman, I am going to cover all these points again, so that we know what we are talking about.

• (0940)

First of all, when one refers to pardon, currently that means suspending a criminal record. What does that actually mean? Currently, after one has been accused of an offence and one has served the sentence in its entirety, whether that be incarceration, a penalty, probation or anything else, one can request a pardon. This doesn't happen automatically. It is not granted automatically just because one is eligible; a request has to be made. That application takes time. Given the number of steps involved, it can take up to a year. One has to go to the courts to obtain the list of offences, to the police station for fingerprinting, etc. It is a very, very long process. It can take up to a year.

Then the file has to be dealt with. You may get the answer that it is going to happen in six months. Let's say that your request is accepted and your criminal record is suspended. If you go into a convenience store, and you steal a bag of chips and police officers arrest you, then your criminal record is reactivated, just like that, automatically and immediately. No request is necessary in that case. So the criminal record did not simply disappear.

Furthermore, if you do obtain a pardon—that is the word that is currently used—and your criminal record is suspended, it is not erased in the United States. There have been cases where individuals who committed offences—I believe this involved participating in a demonstration, and assaults—during the 1970s or 1980s succeeding in having their criminal records suspended but ended up being arrested in the United States where their criminal records were still active. There is a whole other system reserved for those individuals. They therefore have to go through the process.

Now let's ask ourselves the question and look at the numbers. We do have some numbers that the minister didn't have. Perhaps that can help us determine whether or not the current system works.

In fact, Mr. Chairman, I would just like to make a point. Bill C-23, which was much too big, was divided in two. We are dealing with Bill C-23B, An Act to amend the Criminal Records Act and to make consequential amendments to other Acts. I don't know if you recall, Mr. Chairman, but once again this was presented to us at the last minute, just before we left last June. These people have made a specialty out of this. They had a show to give that day, and it was the Homolka show. Do you understand? So they needed actors, the media, etc. The whole Homolka show took place.

We nonetheless looked at Bill C-23. We felt that it made no sense but we decided to try and see the good parts of it. We did that in good faith. What follows is what was added to what already existed.

If an individual wants to apply for a pardon, if an individual who is found guilty of extreme cruelty under article 752 of the Criminal Code wants to apply for a pardon, they will have to wait for 10 years after the end of their sentence and after having paid all penalties or having ended their probation.

● (0945)

Let's take an individual who was given a five-year prison term, three years of probation and a fine. That's a typical case. That person will have to wait for eight years. After those eight years, they will have to put in an application. However, this doesn't automatically happen. In order to apply, one has to fill in a form, provide fingerprints, deal with the police and courts of law, etc. If that individual does not become discouraged, it will take a year. After the eight years, that is, five years of prison and then three years of probation, they will then have to wait another ten years, which makes 18 years. However, one must not forget the famous process that I just described, which takes one year. If you add to those 18 years the time it takes to process and accept the application, you have a total of 20 years. We are talking about an individual who has committed a serious crime. It therefore takes 20 years for that individual to finally obtain a document that will allow him to work. That is reality.

Why do these individuals want their criminal record suspended? Is it simply in order to have one more piece of paper to put in their files? No. I have a few examples here. The main reason is employment. That is what allows an individual to feed their family, and also not to go back to a criminal life. Any good criminologist, sociologist, counsellor, street worker, social worker or police officer, in other words any individual who has met an offender face to face, understands that that offender has to work. I am sure that my friends on the other side also understand this. Why do they have to work? Because in working, they pay taxes rather than living off social assistance or employment insurance. On your side, that allows you to provide the billions of dollars that you have to invest in prisons. Do you understand, Mr. Chairman?

Working not only allows you to become rehabilitated, but it also allows you to feed your family, to become a law-abiding citizen. It's in this way that society is protected, not by depriving these individuals of a criminal record suspension, which ends up condemning them for life and preventing them from working. It should be pointed out that these individuals cannot be employed by

government. They are able to work as truck drivers, but even then, if their itinerary involves travelling from Montreal to New York or anywhere else in the United States, then they will face a major problem. So one can definitely not have a criminal record. Do you see why this is so important? It is fundamental.

As far as I am concerned, I would prefer that these people work rather than live off social assistance or employment insurance. Actually they probably won't be able to get employment insurance because they won't be able to work. So they are going to have to fall back on social assistance or their former habits, that is stealing, holding up people, getting angry, feeling rage inside and wanting to take revenge on a society that rejects them, discriminates against them. Rejection and discrimination are fundamental issues.

● (0950)

Yet we also heard examples of individuals who were rehabilitated and who have families. I am certain that you would not be able to guess that they had criminal records if you weren't told so, Mr. Chairman. Nowhere is it written that they have a criminal record. Do you understand? These are law-abiding citizens who have been successful and I congratulate them. They are not the only ones.

Let us take a look at the numbers I mentioned earlier. In 97% of all cases, the suspension of a criminal record did not subsequently end up being revoked. Surprisingly, criminal record suspensions were revoked in only 3% of cases. From what I understand the reasons were varied; it didn't necessarily happen because of another crime being committed. This should, however, be studied further. I am very intrigued. We shall see.

What do the numbers say? According to 2009-2010 data, approximately 3.8 million Canadians have a criminal record and therefore have been sentenced, and less than 11% of these were granted a pardon or were rehabilitated.

Furthermore, in 2009-2010 the National Parole Board received 32,105 applications for pardons. The Board approved for consideration—which does not mean they granted the pardons—28,844 applications, in other words 77% of those applications. During the same year, the board reviewed 24,559 applications. How many pardons were granted? It granted 16,247 pardons. It approved 7,887 rehabilitation applications. In other words, 97% of all requests were approved. That is extraordinary.

Here is my interpretation of the numbers. First, even if one applies for a pardon, these days the National Parole Board may not even decide to consider the request. The board receives the application but it can turn it down without even considering it. That is what I understand from the numbers. In fact, the Board decided to consider 24,844 of the 32,105 applications that were submitted, then granted 16,247 pardons and approved 7,887 rehabilitation applications.

The numbers tell us that there really is nothing to be worried about. There is no urgency.

That being said, is the suspension of criminal records still important? It is fundamental. It is very important to avoid putting everyone in the same box. What we all want is to prevent pardons being granted to individuals who sexually assault children. The case is different when it involves a man or a woman who followed a rather rocky path as a young adult and ended up committing thefts when they were 18 or 19. We all agree that not everyone is a saint and that some individuals end up following rather difficult paths at one point or another. That does not prevent them from wanting to settle down one day and start their lives over again. In fact, wanting to settle down means they want to start over.

Keeping this in mind, let us now consider Bill C-23A which includes schedule 1. The bill states that one must wait 10 years after serving one's sentence before being able to obtain a record suspension in cases where "the applicant was sentenced to imprisonment for a period of two years or more for an offence referred to in schedule 1". Do not forget that it is not actually 10 years. We did the math together and, in fact, it's actually 20 years.

● (0955)

I have schedule 1 before me. I must say that for the average person, schedule 1 contains a bit of everything. It is a long list. It includes "sexual interference with a person under 16 years", "invitation to sexual touching", "sexual exploitation of a person 16 [...]", "bestiality in the presence of a person under 16, inciting a person under 16 to commit bestiality". It is disgusting. We all agree on that. There is also "child pornography", "a parent procuring sexual activity", "a householder permitting sexual activity". Mr. Chairman, between you and me, the term "*maitre de maison*" sounds like one is living in a kingdom. Does that make any sense in the Criminal Code? Regardless, schedule 1 also includes "corrupting children", "luring", "exposure", "living on avails of prostitution of a person under 18", and other serious crimes. I could go on for a long time.

All this is already contained in Bill C-23A. So I am wondering where the urgency lies, Mr. Chairman. We voted for this bill. Bill C-23A was fast tracked. We all agreed on that.

So what is the problem? Why is this being thrown our way today, on this beautiful morning? Can you explain this? There is no explanation. This is just for show, Mr. Chairman. That was today's purpose. I will not stop saying this because it is what I absolutely believe.

Now, let us consider Bill C-23B. What does not make sense at first blush? Is it the substitution of the word "pardon" with the term "record suspension"? Mr. Chairman, where is the sense in a semantic debate over terms? You really have to have plenty of time to waste in order to come up with a bill whose goal is to substitute "record suspension" for "pardon". You have to agree.

Let us ask the question. Why do the Conservatives want to remove the term "pardon" and replace it with "record suspension"? Mr. Chairman, another fundamental point is that they want to remove the word "rehabilitation". They really do not like that term! That is the worst of it. If you start saying the word "rehabi...", you can't finish your sentence because they start breaking out in a rash. It is unbelievable.

Some hon. members: Oh, oh!

Ms. Maria Mourani: The one thing they do not understand, that yet is so fundamental and basic when it comes to considering measures from a criminological perspective, is that public safety is dependent on rehabilitation. Canada has a system that is the envy of the entire world. Do you know why? Because we decided that society's protection is achieved through rehabilitation and prevention.

I must admit that since this new government took office in 2006, I have been asking myself questions about these concepts because all bills that they have brought forward in this area have systematically been designed to take apart this concept of rehabilitation. What do they do? They replace "rehabilitation" with "public safety" or "protection of the public". What they do not understand is that "rehabilitation" equals "protection of the public". They think that "incarceration" equals "protection of the public". Well, Mr. Chairman, it hasn't worked in the United States, nor has it in other countries that adopted those techniques.

We have a good system that can certainly be improved from time to time, but there is no need to throw out the baby with the bath water. One doesn't change a tried-and-true philosophy. Rehabilitation is fundamental.

● (1000)

If you would like, Mr. Chair, I am ready to give a class to all members of the Conservative caucus. I will explain to them all the rehabilitation-related concepts and show them how rehabilitation can foster public protection.

Before addressing Bill C-23B, I would like to talk to you about another issue. You will be able to check the information, Mr. Chair. You will see, it is quite fascinating.

There was a time when criminal records did not exist. The technology that allows us to gather names, addresses and fingerprints had not yet been invented. It did not exist. Mr. Chair, do you know how people in the Middle Ages identified criminals who had stolen, killed, etc.? Today, their identity is contained in their criminal record. However, Mr. Chair, in those times, they were branded with a hot iron. That is how criminals were identified. There was a "T" for thief, "M" for murderer, "A" for—you will not believe this—adulterer. In some countries, women are stoned for cheating on their husbands, and believe it or not, there was a time, in the Middle Ages, when people in the western world, not in some exotic countries, were branded with hot irons.

Society evolved, and hot irons were no longer used. Do you know how things were then done? There came a time when torture was commonplace. Questions were asked, and then people were tortured until they admitted their guilt. Sometimes they were innocent. You know, Mr. Chair, if you were to be tortured, you would admit anything. You would make things up in order to put an end to the torture. That is why I have always said that using information obtained under torture, as CSIS does, is not appropriate. The information is not reliable.

We have evolved, Mr. Chair. Our society has evolved into its current, modern state. We are no longer in the Middle Ages. You might not know exactly what a hot iron is. Let me explain. It is the same instrument that is used to mark cattle—cows and bulls—belonging to farmers such and such, Mr. Chair. They have to be branded. An iron bar was used to brand them with a number or a sign: “M” for murderer and “T” for thief. When the iron was nice and hot, they were branded like cattle. The individuals were caught and branded on their backs. The smell was not pleasant. I was not there to ascertain that, Mr. Chair, but that is the case with cattle.

Society evolved, which is why we now have this wonderful thing called a criminal record. It contains all the necessary information. Criminal records are special in that only the police has access to them. People in general cannot access them, as was the case in the Middle Ages, when the letter “T” was visible. In the Middle Ages, those people were not employed; just like today. They were excluded outright and looked upon as social rejects. Similarly, no employer will want to hire someone who is known to have a criminal record.

Now, we do agree on one thing, Mr. Chair. We, the Bloc members, agree that the criminal records of pedophiles should not be suspended. I cannot speak for my colleagues, but I am sure that they share my opinion. We all agree on that. I would not want my children, my son, to be molested by a man at his daycare centre or hockey club. You will tell me that there are also women pedophiles, but they are a minority. Generally, they are men—that is the sad fact, and the statistics do not lie. I would not want to live through such a situation, and I would certainly not want my son to experience that.

•(1005)

We all agree with that, but do we necessarily need Bill C-23B as it is currently drafted? No, not at all. Here is what is stated:

Make those convicted of sexual offences against minors ineligible for a record suspension [...]

That is all very well, we can agree on that, but if you look at the content of the bill a bit closer, you find out that it contains a series of other offences.

Mr. Chair, the Bloc Québécois will be moving amendments. Making those convicted of sexual offences against minors ineligible for a record suspension is one thing, but including a host of other offences, that is another, and that is what we do not agree with.

Furthermore, we have to be careful. These issues must be debated before we can move on to a clause-by-clause consideration. We still have to hear from witnesses. We might want to add elements to this bill that might make it even more effective. We all agree that our goal is to protect our children, but not any which way. Who is against protecting our children? Clearly, everybody wants that. The children of Quebec and Canada are our children. When I watch television and see that a child has been abused, I find that disgusting. Do you think we are callous or unfeeling? No. We want to improve this bill. That said, I think that we are all acting in good faith. However, we do not want to amend it in such a way that it will penalize people who can be rehabilitated.

Might I drink a bit of water, Mr. Chair?

[English]

The Chair: It's certainly not because of your dry humour or your dry content.

Continue.

[Translation]

Mrs. Maria Mourani: That is quite amusing, Mr. Chairman.

Personally and on behalf of the Bloc Québécois and all my colleagues around this table, I would like to take this opportunity to wish everyone who is watching a Merry Christmas and a Happy 2011, full of health and prosperity. I take this opportunity because my time has almost run out. Mr. Chairman, that was an aside.

[English]

The Chair: Madam Mourani, you're close to being run out; you're correct.

I appreciate that you are wishing the millions of Canadians today a Merry Christmas. I'm sure they are glued to their televisions watching this. However, I would encourage you—as I have encouraged Mr. Davies and Mr. Holland, and I don't want to be Scrooge or the Grinch who stole Christmas—to move it back to Bill C-23B.

•(1010)

[Translation]

Mrs. Maria Mourani: Yes, of course, that is not a problem. Since we are debating a bill that is intended—and I do say “that is intended” to protect people by making those convicted of sexual offences against minors ineligible for a record suspension, which is a provision that we support, I would like to take this opportunity to wish a Merry Christmas to all the little children of Quebec and Canada. I extended that wish to parents, but that is unfair, given that Christmas is first and foremost a celebration for children. It speaks to the little child in all of us. I simply wanted to send out a wish to them. Mr. Chairman, I hope you will not prevent me from greeting the children, now will you? I can wish them a Merry Christmas, no?

[English]

The Chair: I'm just wondering if you're going to name each one of them.

[Translation]

Mrs. Maria Mourani: If I did know them all, I would do so. Oh, oh!

Some voices: Oh, oh!

[English]

The Chair: All right. Continue, Ms. Mourani.

[Translation]

Mrs. Maria Mourani: I will wish you a Merry Christmas later. Oh, oh!

I apologize, Mr. Chairman. After such nice sentiments, I will continue.

There is something about Bill C-23B that is greatly disturbing to us. I think that my colleague Mr. Davies, in particular, as well as Mr. Holland, has raised the issue of making those who have been convicted of more than three offences resulting in prison sentences of more than a year ineligible for a record suspension.

Where is my copy of the Criminal Code? I could list for you the offences that are punishable by one-year sentences.

Ah, thank you, sir!

A voice: It is only in English.

Mrs. Maria Mourani: I will translate it for you, Mr. Chairman. Oh, oh!

There are tons of offences that are punishable by one-year sentences, including theft and shoplifting. It all depends on the value of the goods that were stolen. If a person steals something worth \$5,000 and more, once, that person can be fined. However, the accused will be criminally charged, i.e., by way of indictment. If the stolen object is worth less than \$5,000, the offender will still receive a fine, but will be convicted of a summary offence.

Let's us say that the stolen object is worth more than \$5,000, and that later the person is caught fighting outside a bar. Those are two different offences committed within a few days of each other. Do you follow?

This is a simple example. A man enters a store and shoplifts merchandise worth more than \$5,000. He gets caught, pays a fine and is automatically given a criminal record. Two or three days later, he goes out to a bar with his girlfriend, and then he gets into a fight with someone who tried to pick her up. That is something that happens every day and sometimes, unfortunately, turns ugly.

For the second offence, he might be sentenced to 3, 4 or 5 months, or even more, if the judge considers that he used a serious or lesser form of violence. How in fact does one assess violence? That is another issue. It depends on who the judge is. If the person is given a one-year sentence, he is put in jail. If he received a one-year sentence in a provincial jail, he can expect to be released after having served one sixth or one third of his sentence, given that there are so many people in those institutions. Let us say that he comes out after a few months. He finds his girlfriend, but she has left him. I would say that things are not going too well for him, and he ends up committing another theft, but this time he is also charged with assault. That is his third offence. He is sentenced to one year and a half in prison, and when he is released, that is it: he is no longer eligible for a record suspension.

However, he had the good fortune of meeting a chaplain in jail who helped him turn his life around. He says to himself that he will take charge of his life, will work on managing his anger and go see a psychologist for help. He has to recognize the cause of his inner rage.

• (1015)

I am not talking about myself, but about the man in my example. I am play-acting, Mr. Chair. This is a Conservative performance, and the show must go on. Oh, oh!

So the man tells himself that he will manage his anger. To do so, he will attend anger management classes. With a little bit of luck, he will meet a psychologist—that is not a given, because waiting lists are quite lengthy. He will meet a good person who will set him straight. He will meet a nice, very caring woman who will get him to forget about his former girlfriend and stop sniffing coke. She will offer to help him heal the wounds from the abuse he suffered, the incest he experienced.

You know, people do not become criminals just like that. They always come from a horrible background. I worked a long time in prisons, Mr. Chair, and I have never met a prisoner who had had a good life.

As for the man in my example, he took charge of his life and he is now working, has a family, is doing well and applying for jobs. He is told that he cannot be hired because of his criminal record. He does not want to go back to a life of crime. And so he holds low-paying jobs to feed his family, and even goes back to school. He graduates and could hold a good job. But he is turned down, because a Conservative government decided that he would unfortunately be ineligible for a record suspension, having been charged with three offences.

A number of people experience a similar fate. That man went to school, worked hard and was very happy when he could request to have his criminal record suspended. Finally, he says to himself that he studied, took charge of his life, has a woman and children, and things are going well. He might have a low-paying job, but he is not alone in that predicament, and he can now request to have his criminal record suspended so that he can work in his area of expertise. That is why he went to school. He sees the authorities, fills out the form that is presented to him, has his fingerprints taken, but then is turned down because he committed three offences and is no longer eligible for a record suspension. It has been years since he committed a single crime. He has become a law-abiding citizen. He pays his taxes, thus allowing the Conservative government to invest in prisons. He is able to move ahead. But he is now told that he is no longer eligible for a record suspension because he committed three offences. And those were not serious offences, but offences resulting in sentences of less than one year.

[*English*]

The Chair: I'd just remind Madam Mourani that according to this bill, with only three offences they still would qualify, but they wouldn't with four.

• (1020)

[*Translation*]

Mrs. Maria Mourani: No, Mr. Chair. I will reread what is written. It says "ineligible." What does that mean? Let me give you the definition of the word "ineligible." What, according to you, does that mean? It is very simple. It means: "cannot be eligible." It is something that cannot be accepted. It is something that cannot be permitted.

Let us take, for example, someone who wants to request that his criminal record be suspended and who is ineligible—that is what he will be told if he cannot do so. I could have given you the exact definition of the word. Unfortunately, I do not have a dictionary close at hand. That is another significant document that I should have brought with me.

In short, those who have been convicted of more than three offences—three or four; I do not think there is such a thing as three and a half offences—resulting in sentences of over a year are ineligible for a record suspension. Obviously, there are those who commit such crimes who will commit a number of criminal offences within a month. That could be during a time of crisis during which the person is fighting for his survival, or in a fit of rage, which leads him ultimately to commit several criminal acts within the space of a month. And others can experience highs and lows and commit several offences within one year.

Mr. Chair, what people should understand is that this part of the bill is inadmissible. Why? Because it calls into question everything that has been done in Quebec for many years. Rehabilitation is no longer considered. In fact, a number of people who committed criminal offences and later were pardoned came to see us. Among them was a man who has requested a record suspension and who said that, if the bill were adopted, he could no longer go ahead with his request. These people have rightly noted that it is no longer worth trying to become rehabilitated, because it is impossible to request a record suspension once you have committed three offences. The message we are sending to people is that they should forget rehabilitation, it is useless. In any case, someone might do everything he can, work hard, but it is all in vain. Mr. Chair, that is important to note, even if everything else that was said is also important.

Given how humans have evolved, I would now like to show how this relates to the practices of the Middle Ages. We will be telling people that they might work hard and do everything they can to become rehabilitated, but they will still be branded for their entire life, they will not receive a record suspension. That amounts to modern day branding, although it is not done with a hot iron. This is a way to brand thousands of people for life. There are some 3.8 million Canadians with a criminal record, including nearly 32,000 who request pardons. They are now being told to be careful, that they will be branded for life because of this bill, just like in the Middle Ages when people were branded with hot irons. What is more, that is unacceptable in a society governed by the rule of law and where people's rights are upheld. The terms “ineligibility” and “ineligible for a record suspension” mean the same thing. Mr. Chair, that point is unacceptable.

We in the Bloc Québécois will vote against it. It is our intention to bring forward an amendment that would abolish the provision making those convicted of more than three offences resulting in sentences of more than one year ineligible for a record suspension. These are not people who have killed others. That has absolutely nothing to do with murder. That will affect all those charged with economic offences.

●(1025)

There is one thing we should not forget. In fact, there is a fundamental issue that has not been raised. Before receiving a record suspension, a person cannot have committed other criminal acts. That means that the person who committed—

A voice: [*Inaudible—Editor*]

Ms. Maria Mourani: No, not at all. A person cannot have committed any criminal offence whatsoever. A record suspension cannot be granted to a repeat offender. Not at all.

What does that mean? For example, take someone who committed a criminal offence in 1995 and who must wait 10 years after having served his sentence before being able to request a record suspension. If the person commits another criminal offence in the meantime, that will postpone the moment he can make his request. The individual has to serve his sentence for the second crime and wait out the new period of time before being able to request a record suspension. All in all, that person might have turned 90 and wonder what all that meant to him.

Record suspensions only work for those individuals who are very likely to become rehabilitated. A hard-core criminal will never request a record suspension. Why, do you think? Because that person knows full well he will never receive one, that he will never even be eligible because he is still involved in criminal activities.

The provision that provides for the suspension of criminal record, or pardon, as it is now called, is meant for people with a strong capacity to rehabilitate themselves. In any case, those people are already rehabilitated, having served the time required before being able to request a pardon. During all that time, they demonstrated that they were able to be rehabilitated. In fact, they are already rehabilitated because they have not committed another criminal act.

This bill, which includes offences other than serious offences against people, will unfortunately target the 97% of people who obtain a record suspension and never re-offend. Those people will be affected by this bill, simply because the minister finds that to be logical. The Conservatives do not understand the meaning of the word “rehabilitation.” This is akin to something from the Middle Ages.

The important thing is for us to take our time, to hear witnesses—I myself have submitted a number of names—and to make appropriate amendments to this bill so that it effectively targets the right people. If we want to target pedophiles, then let us target them. We should not target the woman who shoplifted in order to feed her children, or the man who committed a youthful mistake at 18, outside a bar, when he fought with another man who wanted to pick up his girlfriend. Let us refine the aim of this bill. We want to ensure that pedophiles are no longer eligible for a record suspension; so let us do it, but let us do it right. Let us target the right people, or rather the right crimes.

That said, Mr. Chair, we will be moving amendments. We will enthusiastically contribute to ensuring that child predators are ineligible for pardons. As it is currently drafted, this bill is unacceptable.

In conclusion, I would like to thank you for your kindness, Mr. Chair, and I wish everyone a Merry Christmas.

[English]

The Chair: Thank you very much, Ms. Mourani.

I have Mr. Davies, and then Madam Mendes.

Mr. Don Davies: Thank you, Mr. Chairman.

I know we have a brief amount of time here. I just think that at the end of the day, before we take away the possibility of removing pardons from a wide swath of people for life, we study the issue carefully and base our decision on our best knowledge, the best evidence, and the best understanding we can get. And having 120 minutes of testimony is simply not sufficient in this regard.

I also just want to point out that I do want to hear from more victims' groups. We did hear from two, and I thought the perspective they brought to bear on this was helpful. I notice that the witnesses also testified that there's nothing in this bill that would provide for them being notified of someone making a pardon application or being aware of a pardon application happening, and that may be something that we, as a committee, want to look at. I think that's another area that we should delve into before we proceed hastily to rush this bill to pass for political purposes.

So far the only testimony we've heard is that lengthening the waiting periods for so many more crimes will hurt the rehabilitation process, and then that also, in turn, hurts community safety. If it's one thing that we all share here together, Conservatives, Liberals, Bloc, and NDP, it's that we all want to make our communities more safe. And while we may have differences on the best way to do that, one thing I think we can agree on is that these are serious issues that Canadians are concerned about, so they're worthy of our respectful treatment, to make sure that we're making decisions and amending the law in a way that is really going to help achieve that objective of making our communities safer places.

Mr. Chairman, I want to again mention that the minister himself, I think to his credit, indicated that he was open to suggestions. A couple of his quotes are: "There are some circumstances in which, even for multiple offenders, we need to look at the situation." He also said: "If this committee can find something that will address the concern of multiple offenders taking advantage of the system...it would be worthwhile for the committee to consider."

So we have two clear indications from the minister himself that further consideration is not only beneficial but welcome. I think they were wise comments on behalf of the minister, and that's why I think we do need to have at least another couple of sessions so that we can make sure we hear from everybody, all the stakeholder groups, to have that consideration that the minister talked about that I think is important before we change the laws of Canada. And once again, before we permanently take away the rights of people to have a pardon in this country, we should be doing that on the best evidence available and making sure it's good policy.

Mr. Chairman, I see the clock is at 10:30. I don't know if we're going to be adjourning the meeting at this point? Or at what time do we—

•(1030)

The Chair: At 10:45.

Mr. Don Davies: At 10:45.

The Chair: I have Madam Mendes on the speaking list.

Mr. Don Davies: Well, I have a couple other quotes that I would like to raise, then, and that is about victims. Some of the testimony that we heard—and I'll quote—said this:

...in my experience working with victims, it is very important that the victims have an opportunity to understand what happened and why something happened. And they want to have some assurance that it's not going to happen again so that they feel safe. I think this is an important point. Ultimately, they want to know that somehow this incident has had an impact on the offender, as well. They would like to know that the offender is going to be a better person or make some amends, not just to them but to society, as a result. These are things I've heard when interviewing victims in mediation sessions, in preparing for mediation, and that I've seen come forward.

I think, actually, what this bill would do is make it harder for victims to feel a sense of satisfaction, because they wouldn't get the sense that the person is moving on, that in being pardoned, the person has achieved a certain level, has met certain criteria, and has not committed a crime. I think that would be lost.

Now, on the other hand, in fairness to some of the other victims who testified, they do support in some ways the thrust of this bill, and that's why I think we need to hear from more victims in this case.

I also wanted to briefly quote—we talked about the offenders who came before this committee, and the kind of evidence that I'm talking about helps me, as a legislator, figure out what the best way forward is. I'm going to briefly quote from that witness who testified, because this is the kind of evidence that I think Canadians need to hear more of.

He said:

My name is Chris Courchene. I'm a member of Sagkeeng First Nation in Manitoba. I live in Winnipeg, and I am a carpenter's apprentice. I am here today to tell you my story and how it relates to the legislation being considered.

That's Bill C-23B.

The first 11 years of my life I mostly lived with my grandparents on reserve. I went to school, and it was a fairly functional environment. Then I turned 11. My mother did the best she could, but she suffered from having attended the residential school system. She was a drug addict and an alcoholic and was very abusive. This was her hurt. She wasn't able to look after me the way she should have, had she had a normal upbringing herself.

She got me involved with a local street gang when I was 11. I want to repeat this: My mother got me involved in a street gang when I was 11. The gang offered me belonging, opportunity, and safety. Between the time I was 11 and 24, I was arrested more than seven times, and I have more than seven offences.

I spent more than half of this time in jail.

So that would be approximately six years.

Every time I got out of jail, I had good intentions for starting a new life, but I continually hit dead ends, partly because I was unemployable with my history, partly because of alcohol and drugs. The cycle of offence, arrest, conviction, time in jail, and release would repeat itself over and over until I was 24. It was then that I was hired into a program called BUILD, in Winnipeg's inner city.

BUILD is an aboriginal social enterprise that accepts people with backgrounds similar to mine where we receive training, job experience, and a supportive environment. It helps us go from being unemployable to being an asset in the labour market.

While at BUILD, I took a parenting course and realized the patterns I had to break in order to be a good parent to my two children. I took a budgeting course, WHMIS, first aid, and CPR and even obtained my driver's licence through their driver's licensing program.

Now I am ready to take steps to move on to my second apprenticeship level. But I can't do this with a criminal record. I am prevented from obtaining a good career job with employers such as Manitoba Hydro. I haven't reoffended now in soon to be five years, and I was intending to obtain a pardon, given that I will soon reach five years with no offence.

I have now completed my grade 12, my level one apprenticeship, and my driver's licence. I am career-oriented and am a loving, committed parent to my two children.

Prime Minister Harper offered an apology to aboriginal peoples here in the House of Commons. When I heard about this apology, it encouraged me to heal and put the past behind me, and I look forward to becoming a productive citizen and a member of society.

I feel that the proposed legislation paints everyone with the same brush. I think that the pardon should be meant for people who clearly have demonstrated without a doubt that they have reformed and that they have a very negligible chance of reoffending. I know that with this legislation you are hoping to reduce crime. I think that is commendable. There have to be consequences for actions, but painting everyone with the same brush won't serve that purpose.

I hope that you allow me to apply for a pardon. I'd like to move on with my life.

That was the testimony from an offender who this legislation would prevent for the rest of his life from getting a pardon.

• (1035)

As you can see, Mr. Chairman, this is a person who doesn't have the typical life that we would envision for most of the children in this country. Being put into a street gang by your mother when you're 11, a mother who suffers from addictions, and being part of the street life as a young aboriginal in this country, is not exactly the kind of productive start we want to give our children.

By the time this young man was 24, he had more than three convictions. Do we give up on him? Does this sound like a person whom we give up on? This is a person who's turned his life around, who has taken a number of commendable steps—finishing high school, doing an apprenticeship, not reoffending for five years, taking budgeting courses, taking first aid courses, taking CPR, trying to be a good parent to his two children. Well, this legislation the government wants to push through would mean this person will never get a pardon for the rest of his life. He's already explained how that would be a barrier to his finishing his career. He couldn't even finish his apprenticeship.

Now I also want to talk briefly about public safety. We heard this testimony as well:

At most, only 4% of those pardoned reoffend at a later date, strongly suggesting that the current criteria are more than sufficient. A pardon doesn't prevent a person from being investigated for other offences or make it any easier for the person to commit a crime in the future. What benefit is there to public safety in doubling waiting periods and taking away pardons altogether from those who commit specific offences or have more than three indictable offences? On the contrary, putting additional pardon barriers in the way of individuals trying to move forward and live crime-free lives decreases public safety. It is in the interest of public safety that, once convicted of an offence, the individual has a way, through the pardon process, of putting their past activities behind them and not committing any further crime.

There's also an element of unfairness in this proposed legislation for those it would most impact. It is well known that aboriginal peoples are over-represented in the correctional system. In Manitoba, aboriginal people make up only 12% of the overall population, but represent approximately 70% of those who are incarcerated.

These are the people who would be disproportionately affected and targeted by this proposed legislation if it were to pass.

Mr. Chairman, we've heard that there are a number of sex offences in this legislation that would come under the category of someone being unable ever to obtain a pardon. I think there may be some sex offences that should never be pardoned, but we have not heard one minute of testimony from anybody who knows anything about sex offences. We haven't heard from any researchers, any therapists, any people in the correctional facilities, or anybody from Corrections Canada. I want Corrections Canada to come to this committee to explain what the actual data are, what the expectations are, and what the real experience of those working with sex offences are.

This summer I went to the Regional Psychiatric Centre in Saskatoon, and I sat and I talked to some of the very special people who work with sex offenders in that place. The Regional Psychiatric Centre is where federal sex offenders not eligible for programs are sent so they can get access to programming. I sat and listened to a doctor explain to me that a number of these people were illiterate, had mental ages between 5 and 15, and couldn't access the regular sex offender programming. She told me that there is a vast diversity of personalities and types of people when we talk about sex offenders. We have some who perhaps are dangerous for their entire lives and should never get a pardon. We have others who actually are capable of rehabilitation and of never offending again.

I don't know what the percentages are. I don't actually know how far we should go in this regard. But I do know this: I know that nobody at this committee has any factual basis for making that determination, including me, because we haven't heard from anybody.

• (1040)

I haven't made up my mind. I think as legislators it's an important point to approach each of these subjects with an open mind, but surely before we take away the right of a person to apply for a pardon for the rest of their life for broad categories of sex offences, we should have a factual basis before us.

I know what the Conservatives are going to do. For all the Canadians watching, they're going to run out and say, "The opposition says that people convicted of sex crimes against children should be pardoned." That's what they're going to say, and of course that's not true. That is not at all what the opposition is saying. It's certainly not what I am saying.

What the New Democrats are saying is that we need to study this issue carefully, because the truth is that there is a broad swatch, a great diversity in range of people who are convicted of sex offences. Some of the offences that are in this legislation should be considered for prohibiting getting a pardon, particularly when we're talking about sex offences against children. But there are some offences that are caught in here that perhaps require some more nuanced thought, and I think some of the wide range of offences in this legislation require some study.

I want to hear from the ministry. I want to hear from the Correctional Service of Canada. I want to hear from the people who actually work in our prisons and work with the offenders of all indictable offences, so that we can have the benefit of their testimony and expertise.

When they come to this committee.... We pay them, and we entrust the care of our offenders to these people. They work every single day with offenders: correctional guards, prison psychologists, social workers, prison wardens, parole officers, people who work in halfway houses, people who work with offenders, and former offenders themselves. We need that perspective to bear.

•(1045)

The Chair: Mr. Rathgeber, on a point of order.

Mr. Brent Rathgeber (Edmonton—St. Albert, CPC): As much as I'm enjoying Mr. Davies' eloquent exposé as to why some sex

offenders deserve pardons, it's 10:45 a.m. and I'd ask you, Mr. Chair, to bring this meeting to a conclusion.

The Chair: All right.

Mr. Don Davies: A point of order, Mr. Chairman. That characterization should be withdrawn. I did not say that sex offenders deserve pardons. I did not say that.

The Chair: Thank you very much.

I want to first of all thank all those departmental heads and all those who were here and prepared to go to clause-by-clause. Thank you for your patience and your endurance to the end.

I also want to just quickly mention that all witness names that were submitted by the opposition and by the government were called to this committee. I think that point needs to be on the record.

Seeing the clock at 10:45 a.m., we are adjourned.

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