Mrs. Pierrette Venne (Saint–Hubert, BQ) moved:

Motion No. 24

That Bill C–45, in Clause 72, be amended

(*a*) by replacing line 16, on page 44, with the following:

"741.2 Notwithstanding subsection"; and

(*b*) by deleting lines 7 to 12, on page 45.

Motion No. 25

That Bill C–45, in Clause 83, be amended

(*a*) by replacing line 14, on page 52, with the following:

"743.6 Notwithstanding subsection"; and

(*b*) by deleting lines 34 to 39, on page 52.

Motion No. 26

That Bill C–45, in Clause 83, be amended

(*a*) by replacing line 45, on page 52, with the following:

"743.6 Notwithstanding subsection"; and

(*b*) by deleting lines 17 to 22, on page 53.

She said: Madam Speaker, the motions I am submitting to this House for approval are simply aimed at repealing subsection 2 in section 741.2 of the Criminal Code as amended by Bill C–45.

It is surprising, to say the least, to see that incarceration is the preferred way to deal with delinquency. But it is ridiculous to suggest that society's denunciation and deterrence should be the only guiding principle for sentencing.

To understand Motions Nos. 24 through 26, one must first understand the guidelines set out by legislators to help judges decide whether or not to suspend application of the usual parole regulations.

• (1130)

In 1992, legislators gave extraordinary powers to judges imposing prison sentences of two years or more. In fact, section 741.2 of the Criminal Code as it now stands makes it possible to disregard section 120(1) of the Corrections and Conditional Release Act. Section 120 of the Corrections and Conditional Release Act sets the usual period after which an individual becomes eligible for parole. This period usually amounts to a third of the sentence. Thus, if the judge is convinced by the circumstances of the offence, the character and specifics of the criminal and the degree of denunciation by society, he may order the criminal to serve half of the detention time imposed before being eligible for full parole.

It may seem normal for inmates to have to serve half of their sentence before being eligible for parole. It must be kept in mind, however, that the sentencing judge has already taken into consideration all of the circumstances surrounding the offence and the criminal's individual and social characteristics, as well as a presentencing report with a victim impact statement.

Thus, if he sets a four-year sentence for sexual assault for example, he has already weighed the aggravating and attenuating circumstances in imposing this four-year rating. Judges know very well when they sentence an individual that he will become eligible for parole after a third of the sentence has been served.

This factor is therefore taken into consideration by the judge. He does a little mathematical calculation before sentencing, in order to know how much real penitentiary time the accused who has been found guilty will serve. If he considers that the real time might be ridiculous in light of the offence committed, he will increase the period of incarceration imposed and thus the length of time actually spent behind bars.

In giving greater powers to trial judges, the legislator has provided them with an important tool for setting a dissuasive example. That tool must, however, be used with discretion and on an exceptional basis. Section 741.2 should not be used as a matter of course, as a sop to the frustration felt by most people when they see individuals released on parole who are not ready for rehabilitation.

By expanding the role of the trial judge and letting him go beyond the procedure that is customary in dealing with the inmate, the legislator is trying, and I say trying, to strike a balance between the judicial power to judge and sentence and the powers of the board in the parole process.

The exceptional character of section 741.2 has been pointed out a number of times by the Quebec Court of Appeal. In 1993, in the Dankyi judgment, the judges of the highest court of the province stated that the range of sentences for trafficking and possession for the purposes of trafficking was normally adequate to cover both minor and more serious cases. The trial judge did not have to resort to section 741.2 of the Criminal Code to hand down an exemplary sentence. Ordering the inmate to serve half of his sentence can only be justified in exceptional circumstances.

In the Leblanc judgment in 1995, the Appeal Court maintained its position and said this was an exceptional measure, to be used only in specific cases that warranted such measures.

• (1135)

Not long ago, in February 7, 1995, the Quebec Court of Appeal reiterated its position, stating that the trial judge should have formulated separate and distinct grounds for imposing a severe but fair sentence while ordering the inmate to serve at least half of the sentence before being eligible for full parole. The judges of the Appeal Court decided that the trial judge's reasons for imposing a sentence of 13 years in the penitentiary for robbery were based on the same grounds as his order that at least half the sentence was to be served. According to the judges, this was an error in law. Grounds and reasons should be distinct, which is what the legislator had in mind in section 741.2.

In Bill C–45, as amended and reported by the Standing Committee on Justice and Legal Affairs, the present section 741.2 appears on page 44, where the committee added subsection (2) which reads as follows: "For greater certainty, the paramount principles which are to guide the court under this