if it wishes. This regime was created in 1968 and confirmed and expanded by Justice Minister Campbell's Bill C-17. If a weapon were designated "restricted" or "prohibited" under the existing legislation and a person failed to register it, surrender it or grandfather it, under our present law, they would already be guilty of a criminal offence. This is the normal regulatory process and it is already law.

For everything except the definition of restricted and prohibited weapons, the bill as proposed by the minister would delay implementation of any regulation relating to gun control by at least 30 sitting days or, as you know, a number of months. I believe the minister really deserves to be applauded for advancing such a new and open process. What is new in this proposed legislation is that Parliament will have to give a full airing of all these regulatory aspects of the gun control system before the regulations can be enacted, with the exception of the designation of restricted and prohibited weapons. These restriction and prohibition orders currently fall into the category of regulations that do not require advance parliamentary review before coming into force. Their status is not changed by the bill.

The amendments proposed by the committee seek to place these prohibition and restriction orders also in the class of regulation that requires 30 sitting days of review before implementation is possible. Creating such a delay would be inappropriate in this instance as the minister really needs to be able to continue to deal swiftly with any sudden developments in the weapons market to keep Canada free of these new and more lethal weapons.

Honourable senators, just so no one thinks this whole approach to regulation is new, I can provide other examples of this kind of regulation. The Narcotics Control Act allows the Governor in Council to designate certain substances as "controlled" substances for the purposes of the act. The act empowers the government to control dangerous drugs, in a general sense, but it is up to the Governor in Council to decide what specific substances constitute dangerous drugs. Other examples of such federal acts are the Hazardous Products Act, the Food and Drugs Act and the Explosives Act. This is nothing new.

Second, I should like to speak to amendment number 14, which would allow provinces and territories to delay implementation of this act — in effect, to opt out for up to 10 years. I want to reinforce what Senator Spivak said because, in my opinion, this is potentially one of the most dangerous provisions of all the proposed amendments. I believe it is illegal as well as unconstitutional, for it would create two different Criminal Code regimes in Canada which would be operating at the same time, an almost impossible administrative nightmare, not only for the police forces but also for Customs Canada.

Implementation of licensing and registration is already in this bill. It is to be phased in over a long period of time, six and eight years respectively. The longer we wait, the worse the problem becomes.

I also want to assure Senator Ghitter that I did not hide away here in Ottawa or in this room. I consulted with Calgary city aldermen, among others who assured me — some of them were quite heated about it — that we should, "Get on with the job, stop talking about it and, for Pete's sake pass Bill C-68."

Calgary City Council was one of the groups approached by senators as they wended their way through the West during the last few weeks. I understand that they turned down the opportunity to appear before the senators. They repeated their continued support for the Canadian Federation of Municipalities and their strong support for this bill.

This opting-in amendment has not been given enough serious consideration in view of the damaging consequences it would have on the appropriate and equal operation of the law. For example, by having two different Criminal Codes operating within different jurisdictions, a long gun owned by someone in an opt-in province — for example, Quebec — could not be sold to someone living in an opt-out province — like, perhaps, Ontario — because a licence would be required for that sale.

• (1710)

The Hon. the Speaker *pro tempore*: The honourable senator's time has expired. Is there leave for her to continue?

Hon. Senators: Agreed.

Senator Milne: Thank you, honourable senators.

I believe that this amendment would lead to, and even promote, interprovincial smuggling. All provincial and territorial governments have stressed to the Senate committee the need to have national standards.

This amendment also raises issues under the Canadian Charter of Rights and Freedoms. Under the old Part III of the Criminal Code, the transfer of a long gun to someone without an FAC is punishable by up to two years' imprisonment. Under the new Part III, the same action is punishable by up to five years' imprisonment. This raises questions about the equality guarantee within the Charter and the right not to be deprived of liberty except in accordance with the principles of fundamental justice in the Charter.

I echo what Senator Carstairs said yesterday: By the division of powers in the Constitution Act of 1867, the provinces do not have the authority to legislate criminal law. By requiring them to pass a provincial statute to opt in, this amendment, in effect, gives them that power. It seems to me that this is unconstitutional.