

Government Orders

provides an opportunity for Parliament to make a statement that that kind of attack will not be tolerated and that we stand together in condemning hate motivated crime.

I commend the bill to my colleagues and ask them to support it. In the last several days we have received expressions of support for this exact provision from the United Church of Canada, B'nai Brith Canada, the Canadian Jewish Congress, the Federation of Canadian Municipalities, the chief of the Ottawa police force, the chair of the Ottawa-Carleton Regional Police Services Board, the Centre for Research Action on Race Relations, the Urban Alliance on Race Relations, the chief of the metropolitan Toronto police force, the Canadian Association of Chiefs of Police, the mayor of the city of Toronto, and on and on.

These responsible participants in Canadian society perceive the problem that the bill is intended to address and agree on the efficacy of the approach taken in section 718.2. I urge my colleagues to see past the smoke and the disguise of false characterizations, to look at what the bill does and at what the section achieves, and to support the government in these meaningful and important measures to deal with a rising social problem in the country.

As we approach third reading let reason prevail. I ask members of the House in all parties to join with the government in doing something to improve the criminal law in general and in particular to demonstrate a resolve no longer to tolerate hate motivated crime in the country.

• (1540)

[*Translation*]

Mrs. Pierrette Venne (Saint-Hubert, BQ): Mr. Speaker, talk about sentencing reform is nothing new. The consultation process that started 10 years ago has finally led to today's third reading debate on Bill C-41, which deals with sentencing. This outcome was preceded by acrimonious debate.

The statement of principle underlying the bill is a step in the right direction. The maintenance of a just, peaceful and safe society by imposing just sanctions, together with other crime prevention and law enforcement initiatives, fully deserves my support. In addition, innovative measures aimed at decriminalizing some minor infractions, alternatives to incarceration, and suspended conditional sentences will reduce prison overcrowding and focus sentencing on rehabilitation rather than incarceration.

That said, I think it is essential to stress that the bill will have a major impact not only on the accused before the court but also on the general public.

Sentencing is one of the most important steps in the criminal justice process. Contrary to what many people believe, most people charged with crimes do not go on trial. The vast majority of them plead guilty as charged. Their only experience of our criminal

system is often limited to a brief appearance before the court for sentencing. Most charges laid are settled out of court as a result of plea bargaining. Without this process, the judicial system would clog up to such an extent that, the way things currently stand, it would cease to function to all practical purposes.

As a result, the accused pleads guilty, hoping that his lawyer will negotiate a reasonable sentence with the Crown. Any agreement reached between both parties is submitted to the judge. The judge is then free to approve or reject the suggestion made jointly by the defence and the Crown. The defence may also ask for a presentence report that the judge will take into consideration before handing down his sentence.

The public pays attention to two things: the verdict and the sentence. The majority are not concerned about the technical side of what lawyers do. They want to know whether or not an individual is guilty, and what the sentence is. The sentence does not just involve the accused, but the public in general. The appearance of justice, the setting of an example, clemency and the dissuasive effect of the sentence are all important aspects in the determination of the sentence.

Despite the importance of sentencing, the Criminal Code has never given any exhaustive direction to judges. They exercise complete discretion and have full powers as to the nature and the severity of a sentence. The applicable law in sentencing is written by judges and not by the legislator. This is the classic example of the judge-made law that is part of our Anglo-Saxon heritage.

Through their interpretation of the law and the moral authority they wield, judges help to shape and develop the fundamental values underpinning society. Unfortunately, and I will go on condemning it, women are chronically under-represented in the judiciary. Lynn Smith, the dean of the University of British Columbia's faculty of law laid out the problem clearly in an article entitled "A system that is changing".

• (1545)

It contains the following eloquent passage, and I quote: "The roots of the legal system were put down by men. They were developed in an era when women were not allowed to vote, to stand for office, to be lawyers or to sit on juries. The law was there to protect interests that men held important, that were consistent with the realities of their lives as men. Although the law may be said to take the situation of women into account, nonetheless an entirely masculine perspective underlies our legislation".

The majority of the approximately 1,400 judges handing out sentences are men. The overwhelming majority of federally appointed judges, those sitting in the provincial higher courts or in the Federal Court, are men. Of a total of 950 federal judges, only 134 are women. All come from a privileged socio-economic background. The accused appearing before them are rarely as well connected: they are not always men.