less serious, non–violent nature, the system will provide for taking that person out of the court stream. As long as they acknowledge their wrongdoing, alternative ways of ensuring that they learn the lesson will be established. These measures will free up scarce and valuable court time for the more serious offences where the need is greater.

A separate and different innovation which Bill C–41 introduces is the concept of the conditional sentence. It is a new form of sanction available where the court imposes a jail term of less than two years. It permits the jail term in effect to be served in the community rather than in a prison. This would be done under strict conditions which the court can impose and under close supervision if necessary. In a manner which is less costly to the state and more likely to result in a positive outcome, the court can impose strict conditions. Breach of these will require the offender to show cause and effect why the offender should not then be brought to prison to serve the balance of the sentence in custody.

Finally, Bill C–41 provides for a comprehensive and cogent statement of the rules of evidence and procedure for the sentencing hearing itself. It collects for the first time in one place in a readable and usable fashion, the rules of the sentencing hearing: the burden of proof; the powers of the court to obtain additional information pertinent to the sentencing process; a requirement that judges give reasons for their sentence. In every case society will know what logic or rationale lay behind the penalty imposed. There is also a provision so that we know plainly and clearly what the rules are governing the sentencing process to add greater fairness and greater consistency in the way courts go about doing their business.

Bill C–41 is a broad and comprehensive measure to introduce progressive, sensible and sound changes to the criminal law, to act upon longstanding recommendations made for many years by independent bodies and by a committee of the House, effecting real improvement to this vital part of the criminal justice system.

I commend the House committee for its careful work on the bill. The committee heard from many witnesses. It worked very hard clause by clause examining the bill and all of its measures. I believe the bill was improved considerably as a result of the effort and the care which was taken by the committee.

• (1525)

Just as was the case when I appeared before the committee and as was the case when I spoke in the House at second reading, there is one feature of the bill which dwarfs the others in terms of the attention it has received and the controversy it has created. It is section 718.2 of the bill which deals with aggravating circumstances that the court should take into account in determining the appropriate sentence.

Section 718.2 of the Criminal Code as contemplated by Bill C–41 would provide that one of the principles that govern the sentencing process in the criminal courts should be that a court that imposes a sentence shall also take into consideration the principle that the sentence should be increased or reduced to account for relevant aggravating or mitigating circumstances. Those circumstances may relate to the offence or to the offender. For example, if someone was a first time offender or if someone was a repeat offender, those circumstances would respectively either mitigate or aggravate the sentence the court gives.

The section goes on from that general statement upon which I just elaborated to provide more specifically. It says, without limiting the generality of the statement to which I have just referred, that certain factors shall be deemed to be aggravating circumstances and the court therefore shall take them into consideration. The section provides that evidence that the offence was motivated by bias, prejudice or hate based upon the race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor shall be deemed to be an aggravating circumstance.

Of course this is the section that has attracted the attention of those who criticize the approach. It is important for us first of all to bear in mind just what the section does and how it operates. This has nothing to do with policing or punishing the way people think or the views they hold. It has nothing to do with the freedom of thought or the creation of thought police to govern the attitudes of individuals.

The section is part of a sentencing bill in the Criminal Code to assist the court in determining what the punishment should be when it has already been established in the court that a crime has been committed. All it says is that after it has been proven that a crime has been committed the court should consider aggravating and mitigating circumstances. Where it is proven that the person was motivated in committing the crime by hatred, bias or prejudice, then that shall be taken into account as an aggravating factor.

Among other things the inclusion of this provision in the bill complies with a commitment made by the Liberal Party during the 1993 election campaign. On page 84 of the red book, in a promise that was elaborated upon in specific statements made by the Prime Minister to equality seeking groups, the Liberal Party undertook to amend the criminal law to provide this kind of protection to vulnerable groups who are typically the victims of hate motivated crime.

Beyond that, if one needs further justification for the statement of what one would have thought was simply a sensible proposition, one need only look to the increased incidents of crimes of this type. Every major group among identifiable minorities reports in recent years a troubling and significant increase in hate motivated crime, among them B'nai Brith which has told the Department of Justice that there are now over 40 organized hate groups in Canada. Religious groups and minorities are clearly worried, as well they