While in general I agree with the position taken by Senator Hastings that the current situation is not acceptable, I am not necessarily in agreement with the proposed amendments as outlined in the bill. Certainly, in my view, they do not go far enough to achieve the stated purpose of the bill, which is to correct a series of serious flaws in the whole of the "early release" aspect of our penal system. Indeed, I truly regret that Bill S-32 goes such a little distance in dealing with that problem. I also regret that the bill, as Senator Hastings presented it, does not concern itself with the problems of, for lack of a better word, the victims of early-released criminals; and, in simple terms, there are many people who are adversely affected by criminals receiving early releases.

However, let me first deal with the mover's comments. Senator Hastings made reference to a report made a couple of years ago by the Standing Senate Committee on Legal and Constitutional Affairs, under the chairmanship of Senator Goldenberg, which concluded that it had to be recognized that a sentence by a court was a sentence and that it was the intention of society that that sentence be served. I find no difficulty in accepting that principle as expressed in those words, the words of the committee as related by Senator Hastings, but I do have some difficulty accepting the notion, as expressed by Senator Hastings, that where the sentence is served and how it is served are matters that have been left to Parliament to decide and that Parliament, in its wisdom, has decided that the last one-third of the sentence can be served, subject to certain conditions, outside of custody.

I suspect that, in eliciting people's opinions, Senator Hastings and I must definitely be talking to different members of society, because, to my way of thinking, the majority of the people of Canada believe—but it is only a delusion—that a 10-year sentence is a 10-year sentence; that a five-year sentence is a five-year sentence; that a serious crime is accorded a long term of imprisonment; and that the criminal ought to serve that sentence.

The concept that Parliament has the authority to reduce sentences seems to be foreign to most Canadians, and I would suggest to honourable senators that, if they understood it, most of them would find it unacceptable. The common belief is that conviction of a serious crime calls for a serious punishment, a heavy penalty, not a penalty that only appears heavy but at some later date has a discount attached to it.

Honourable senators, there are several good reasons why there should be lengthy terms of imprisonment for serious offences. First, there is the deterrent factor; then there is the rehabilitative factor; and then there is the essential aspect of the protection of society.

● (2120)

I am not convinced that discounting takes all of those factors into account. For example, the protection of society is not at all covered when, often for little reason, a lengthy term is cut short.

What about uniformity? We pass laws in the name of, and for the sake of, uniformity. I cannot find an excuse for the

[Senator Nurgitz.]

passage of poor legislation. Even if it is not necessarily a good law, let us at least make it uniform.

Hon. Royce Frith (Deputy Leader of the Government): But there are really worse reasons.

Senator Nurgitz: Not many, but there are worse ones.

As to the question of penalty imposed on two different persons who have committed the same offence but in different parts of the country, one would hope they would receive, if not the same, at least similar sentences. One would hope there would be some uniformity in the penalty we impose on those who breach the rules of our society. Uniformity is not only desirable, it is the only fair thing.

Last week I talked with two judges. Because I know that we are not against legislation by poll, I conducted a poll.

Hon. Martial Asselin: You are not permitted to talk to judges.

Senator Nurgitz: Yes, and I plead guilty to that.

Hon. Jacques Flynn (Leader of the Opposition): But not by telephone.

Senator Nurgitz: No, not by telephone.

Senator Frith: Nor about cases that are before them.

Senator Nurgitz: The conversation might have been regarding cases before them, but I would have no way of knowing.

Hon. Joseph-Philippe Guay: Were they from Manitoba?

Senator Nurgitz: I am not going to disclose that on the grounds that it might incriminate me.

What I want to point out to honourable senators is that, of the two judges I spoke with, one told me that in many instance, but not in every instance, he takes the discount factor into account. If there is a serious case before him, he looks at what he thinks is the appropriate sentence to be served by the accused if found guilty, and then takes into consideration the one-third, and then adds half.

The other judge I spoke with said—and I am not so sure he is far wrong—that he has to determine what penalty he metes out, and that it is not his responsibility if another authority reduces that. There is another rule and another reason.

Honourable senators, those two judges were from the same province. I confess to Senator Guay that they were both from Manitoba and both have what I suggest are contrary views. Talk about losing uniformity! That is a serious problem.

The major criticism I have of the 1971 bill and this amendment is that they contain the words "mandatory supervision." Honourable senators, talk about public deception! What do those words mean? As I said, I conducted a poll—and I only did so in my native province. I talked with two gentlemen on an aircraft today, one is a manager of a community organization, the other is in the meat business. I asked them what the words "mandatory supervision" meant to them. They both somewhat agreed that "mandatory" was a strong word, that it meant "compulsory" or "no way out." They agreed that