similar at all. Neither may the crimes be similar at all in their circumstances, the value of property stolen or the degree of injury caused to a victim. It is not possible to judge whether disparity in sentencing really exists or the extent to which it may exist across Canada from the incomplete information presented in media reports.

Differences in sentencing from time to time and from place to place at the same time are entirely to be expected. Indeed, such differences are normal reflections of the differences in sentencing requirements from one court to another and from one time to another. One can imagine in a small community a wave of vandalism occurring caused by a few offenders. In that community and at that time the judge may decide, and properly so, that deterrent sentences of punishment are needed to discourage others from committing vandalism. In another town or at another time vandalism may not be a problem, and a judge sentencing an offender may feel that considerations other than general deterrence can form the basis for an appropriate sentence in that case and may see a fine, probation or community service as the best of the alternatives. So as crime conditions in a community change, so the sentences for similar crimes may have to change, depending on the view the judge takes of the seriousness of the crime situation and the chances of deterrent sentences influencing or discouraging other people from committing crimes.

I am sure we all recognize that sentences imposed in one place are quite likely to be different from those imposed in another, even for similar crimes. Sentences are neither expected nor supposed to be exactly the same across Canada. Rather, appeals against sentences in criminal cases are decided in the provinces where judges in appeal courts are more familiar with the local conditions and can reflect the feelings of the public and concerns about the crime situation in their sentences.

It is interesting to reflect on the fact that despite the expectation of variation from province to province in particular cases, a study of the leading cases in sentence appeals across Canada shows a remarkable consistency. I refer to the consistency in principles which have been enunciated by the learned judges in appeal courts in dealing with sentence appeals. In every province, these leading cases have declared the principles on which an appropriate sentence is to be determined, and these principles are the same in Newfoundland as in Ontario and the same in Quebec as in British Columbia. It is indeed a remarkable fact that while sentences for the same crime, or apparently the same crime, may vary from province to province, the principles on which those sentences are imposed are the same.

Among the principles which are applied in every criminal court in Canada when offenders are being sentenced are the following four main ones: first, the legal gravity of the offence proved against, or admitted by, the offender. This, of course, determines the upper limit of the sentence in accordance with the penalties laid down in the Criminal Code of Canada. Second, the circumstances of that particular offence—the degree of injury caused to the victim or the value of goods dishonestly obtained or damaged. Third, the circumstances of the offender—his background, including any previous criminal behaviour, his lifestyle and his prospects for the future. Fourth, the public requirements in such a case—does the public require protection from the offender by prison sentence, or can public outrage be satisfied by a sentence served in the community?

Naturally, when these main principles are taken in combination, several sentences may seem to be appropriate. And other principles—such as the prevalence of that type of crime in the community—are also considered.

The variations in sentences spring from the different perceptions of the local community expectation and needs for sentences. In one place deterrent sentences may be needed while, in another, given different conditions of crime and public feeling about crime, rehabilitative or community-based sentences may suffice. We can see that what is sometimes called disparity is really no more than the expected variation in sentences reflecting local conditions and the needs of the local community.

Another reason for the so-called disparity in sentences may arise in other types of cases. Let us consider a hypothetical example of a young, unemployed, married man who commits a breaking and entering. He is caught in the act. He pleads guilty and is found to have three previous convictions for theft. Such a man is a marginal case for sentencing. One judge reviewing the facts may decide that on balance the offender could still benefit from, say, the supervision of a probation officer and, by careful control, could be encouraged to lead a good and useful life. Another judge reviewing an exactly similar case may take a slightly different view. He may think that the offender is marginally too involved in crime to risk probation, that, rather, a short prison term may be expected to pull him up short and that this, on balance, is marginally more likely to help him lead a good and useful life in the future.

Each judge wants the same result; the balance between the choices of a long probation or a short jail term is marginal. One judge choose one way; one the other. Each may be right in the outcome: the offender does not commit crime again. One cannot term such variations in sentences "unwarrantable disparity". Rather, such variations are the normal differences in opinion, in perception and in decisions which reflect the careful consideration of a problem and the search for a solution. Here indeed we can truly say that wise men may differ in the solutions they find.

Let me take this example a little further. Suppose the judge who decides to sentence this hypothetical offender to a short prison term takes another factor into account. In his area he knows that the probation service is overworked, and in this particular case he believes that to succeed on probation the offender would need careful and intensive supervision, which just cannot be provided. In such a situation, we would not be surprised at all to read that a prison term was imposed, because the judge must take into account the necessary protection of the public. Nor would we be surprised about a long sentence of probation supervision being imposed by the other judge in an area where the correctional facilities are over-