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—
Chair

Mr. Art Hanger

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• (1105)

[English]

The Chair (Mr. Art Hanger (Calgary Northeast, CPC)): I'd like to call to order the Standing Committee on Justice and Human Rights.

Our agenda is before us. The order of reference today is Bill C-343, an act to amend the Criminal Code, in regard to motor vehicle theft. The mover of this particular private member's bill, Mr. Andrew Scheer, is prepared to testify in front of the committee.

Andrew, the floor is yours.

Mr. Andrew Scheer (Regina—Qu'Appelle, CPC): Thank you very much, Mr. Chair, and thank you, colleagues, for allowing me a few moments of the committee's valuable time to come and speak about my private member's bill and hopefully answer any questions you might have.

I thought this would be a very high-profile bill, and when I walked outside I thought it would have a whole lot of media interest, but unfortunately, they're somewhere else. I thought if maybe I showed up in handcuffs, we might be able to draw some of them in here to pay attention to this.

I won't repeat everything I said at second reading, because I think members have either already heard the speech or have access in Hansard to the full spiel that I gave in the House. But I do want to cover a couple of points, and then of course I look forward to a cordial and meaningful discussion with my colleagues regarding any specific points they may raise with me.

I should first thank the Insurance Bureau of Canada. I believe they're testifying later today. They've done a tremendous amount of work, analyzing and tracking statistics, analyzing trends, and really providing a lot of background information to both lawmakers and law enforcement to come up with new ways of reducing auto theft in Canada.

My private member's bill would do a few important things that many stakeholders for years have been calling for. First, the bill would create a separate and specific criminal offence for stealing a motor vehicle—a car or truck. Currently, the most likely charge arising from someone stealing a car is being charged with theft over \$5,000. If the vehicle is worth less than that, of course, the lesser charge, along with a lesser sentence, is applied.

That raises a good point that many law enforcement people and the insurance bureau have brought up in the past—that is, why should it matter if you steal a motor vehicle worth more than \$5,000

or less than \$5,000? The impact of the theft is the same on the family that has suffered the loss. Whether it's a brand-new Nissan Altima or a 1993 Ford Windstar, it's still a theft. It's a theft of a motor vehicle, and the impact on the family that relies on that vehicle is the same. Why should there be a higher penalty for stealing from the rich than stealing from the poor or the working class who can't afford the luxury vehicles?

There are also several requests from law enforcement, and I believe you've been given a few documents, one of which was the resolution passed by the Canadian Association of Chiefs of Police, calling on the Government of Canada to enact legislation creating a separate offence under the Criminal Code of Canada with respect to theft of motor vehicles. The reasoning behind that is similar to the reasoning behind the difference between the Criminal Code conviction for break and enter and the Criminal Code conviction for theft. There's an explanation in your package in regard to why they're calling for that particular part of the bill.

The second major thing my bill would do, if passed, is establish minimum sentences for a first, second, and subsequent offence. As currently written, on the first offence a conviction will result in a fine of not less \$1,000 or imprisonment for a term of not less than three months. It then escalates on the second offence. On the third offence, there would be the mandatory minimum sentence of a term of not less than two years and a fine of not less than \$10,000. I didn't arrive at these numbers purely in a vacuum. Le Groupement des assureurs automobiles, the Quebec group of automobile insurers, talk in their documents about the problem with fines as currently stipulated not being enough to discourage organized crime. If you're engaged in motor vehicle theft for the purposes of gang activity or organized crime, when you get caught, some of the fines that are being handed out are just not enough to discourage this. It just becomes a cost of doing business and not a real deterrent.

There are a considerable number of stakeholders calling for these kinds of measures, calling for tougher penalties and separate offences for theft of motor vehicles. The Premier of Manitoba has been very vocal. He led a delegation from Manitoba here just recently, calling for many of the things that are contained in my bill. In addition, you'll find mayors of towns like Regina and Windsor also very much interested in getting the assistance they need to combat car theft.

•(1110)

Many police forces around Canada are trying innovative things at the local level, such as using bait cars, and different kinds of strategies to reduce auto theft, such as working in different communities with outreach programs to try to get people, especially young people, away from turning to crime to finance their activities. They've also expressed a need for help at the federal level, specifically with the Criminal Code. They can do a lot at their end, but they need help at the national level.

I've also included some statistics in your kits that look at the way the theft of motor vehicles has exploded in the last 10 years. It's becoming a major problem. The Insurance Bureau of Canada will tell you later today that more and more it's being linked to organized crime. It's no longer the idea of younger people being out for a joy ride or addicts stealing your car for cash for their next fix. Especially in eastern Canada, along the Quebec-Windsor corridor, it's becoming theft for export. You'll see that the recovery rate in Quebec is down significantly—56% of cars stolen are recovered. That compares with the recovery rate in the Toronto area in 2002, which was 75%. The inference there is that more and more of these cars aren't being found because they're being chopped and shipped. They're being sent overseas.

I have a statistic that I used at second reading. In 1996 Polish police reported the seizure of 11,000 vehicles from North America, 70% of which were Canadian. That's just one country in the European Union. That's a pretty significant number of stolen vehicles they're recovering, and 70% of them are from Canada.

We're seeing a lot of exports in stolen vehicles. I think what this bill would do is really make it tougher for organized crime to rely on people to go out and steal cars for them because these people would be in jail longer.

I'm not sure how much time I have left, Mr. Chair, so I'll try to wrap up relatively quickly.

I know there's a lot of talk these days about mandatory minimums. I know there are some concerns that the opposition has expressed, and I would certainly love to have a further discussion on that today.

I think one of the biggest things this bill would do is especially target the repeat offender, the depiction of a young person who is maybe at the entry level, so to speak, of an organized gang or crime group. This would have a significant impact on individual deterrence. I truly believe that. He or she would no longer be able to count on doing what they do, and then if they get picked up, it might be a few days out of their crime cycle and then they're right back out to it.

Le Groupement des assureurs automobiles has also said that in Quebec it takes several convictions before any jail time is realized. As I said, it's just the cost of doing business. The low fines and lack of jail time make it relatively easy for these people to continue to engage in these kinds of activities.

That's why I feel there are two major prongs of this bill. Establishing a separate offence is something the Canadian Association of Chiefs of Police have been calling for to help in their crime tracking and analysis. It also helps down the line for further

prosecutions if you can look at someone's rap sheet and see not just a generic conviction of theft of over/under \$5,000, but actually a specific offence for theft of a motor vehicle, establishing tougher penalties, and indeed mandatory minimums on the third offence.

I think it targets the habitual reoffender while allowing the judge discretion on the first- and second-time offenders. There's a lot more leeway there. If there are young people, first-time offenders, who through youthful exuberance are out joyriding or trying to impress their friends, the judge would have the ability to look at the facts and determine what sentence would be appropriate, but nonetheless a clear message would be sent to habitual reoffenders that consistently breaking the law, consistently stealing cars, will result in real jail time.

I think the time for my statement is up. I'd be happy to have a further discussion with my colleagues.

•(1115)

The Chair: Thank you, Mr. Scheer.

I have a point of clarification on your bill, Bill C-343. I noticed that you didn't indicate any information or reference to proposed subsection 334.1(5). Could you clarify that subsection for the committee?

Mr. Andrew Scheer: Yes. I believe, from discussions with the legal department of the House of Commons, which helped me draft the bill, this is multiple thefts in one event, so to speak. So if someone has two or three offences in the same kind of incident, those would count as subsequent offences.

The Chair: Or one, two, three, four offences?

Mr. Andrew Scheer: That would count as separate, subsequent offences, as I read this.

The Chair: Thank you.

Mr. Lee.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Mr. Scheer, congratulations on bringing a private member's bill through.

On a point of order—this should not come out of my time, Mr. Chairman—the sign out front of the room here indicates we're meeting in camera.

The Chair: That was for the subcommittee before.

Mr. Derek Lee: I'm indicating to the chair now that I'm asking the clerk to take care of it. I checked it twice.

The Chair: It will be looked after.

Mr. Derek Lee: Could the sign that states this meeting is in camera please be removed?

The Chair: It will be removed.

Mr. Derek Lee: Thank you.

Now, may I start with my time?

Mr. Scheer, I congratulate you on focusing on theft of an automobile. We focus on theft of cattle; there's no harm in focusing on theft of automobiles. So that part of the bill I'm very comfortable with.

But I do have difficulty with the sentencing. I have two questions, really. You said you focused on the sentencing. You haven't just pulled it in out of the air. I'm pretty sure you're not an expert on sentencing, and you've seen the need here to create a sentencing regime that is distinct, separate from all the rest of the Criminal Code sentencing. It's distinct and separate from the part of the Criminal Code that deals with the organized crime sentencing. It's not clear to me why you have felt the need to create a separate sentencing regime for automobiles, particularly when you have indicated to the committee that it's your belief that organized crime lies behind this, behind so much of the current auto theft problem that exists across the country.

I'm inferring from this that you believe that by increasing a fine this will deter organized crime, that if we increase the fine to \$1,000, somehow organized crime will back off and decide to steal something else. Do you really believe this, that by putting in a minimum fine, organized crime is going to forget about the \$72,000 Porsche?

• (1120)

Mr. Andrew Scheer: I think on the first offence, having a fine set at that level—of course, it's a minimum fine.

Sorry, let me double check that. I'll make sure I'm not.... Yes, "not less than one thousand dollars".

It would certainly allow the judge...if the prosecution can present evidence that there is involvement in organized crime, it could certainly be higher. It's more for the first-time offender who may be looking at starting this as a career, seeing what he can get for a chopped-up car. If it's a tougher fine than what is currently being meted out, it would be a deterring factor, an individual deterrence on that level, so that it might not be worth his time to do it.

I understand your point.

The other thing that's difficult for law enforcement agencies with regard to organized crime is of course to prove some of it. Convictions under a lot of the organized crime laws...it's difficult to get at them.

Mr. Derek Lee: Okay, but for organized crime matters we have significant ten-year, seven-year, and even life sentences, which doesn't appear to be deterring organized crime in a major way. Yet you believe that by having a minimum fine...you, in your own words, said that you really believe it will provide some deterrence.

Mr. Andrew Scheer: Absolutely. The more deterrence, right?

Mr. Derek Lee: You're a believer. That's fine.

I want to ask you about a guy who manages a parking lot or is a tow-truck operator. They're going to be subjected to these same minimum fines when they tow somebody's car illegally from a lot. That's your—

Mr. Andrew Scheer: That's not theft.

Mr. Derek Lee: It would be theft if they detained the person's vehicle. That is clearly a theft. They intend to take the car; they've been asked to tow the car. They take it, and later on there's found to be some defect in the process.

Mr. Andrew Scheer: They're not charged now with theft over or under \$5,000 when they do it. You may be right. The principle behind the—

Mr. Derek Lee: Oh, yes they are. I have one in a file.

In any event, if you haven't made provision for that, that's okay.

In my last question, I'm simply trying to resolve a possible ambiguity here. In proposed paragraph 334.1(1) the words say, "Every one who commits theft of a motor vehicle is guilty of an indictable offence or an offence punishable on summary conviction", and then it goes on to state the sentence.

Then in proposed paragraph 334.1(2), on the next page, it says, "Every one who commits theft of a motor vehicle is guilty of an indictable offence and is liable", blah, blah, blah, after conviction to a certain sentence.

So you have an ambiguity here. The first sentence says you're guilty of an indictable offence or an offence punishable on summary conviction, and then in the next section, proposed paragraph 334.1(2), you say, "Every one who commits theft of a motor vehicle is guilty of an indictable offence". I think I understand the intent, but you have an ambiguity on the face of it that may give rise to difficulty.

Mr. Andrew Scheer: Yes, I see what you're saying. I see the point you're making.

Of course, the intent of this section is to specifically spell out that the third offence would result in being convicted of an indictable offence. I understand the point you're raising, that as it's written right now the comma might be in the wrong place and might contradict the first section, where it says "of an indictable offence or an offence punishable on summary conviction".

It may be something the committee might need to look at, to clear up the language on that. This is my first crack at a PMB.

Mr. Derek Lee: You have a pretty good batting average so far, Mr. Scheer.

Thank you, Mr. Chairman.

The Chair: Thank you, Mr. Lee.

Monsieur Ménard.

[Translation]

Mr. Réal Ménard (Hochelaga, BQ): Thank you, Mr. Chair.

Congratulations. I know that when a bill is presented and it is our turn to consider it, we really hope that our colleagues will be in favour of the bill.

You have chosen a problem that is significant in a number of communities in Canada, there is no doubt. I am receptive—and I think that my caucus could be too—to 50% of your bill. The idea that there should be a specific offence of motor vehicle theft is certainly tenable.

But in return, would you be receptive to the idea that there should not be minimum penalties, but maximum penalties? On several occasions, this committee has heard from people who have studied this question that mandatory minimum penalties have no deterrent effect.

The deterrents are the presence of police on the streets, the ability to conduct investigations and the ability to lay charges. You yourself started your presentation by saying that, at the end of the day, few vehicles were recovered and so there were fewer convictions than you would like. We can certainly understand that.

If we support the idea of having a class of offences specifically for the theft of motor vehicles, including cars, would you in turn be open to the idea of maximum, not minimum sentences? My view is that it is always desirable to leave a little judicial discretion to judges.

The Bloc Québécois is not comfortable with the idea of minimum sentences.

• (1125)

[English]

Mr. Andrew Scheer: Well, I understand there is some difference of opinion with mandatory minimums. I don't think I'm going to change your mind on the merits of mandatory minimums at this point. I can only tell you what I've heard from police officers, police organizations, and insurance underwriters, that the current penalty system does not seem to be effective for this kind of activity.

In speaking to police in Regina, they will anecdotally talk about the people they know who have been convicted of multiple, sometimes well over 12, motor vehicle thefts and have not to that point been sentenced to any time in custody. Sometimes there are sentences related to time served, but very rarely additional jail time, from what I can tell from the conversations I've had.

I think you're right to talk about local efforts. I'll by no means pretend that you can change the Criminal Code and have a magical effect all the way down the line. I think a multi-pronged approach is necessary. You need some investments at the local level. You need police forces to try innovative things.

As I've mentioned, I believe the City of Vancouver is using bait cars to go after offenders. The Regina police have had a multi-faceted approach and it's had some positive results.

I think there's also a lot of work that needs to be done in relation to drug addicts, addictions and things like that, because in many cases—

[Translation]

Mr. Réal Ménard: I understand your position, but that is not my point. You would not be comfortable with the idea of having maximum, rather than minimum, sentences. Of course, I respect your point of view as sponsor of the bill.

I am very interested in the question of organized crime. The chair will remember that there was a subcommittee on organized crime when we were studying bills C-24 and C-36. What sort of information do you have on the links between organized crime and vehicle theft?

[English]

Mr. Andrew Scheer: I can tell you what the data are showing. I think in the handout I've given you, specifically relating to Quebec, there are a lot of links between organized crime and car thieves. The way it's been presented to me by different law enforcement agencies is that you'll get a group who will hire people out on a contract basis to steal cars.

[Translation]

Mr. Réal Ménard: Who are we talking about? When we say organized crime, are we talking about the Hells Angels, the Rock Machine, Asian gangs, the Mafia? Who are we talking about?

[English]

Mr. Andrew Scheer: Yes, I think it's all of the above in different ways. But if it's some group like the Hells Angels, perhaps they'll hire someone who has a drug debt to them. He might owe the Hells Angels a few thousand dollars, so they would say to him, deliver us a Lexus and we'll wipe your account clean, and then that Lexus is put on a ship to Europe or the Middle East. So that I think is where the link is.

In terms of tackling organized crime, if it helps get the foot soldiers, so to speak, the actual people who get their hands dirty, in prison longer, it will dry up the pool of people organized criminals have to draw on to go and do that.

It is also a way of getting at organized crime when it is sometimes difficult to do so. Al Capone was convicted of tax evasion, because sometimes it's difficult to prove and get enough evidence to get someone for racketeering, or that type of thing. So it's just one more avenue the police and the crown prosecutors would have to take on the bigger problem of organized crime.

• (1130)

[Translation]

Mr. Réal Ménard: Thank you.

[English]

The Chair: One more question.

[Translation]

Mr. Réal Ménard: Mr. Chair, I would not want to push you too far, especially as the holidays are approaching.

[English]

The Chair: Thank you, Mr. Ménard.

Mr. Comartin.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): I have no questions.

The Chair: Thank you.

Monsieur Petit.

[Translation]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Thank you.

Good morning, Mr. Andrew Scheer.

Something very unusual has already happened in the province of Quebec. There have been a large number of thefts of luxury vehicles in the province, vehicles worth more than \$50,000 or \$60,000. Someone on a trip to Lebanon went to the port in the capital Beirut. Suddenly, the person saw cars being unloaded from a ship. They were large black Jeeps. The Quebec licence plates were still on the vehicles. They had not even taken the Quebec plates off and they were unloading them from the ship.

When you prepared Bill C-343 on motor vehicle theft, did you look at the financial impact that it can have on Canadians? My car is insured, and all my colleagues have vehicle insurance too.

There are 33 million Canadians. We have, what, 4 or 5 million vehicles, perhaps? I do not know. We pay our premiums. Clearly, the fewer thefts, the less I pay in premiums. What is the cost to Canadians? What caused you to think about this? It is not all about identifying the criminals; we must also help the victims. I am a victim of automobile theft. We all are because our insurance premiums go up each year because of car theft. Even if my car has not been stolen, I have to pay the premiums.

Did you look at it from that point of view?

[English]

Mr. Andrew Scheer: I think that's an excellent point and something I mentioned in my speech at second reading. The analyses of car thefts estimate that the cost for policyholders across Canada in higher premiums alone is \$600 million. So the extra rates we pay to compensate for car thefts cost Canadians \$600 million a year.

In addition, the Insurance Bureau of Canada has done analysis of the additional cost to taxpayers, in terms of court costs, policing costs, and things like those, and they are estimated to be about another \$400 million a year.

So every year about \$1 billion in costs are borne by either policyholders or taxpayers, or both, to deal with this problem.

[Translation]

Mr. Daniel Petit: Do I have any time left?

[English]

The Chair: You have time.

[Translation]

Mr. Daniel Petit: How much time do I have left exactly?

[English]

The Chair: You have three minutes.

[Translation]

Mr. Daniel Petit: Thank you very much.

I have one last question, Mr. Scheer. You replied to a question from the vice-chair, Mr. Réal Ménard...

Mr. Réal Ménard: ...and your friend, you can say it.

Mr. Daniel Petit: And my friend as well. It is Christmas.

Mr. Réal Ménard: He is a new mayor too.

Mr. Daniel Petit: Right.

Mr. Scheer, the subject of what are called mandatory minimum sentences has already come up. You know how the system works. In your bill, one section is repeated, with more or less the same words. Your proposed sub-paragraph 334.1(1)(a)(i) reads as follows:

(i) for a first offence, to a fine of not less than one thousand dollars or to imprisonment for a term of not less than three months, [...]

If I understand correctly, your proposal is for two mandatory minimum sentences, a fine and a prison term. If you do not pay the fine, you are going to jail for a minimum of three months. Do you see any difference in the fact that there is a minimum fine which is not necessarily a minimum prison term? When we talk about mandatory minimum sentences, we are usually talking about prison, not about fines. When a judge has to apply the two sub-paragraphs, he has two choices, a minimum fine, or a minimum prison term. What difference do you see between the two?

The Bloc Québécois is not in favour of the prison term, but it is perhaps not opposed to the minimum fine. Do you understand the difference between the two?

• (1135)

[English]

Mr. Andrew Scheer: I can't speak for the Bloc on what kinds of minimums they'd be in favour of.

The way it's written for both subparagraph (i) and subparagraph (ii) is that the word "or" is there, so it does give the sentencing judge some flexibility if he wants to pursue just the fine or the jail time.

Just talking about mandatory minimums, I would challenge every member of this committee to pick five names at random from their riding out of their phone book and call up those people and ask, "On a third conviction, do you think it's too much to send somebody to jail for two years?"

I'd be very interested to hear your results, because, I tell you, I talk to people in my riding and to people in Ottawa and various places, and I don't think this is out of whack with what the Canadian people are feeling these days.

I think it's our right, as legislators, to give some direction to the courts regarding sentencing. There are lots of examples of mandatory minimums in the Criminal Code on various types of offences. We're not going to run the court system for the judges, of course, but there are lots of examples in the Criminal Code where there are sentencing guidelines and of course mandatory minimums.

I just feel that for this kind of an offence, when you think about the impact that having their car stolen has on families, whether it's their primary mode of transportation to get to work, to get to school, to get their kids to doctors' appointments....

I have, on my insurance policy, what's called "loss of use", so if somebody steals my car, I can go and get a rental car and I won't miss a beat, but that's an expensive provision on a policy. Lots of Canadians don't have that, and they can find themselves not able to show up for work, missing shifts, missing classes in some cases. It's a tremendous interruption in someone's life.

When someone steals a car for the third time, surely to goodness we can agree that they should start to face some serious consequences.

The Chair: Thank you.

Thank you, Mr. Petit.

Mr. Moore.

Mr. Rob Moore (Fundy Royal, CPC): Mr. Scheer, thanks for coming forward with this private member's bill and for your work on it. And congratulations on getting to this point, because not many people do with private member's bills.

A couple of things you said made an impression on me, and I'd just like you to expand on them a bit.

I hadn't thought before about the issue of theft over \$5,000. I have a good number of constituents whose vehicles are probably not worth \$5,000, so, in a sense, the way they would be treated under the current law would be different from how someone who might be wealthier and have a more expensive vehicle that's worth \$6,000 or \$60,000 would be.

I'm wondering if you could expand a bit on how the impact of the new charge in your bill, for a theft of a motor vehicle, would provide some equity to the system. As you've said, the impact is probably even greater on a lower-income family that has maybe one car. Could you expand a bit on that?

Also, this figure you cited is absolutely staggering. Was it \$600 million a year?

Mr. Andrew Scheer: It was \$600 million.

Mr. Rob Moore: This figure of \$600 million a year... For people who think theft of a motor vehicle, as long as their motor vehicle wasn't stolen, doesn't impact on them... What you're suggesting is that in a way we're all victims of motor vehicle theft. Every one of us who owns and insures a motor vehicle is, in a way, a victim right now of people who are preying on individuals and stealing their vehicles.

Could you expand a bit on those two points you raised?

• (1140)

Mr. Andrew Scheer: You're absolutely right to phrase it that way, that we are all victims. When you deal with things like theft of a motor vehicle, where it's mandatory to carry insurance in every province, then we all bear the costs of theft. I think Monsieur Petit was bringing that up as well, that we can't just look at someone who gets assaulted and say it's too bad for him, I wasn't assaulted, I wasn't affected by that crime. In matters like this, property crimes do affect a much larger percentage of the population. Arson affects all homeowners who pay house insurance premiums, things like that.

On the issue of the different types of theft over \$5,000 or under \$5,000, I want to thank you for this because it allows me to bring up

a different kind of offence that's related to motor vehicle theft. A lot of times, higher-end cars, the luxury vehicles, will be stolen for export. But there is a significant amount of evidence compiled by the Canadian Association of Chiefs of Police and the Insurance Bureau of Canada about the issue of stealing a motor vehicle to commit another crime. In this case it would be something like a pickup truck to break into someone's home or a fast car to take someone away from the scene of a crime, whether they're robbing a store or committing an assault or something like that.

What this provision would allow, too, with the tougher penalties but the separate offence, would be that if the police weren't able to catch the thief or might not be able to prove this particular offender went on to commit the break and enter or the vandalism or whatever, if they could get them on the theft of a motor vehicle, that gives them something they can catch them on.

Just further on the point, you could have someone even more dependent on a car worth less than \$5,000 than on a car worth over \$20,000. In my riding I would be willing to venture that almost half my constituents probably own vehicles worth less than \$5,000. You take a minivan used for taking kids to appointments, to school. It might be seven, eight, nine, or ten years old. Those tend to depreciate to the point where, if they were assessed, the family might only get \$4,500 from the insurance provider. But they are no less dependent on that vehicle than someone who has a brand-new \$25,000 car. I believe the impact on the family is the same.

I would go further to argue that the families who rely on less expensive vehicles probably only have one or two. Families who are able to afford some higher-end ones might have more options: it might not be their family's only vehicle, or they might have extra coverage on their insurance to allow for rental cars. So I would venture to say that the impact of theft of a vehicle that's worth less than \$5,000 could be more disruptive than even on some of the higher-end luxury vehicles. Obviously, I don't have hard data to back that up, but I think it's an excellent point.

The Chair: Thank you, Mr. Moore.

Mr. Mills.

Mr. Bob Mills (Red Deer, CPC): Thank you, Mr. Chair, and thank you, Mr. Scheer.

When I look at mandatory minimums and at the question of judges needing guidelines, I think back to something I was involved with in the justice area. A lady had two daughters, five and six years old, and a judge made the decision to force them to visit their pedophile father in jail.

That has always been a major factor in how I think of the justice system. As a result of it, I had 84 other people from across the country in whose cases judges had made the same decision to force children to visit a father who had sexually attacked them. The judge said, "Parliament has not given us guidance, and that's why I had to make that decision."

I think this is somewhat the same, in that a judge might say, "Really, Parliament hasn't given us clear guidelines." I guess I see this bill as being clear guidelines: when a third-time offender commits the same crime, they have a definite guideline, in terms of a mandatory minimum.

I think we should really look at that. Judges today I think are asking for those kinds of guidelines.

But my real question is this. When I talk to the police in my community, they tell me over and over again: "We're getting really tired of dealing with the same offenders. We pick them up, we take them into court, they get a minor sentence, or because something wasn't quite right, away they go again. Three weeks later, the same person is before the judge, and again there's some reason why they get off. It happens over and over again."

Do you think this will help the police in doing their job of getting that second-, third-, fourth-, fifth-, tenth-time offender? Is this going to do the job for them in terms of car theft?

• (1145)

Mr. Andrew Scheer: I certainly believe this will be a big step towards doing that.

I've heard the same types of commentary. I've gone on ride-alongs with the Regina Police Service, and they will tell you the person they're on their way to pick up or the person whose home we just went into is a guy they've seen 12 times this year already for various types of offences, and especially for stealing vehicles. As I mentioned, it is a phenomenon in which people are doing it for a living—stealing them to deliver to organized crime or to commit other crimes. They steal an awful lot of them, they get caught an awful lot of times, and they get put right back out on the street, where the police are rearresting the same people. That's a large underlying theme that I've heard from police, not just on auto theft but on a lot of things.

On the providing of guidelines to the courts, I couldn't agree with you more. We've all read stories. For example—this has to do with young offenders—there was a murder, I believe in Winnipeg, by a young offender who killed someone with a pool ball in a sock and was sentenced to one day in jail. The sentencing judge said, "There's no provision in the Criminal Code for general deterrence with young offenders, so I can't take into account what kind of message this sends to the community at large, because Parliament hasn't put that into the Criminal Code."

The justice minister has, I believe, tabled legislation to address that point, but you're right, in a lot of different areas of the Criminal Code, judges have been asking for the guidelines, for direction from Parliament. As you mentioned, there are some situations where there tend to be some sentences handed out that a lot of Canadians scratch their heads at. If we can provide clear parameters to sentencing judges, we would go a long way toward ameliorating that.

The Chair: Thank you, Mr. Mills.

You may have one quick question, Mr. Calkins.

Mr. Blaine Calkins (Wetaskiwin, CPC): I certainly appreciate your being here, Mr. Scheer.

The bill is great, a great first step. I have a couple of questions.

My overall feeling is that it deals with the act of somebody stealing a car, but it doesn't deal specifically with the thing that's probably easier to prove, which is the possession of stolen property and the possession of a stolen motor vehicle or its parts. I'm wondering what you foresee this bill doing in terms of that, because I think it is an easier one to prove and would certainly include a lot more people of the organized crime element, rather than people who are simply asked to go out to do one-time thefts to pay off or settle a debt, or whatever the case may be.

I'd like to get your comment on why you didn't deal with possession of stolen motor vehicles.

The other question is, in determining subsequent offences, if you go back to any court, they have to prove theft of over \$5,000 or under \$5,000. Everything has to be laid out and itemized and given a price value to determine the right sentence. Certainly, in all of those court proceedings or court documents on previous offences, we would be able to determine whether somebody had previously stolen a motor vehicle. The way I read this, somebody who has stolen ten cars up to today, if this were to become law tomorrow, could then steal three cars again before they were charged with the maximum offence here.

Did I read or interpret that correctly?

• (1150)

Mr. Andrew Scheer: Let me address your first point first.

I received some correspondence on the wording of the bill, and as I mentioned to Mr. Lee, there may be some technical changes that need to be made for greater clarity. One of the suggestions I got from an RCMP officer was to include wording for possession of a vehicle that is stolen, because often it is easier to prove than that somebody was actually the one who stole it.

Of course, I'm open to discussion on that kind of stuff, and I would certainly encourage committee members to consider it and, if there are discussions around amendments, to have a discussion about whether or not including a provision for being in possession of the vehicle could be included in this wording.

I'll have to be honest. I don't know how this would be interpreted in the case of somebody who had stolen a car ten previous times when this is enacted. Do they get three more before they start facing mandatory minimums? I don't know. I can say that if somebody does have ten previous convictions for this kind of theft, these are just minimums, and the judges are obviously free. Even if it is a first offence under this proposed change to the Criminal Code, the sentencing judge could look and say that there are ten previous convictions. This doesn't tie their hands on going over and above what's in here.

That might help to answer your point.

The Chair: Thank you, Mr. Calkins.

Mr. Scheer, I know you have to find your way over to the chair, and seeing that there are no other questions for you, you are certainly free to leave for the Speaker's chair.

Mr. Andrew Scheer: I want to thank you all for your time. I understand this committee is very busy, and I understand the honour it is to have a bill get to this point, so I very much thank you for your time and consideration.

• (1155)

The Chair: Thank you, Mr. Scheer.

We'll suspend now for one minute and call the next set of witnesses forward. Witnesses, would you like to take your places at the end of the table?

I will advise committee members that food is now being served at the far end of the room.

• _____ (Pause) _____

•

• (1200)

The Chair: I call this meeting back to order.

I would like to acknowledge the witnesses at the table. We have Mr. Mark Yakabuski, president and chief executive officer of the Insurance Bureau of Canada; Mr. Richard Dubin, vice-president of the Insurance Bureau of Canada; and Mr. Ken Haywood, from Auto Theft Canada. Welcome, gentlemen.

I will call upon Mr. Yakabuski to begin.

Mr. Mark Yakabuski (President and Chief Executive Officer, Insurance Bureau of Canada): Thank you, Mr. Chairman.

As president and chief executive officer of the Insurance Bureau of Canada, it is my great opportunity to be able to address this committee. With me today is Rick Dubin, our vice-president for investigations, who leads our industry's fight against auto theft here in Canada.

I'm mindful of the time limits we have, so I will get right to the point.

[*Translation*]

Insurance Bureau of Canada is the national trade association representing Canada's home, car and business insurers. Quite simply, we applaud Bill C-343, are fully supportive of it, and ask that all members of Parliament approve it in its current form to make it the law of the land.

[*English*]

Mr. Chairman, I could end there, but given that you've so graciously allowed us ten minutes, I'll take a bit more time to tell you why this bill is as good as I think it is.

Home, car, and business insurers often serve the role in our society of being the canary in the coal mine, and by this I mean that we are on the front lines of dealing with the social and economic costs related to disturbing developments long before most other parties

take notice, whether it be the rise of more frequent severe weather claims as a result of climate changes, the increasing cost of litigation that makes business and voluntary groups vulnerable to vexatious lawsuits, or the incidence of staged automobile accidents by those who prefer to abuse the insurance system. Insurers have already been grappling with the damages caused by these costly events for some period of time, and so it is with auto theft.

For a number of years we have seen not only the costs associated with auto theft rise, but the increasing implication of organized criminal activity in the stealing of automobiles across this country. Because the current penalties associated with it are so lenient and the profits are so great, auto theft has become a major focus of criminal organizations in Canada. Organized crime steals vehicles, chops them up to sell parts of specious quality, uses the vehicle identification number to change the identity of another stolen car then sold to an unsuspecting consumer, and, on top of that, exports thousands of vehicles through Canada's ports each year to Africa, eastern Europe, and the Middle East, where they can fetch a much higher price than they can at home.

In 2006, a total of 159,000 vehicles were stolen in Canada. The cost to auto insurance policyholders was approximately \$600 million, as the member for Regina—Qu'Appelle reminded you this morning. Honest Canadian drivers paid on average about \$40 of their auto insurance premium last year to finance the costs incurred by car thieves.

A further \$600 million was spent in total by police, the health care system, and our courts to deal with the problems associated with auto theft. Ironically, so many of our resources are being spent precisely because car thieves repeatedly come in and out of the justice system. Under the current Criminal Code provisions, jail time is almost never handed out to a car thief. Indeed, our courts are in the practice of applying a catch-and-release approach to repeat offenders, treating auto theft as a largely victimless transgression.

Mr. Chairman, I want to tell you that auto theft is far from a victimless transgression. Last year we witnessed the deaths of two teenagers in a taxi, struck by a stolen vehicle in Ontario, and just recently a York Regional Police officer was killed trying to stop the theft of an airbag from another vehicle. In 2004 it was the death of Theresa McEvoy in Nova Scotia at the hands of a repeat auto theft offender that prompted citizen outrage. Indeed, an earlier study by the National Committee to Reduce Auto Theft concluded that 81 people were killed in Canada due to auto theft between 1999 and 2001 alone.

Premier Doer of Manitoba certainly understood the pressing need to address auto theft when he led a delegation to Ottawa earlier this year to talk about criminal justice issues. He even brought with him a victim of auto theft—a gentleman who had been hit by a stolen vehicle—in order to underline his plea for action.

With the involvement of organized crime so pervasive in the business of auto theft today and the profits so lucrative, you will perhaps not be surprised to hear that Canadian and American intelligence authorities suspect that auto theft is a possible means by which terrorist groups are financing themselves. Indeed, Canada is an attractive place in this regard. Our per capita auto theft rate eclipsed that of the United States in the mid-1990s and now stands at 26% higher than our neighbours to the south.

• (1205)

Mr. Chairman, you can understand why more and more citizens and governments in this country are asking for action to deal with auto theft. Fortunately, your committee has Bill C-343 before it. This bill addresses the auto theft reoffender involved in organized crime, which engages in this dangerous activity for profit. It recognizes auto theft as a separate and serious offence under the Criminal Code, a vital step in recognizing the often violent nature of this crime. While it proposes mandatory minimum sentences, it does so only for the third offence.

I have to tell you, as an aside, that I was talking to someone over the weekend and I explained what our proposition was in support of C-343. They said, "You mean you're only going to propose minimum mandatory sentences after the third offence?" I said, "Yes, that's how reasonable the bill is."

Indeed, this is a reasonable step to deal with the reality of repeat offenders.

• (1210)

[*Translation*]

Mr. Chairman, Canadians have the right to feel safe in their own communities. On that we can all agree. The growth of auto theft, however, and its increasingly violent nature, are compromising their safety. The growing presence of organized crime in auto theft is an even more troubling development and further threatens the safety and security of Canadians.

[*English*]

Canadians count on their parliamentarians to take action on issues that matter to them and to stay on top of changes in the world that have an impact on their lives. When money laundering by organized crime became a problem, Parliament acted. When issues surrounding privacy and identity theft became a concern for Canadians, parliamentarians took action again.

Now that the nature of auto theft has changed and is threatening the safety and security of Canadians, parliamentarians, I'm proud to say, are again taking action, and that action is before you in the form of Bill C-343.

On behalf of the Insurance Bureau of Canada, our member companies, and the millions of policyholders we serve, I urge you to vote in favour of this bill and to send it to the House of Commons for its third reading and approval.

Mr. Dubin and I would be happy to take your questions after this presentation.

Merci.

The Chair: Thank you, Mr. Yakubuski.

Mr. Haywood, please.

We'll take questions after Mr. Haywood's presentation.

Mr. Ken Haywood (Founder, Auto Theft Canada): Thank you very much. Thanks for inviting me here.

What am I doing here? My name is Ken Haywood. I was in the automobile business for a long time. Since I retired from the automobile business, I've been trying to do something about auto theft.

In 2005 I attended the IAATI, International Association of Auto Theft Investigators, training conference in New Orleans, just prior to Hurricane Katrina. Following that I attended a two-day session with NCRAT, the National Committee to Reduce Auto Theft, for which I prepared a position paper for presentation to a forum on auto theft made by Barry Ward, the president of NCRAT. Also in 2005, I attended a CCMTA, Canadian Council of Motor Transport Administrators, auto theft session, followed by a session with North American Export Committee members.

Why am I telling you this? Because when I heard about this bill, Bill C-343, coming up, I thought I would use my resources and get the person who I felt was most informed about this, and that's Sergeant Tim Shields of IMPACT.

We've talked about the number of vehicles stolen. You're going to get this coming around to you. It shows the diversity of this. We've said that the material cost of auto theft is in the neighbourhood of \$1 billion per year. The number of fatalities due to the theft of autos is hard to determine, but figures range from 20 to 40 per year. How does one put a dollar figure to that equation in auto theft? The cost of a death caused by stolen autos cannot be calculated.

Transport Canada considered the fatalities due to auto theft of significant meaning when they decided to make it mandatory that all new vehicles have immobilizers installed as of September 1, 2007. I believe that Bill C-343 is a start to reducing auto theft, as was Transport Canada's immobilizer ruling.

The Canadian Association of Chiefs of Police, with the support of Project 6116 and the National Committee to Reduce Auto Theft, calls upon the Government of Canada, through the Minister of Justice and the Attorney General, to enact legislation creating a separate offence under the Criminal Code of Canada with respect to theft of a motor vehicle.

I heard from Staff Sergeant Jim Peebles of the Edmonton Police Service auto theft unit that their chief supports Bill C-343. I understand that other parties will be forwarding their expressions to the clerk.

The reason I chose Tim Shields is because he just finished a video called *Stolen Lives*, the story of how drugs and car thefts steal people's lives. We're going to try to get that out to members of the committee. In the meantime, I asked Tim, who spent I think four or five years in Surrey, and who has a knowledge of drugs....

He wrote me this:

I recently completed producing the documentary film *Stolen Lives* which examines the addiction of auto theft, and the tragedies in human loss that result. After interviewing dozens of car thieves and being involved in about 100 auto theft investigations in BC, I have learned the following:

1. The number of deaths resulting from stolen car crashes is much higher than reported. In British Columbia alone in 2005, 15 people were killed in stolen car related crashes. I obtained this number by manually reviewing every RCMP news release for the year.
2. Over 90% of auto thefts in BC do not involve organized crime groups. These vehicles are being stolen to help drug addicts commit other crimes or for joy riding.
3. Auto theft is an addiction. Many prolific offenders describe their addiction to auto theft as being even more powerful than their addiction to crystal meth or crack cocaine. The only way to stop this addiction is a long-jail term where treatment can be obtained.

• (1215)

4. Prolific offenders will do anything, including running innocent people down, in order to avoid arrest. They are usually prohibited drivers, high on crack cocaine, and they are behind the wheel of a 4000 pound speeding bullet. Auto theft poses a very real threat to public safety. Auto theft is a violent crime.

5. The charge of "theft of motor vehicle" is very difficult to prove. If an offender is arrested behind the wheel of a car that was stolen one day previously, he can only be charged with possession of stolen property. The charge of theft cannot be proven. If the wording of the proposed bill C-343 is used, the offender could not be charged with theft of a motor vehicle. Can the wording of the bill be changed to include "theft or possession of a stolen motor vehicle"?

I highly recommend that all committee members watch the 34-minute documentary *Stolen Lives*. This video highlights all the points that were just made. The auto theft issue is not just about stolen cars, it is about stolen lives.

I applaud the work that you are doing and I thank you for your efforts in making Canadians safer by moving forward with this bill.

Sergeant Tim Shields is now with the Kelowna RCMP. He is the executive director of *Stolen Lives*.

Thank you very much.

The Chair: Thank you, Mr. Haywood.

We will go to questions.

Mr. Bains.

Hon. Navdeep Bains (Mississauga—Brampton South, Lib.): Thank you very much, Chair.

Thank you very much, gentlemen, for coming before the committee and making your presentation.

Auto theft is an important issue. I can share some experiences I've had in my constituency. Many people have written to me about this bill, and many constituents talk to me about this issue when I do town hall sessions. This issue is very much in the mind of many people in my constituency who have been directly impacted or know of someone who has been impacted by auto theft. So I'm glad we're discussing this and that we're looking at the private member's bill, Bill C-343.

I have a quick question. First and foremost, Mr. Haywood, you mentioned vehicle immobilizers in your remarks. I want to understand how effective this is in terms of dealing with auto theft. Do you have statistical data on how this has helped combat auto theft?

Mr. Ken Haywood: Transport Canada has made it mandatory, as of September 1 of this year, that all new vehicles will be equipped with immobilizers.

Hon. Navdeep Bains: Is that all vehicles or is that in certain vehicle lines?

Mr. Ken Haywood: It's pretty well for all vehicles. The reason they did that is because they felt that the theft of vehicles warranted immobilizers.

Manitoba has their own immobilizer program. Anybody in Winnipeg who has a risk vehicle has to have an immobilizer before they get their insurance or registration.

• (1220)

Hon. Navdeep Bains: Mr. Yakabuski, you mentioned there is roughly \$600 million associated with auto theft. On a per premium level, it's \$40 per consumer, approximately. How effective are these immobilizers at addressing that cost?

Mr. Mark Yakabuski: I want to first tell you that the Insurance Bureau of Canada was very, very influential in convincing Transport Canada to have an immobilizer standard implemented in Canada. We believe these instruments are quite helpful in preventing auto theft, but they're one instrument among many things.

As I said, we have to understand that auto theft is not a matter of petty crime anymore. There is a very significant element that includes organized crime. An immobilizer is not going to prevent you from putting a car on a flatbed and taking that car away. While it is a very important technique that we have armed ourselves with, and the Insurance Bureau of Canada was influential in developing the standard, we need other protections to make sure we get at the violent crime that auto theft often is.

Hon. Navdeep Bains: You mentioned the social impact of auto theft in your remarks. You also indicated there is the economic impact to the consumer as well, so you must have economic models that looked at the immobilizer. If this particular bill was enacted, how would that factor in terms of cost? Have you calculated how this would prevent or reduce auto theft? Is there some economic calculation of that as well? Aside from the social implications, have you calculated or factored in specifically what this bill would do to help insurance premiums?

Mr. Mark Yakabuski: The reality is it's very clear that to the degree that loss costs go down, insurance premiums go down. The way most private insurance companies rate auto insurance in this country is by taking into account the cost related to the loss of a particular vehicle model.

A lot of car manufacturers stepped up to the plate and began installing these immobilizers before they became mandatory, at the urging of the Insurance Bureau of Canada, among others. So people who are owners of those vehicles have already been benefiting from the fact that these vehicles are stolen less often and therefore the insurance premiums associated with them are lower as well.

The other thing you have to remember is if you look at the portrait of auto theft in Canada, unfortunately it's not an equal opportunity crime. Some of the poorest areas of Canada also have the highest auto theft records. Certain cities have a much higher auto theft record than others, so there's no doubt that there are social and economic implications beyond only the cost of insurance. But I want to assure you that to the degree that these bring down the cost of insurance for people, those savings are going to be passed on to drivers.

Hon. Navdeep Bains: I understand that the savings would be passed on. I was wondering if there was some sort of economic calculation. I know there was a model that looked at this particular bill and the impact it would have on the consumer, because you mentioned that equation earlier on in your remarks.

The second question I have is with respect to jurisdictions involved. You mentioned Premier Doer's leadership on this file. Are there any other jurisdictions in Canada that have demonstrated similar leadership, that have come to Ottawa to lobby us at the federal level or have done some work at the provincial level?

Mr. Mark Yakabuski: We're aware of the fact that the provincial and federal attorneys general met a few weeks ago, actually, and we know this topic was on their agenda. I was not privy to those discussions exactly, but I understand there was a good vigorous discussion and that a number of provincial attorneys general expressed support for tougher legislation in Canada to deal with auto theft. It did not come only from Manitoba; a number of other provinces made that point as well.

The Chair: Quickly.

Hon. Navdeep Bains: A quick question, Mr. Haywood.

You mentioned that auto theft is an addiction and you need these long-term sentences to deal with its treatment. Could you elaborate on what that treatment would entail, or what you meant by that comment?

Mr. Ken Haywood: Tim Shields says that the highs they get from stealing the cars is equal to what they get from drugs. He feels that if they were put into jail for a period of time, that would reduce their addiction or help to control their addiction.

• (1225)

The Chair: Thank you, Mr. Bains. Good questions.

Mr. Ménard.

[*Translation*]

Mr. Réal Ménard: Thank you, Mr. Chair.

Welcome to our witnesses.

I have one question and one comment. First, please understand that I share your concern about how serious the problem of auto theft is. I know that it is very serious in Manitoba, but it is a phenomenon that is also widespread in all our communities. You are right to describe it as troubling.

As parliamentarians, we have a responsibility to address it. But I must tell you that we see a difficulty. I am open to the idea of establishing auto theft as a specific class of offences. I am well aware that in some communities, the car is essential, given that ways of getting around and public transportation are difficult when you are a

worker living in outlying areas. I have no difficulty understanding that cars are essential.

However, I do not know if we have to solve this problem with mandatory minimum sentences. This committee has very often had to grapple with the idea of mandatory minimum sentences as a matter of criminal law. A number of good studies show that, in a legal system, in a Criminal Code, mandatory minimum sentences are not a very significant factor. The significant factors are the police on the streets, the number of charges laid and the effective nature of the investigations.

Mr. Yakabuski, when you say a minimum sentence happens on the first offence, I...

Mr. Mark Yakabuski: Sir, it is on the third offence.

Mr. Réal Ménard: Not at all! The bill as presently worded is confusing then, because in the version I have here—perhaps there has been an amendment I am not aware of—the proposed subparagraph 334.1(1)(a)(i) reads as follows:

(a) whether the offence is prosecuted by indictment or punishable on summary conviction [...]

(i) for a first offence, to a fine of not less than one thousand dollars or to imprisonment for a term of not less than three months, or to both.

Do you interpret that as a mandatory minimum sentence? I certainly do. Perhaps our counsel could correct me if I am wrong.

I want automobile theft to be given special significance. I share your feeling. I want us to have this exchange so that we can find the best way to get there. I would also like you to explain something in more detail. On page 3 of your brief, you make specific mention of one phenomenon:

Organized crime steals vehicles and chops them up to sell parts of specious quality.

I would like you to talk to us about that part of your brief.

Mr. Mark Yakabuski: First...

[*English*]

The Chair: Excuse me, Mr. Yakabuski. On Mr. Ménard's point, as far as the bill is concerned, and as it's shaped here and was presented by Mr. Scheer, there are three particular points of mandatory minimums. The third is considered to be indictable, with a fine of not less than \$10,000 and imprisonment for a term of not less than two years. I just note that as a reference.

Mr. Mark Yakabuski: I was referring to the character of its being an indictable offence, Mr. Chairman, which won't come until a third offence has been committed. I think that is important to understand.

[*Translation*]

Let me come back to the matter the member raised. You are completely right to say that we must work on several levels at the same time. Changing the Criminal Code is not going to solve the problem because there are socio-economic aspects that will require a lot of work.

You are right: for the support to really work, that is, the increased penalties that this bill provides for the first time in Canada, there must be more police and more prosecutors. Everything must work together. We are completely in favour of that.

But we must mention one current problem, though there are others: it is very difficult to set a reasonable fine for an offence that is becoming more and more violent. So I think...

Mr. Réal Ménard: The people are not in jail.

So, as a Canadian insurer, your concern has to do with the fact that people pay fines but are not sent to jail.

Is that your concern?

Mr. Mark Yakabuski: Absolutely.

Mr. Réal Ménard: How many cars were stolen in Canada last year? How big a problem are we talking about? If I wanted to convince my caucus to support that, what figures would I use?

• (1230)

Mr. Mark Yakabuski: Last year, 159,000 vehicles were stolen in Canada.

Mr. Réal Ménard: And the year before?

Mr. Mark Yakabuski: About the same number.

Mr. Réal Ménard: OK, 159,000 cars. they were not all Volvos, were they?

Mr. Mark Yakabuski: They were not all Volvos, but I imagine a number of them were.

Mr. Réal Ménard: Could you explain...

Mr. Mark Yakabuski: Certainly. This is what is very...

Mr. Réal Ménard: ..."chopped up" and all that.

Mr. Mark Yakabuski: Organized crime is behind all the auto theft in Canada. That means that criminals get young people stealing cars. What happens then? The vehicle is taken to a garage somewhere, it is cut into pieces in order to sell parts illegally to other garages, then that vehicle's identification is substituted for another vehicle somewhere else in the country. The purchaser of that vehicle is completely unaware of what has happened.

In addition, more than 30,000 vehicles are shipped out of Canada with virtual impunity through the ports of Montreal, Toronto, Halifax and Vancouver because organized crime is heavily involved in all those activities.

Mr. Réal Ménard: Do I have time for two quick questions, Mr. Chair?

[English]

The Chair: You have time for one.

[Translation]

Mr. Réal Ménard: Thank you, although you owed me a little time from a previous round.

I am trying to understand. When you mention the involvement of organized crime, do you mean, for example, Hells Angels, criminal biker gangs or street gangs, to your knowledge?

Mr. Mark Yakabuski: First, unfortunately, we have to be careful not to accuse any group. But we can say with complete certainty that major organized crime groups are involved in automobile theft in Canada.

Mr. Réal Ménard: OK.

I will stop there, Mr. Chair.

[English]

The Chair: Thank you, Mr. Ménard.

Go ahead, Mr. Comartin.

Mr. Joe Comartin: Mr. Yakabuski, there was an announcement last week by the government that it was going to exempt vehicles purchased in the United States and brought into Canada from the Transport Canada requirements for immobilizers. They needed to do that in order for the vehicles to be operational in Canada, because the standards for the immobilizers in the United States are lower than they are in Canada.

Has the insurance bureau taken a position with the government as to the...what's the word I'm looking for? It doesn't make a lot of sense to be doing that.

Second, can you tell me the difference between the standards in Canada and those in the United States?

Mr. Mark Yakabuski: I'm going to let Rick Dubin answer that because Rick is our specialist in auto theft and immobilizer items.

Mr. Richard Dubin (Vice-President, Investigations, Insurance Bureau of Canada): First of all, in the United States they have a choice. They can mark parts, where they put the vehicle identification number on different parts of the vehicle. It's only on a limited number of parts. Or they can choose to use some form of theft deterrent system similar to an electronic immobilizer. The position we took right from the start... We were very successful, the Insurance Bureau of Canada, in working with car manufacturers, government representatives, and law enforcement to get over a dozen major car manufacturers to voluntarily install electronic immobilizers that met what we call the national standard of Canada.

Mr. Joe Comartin: Let me interrupt you there, because I don't think we had a full answer on this when Mr. Navdeep was asking. As I understand it, at this point in time the standards in Canada for the immobilizers are such that no one has been able to break that immobilizer up to this point.

Mr. Richard Dubin: Basically that's a correct statement. It is extremely difficult to defeat the camera.

Mr. Joe Comartin: Is it difficult or impossible at this point?

Mr. Richard Dubin: We can't say it's never impossible because we happen to have organized crime that is very effective, over time, in finding ways to defeat new technologies, and it means—

• (1235)

Mr. Joe Comartin: That's not my question, Mr. Dubin.

At this point in time, organized crime or anybody else has not figured out a way to beat those immobilizers. Is that correct?

Mr. Richard Dubin: We're not aware of organized crime at this point in time beating the standard that's been approved by Transport Canada, particularly with regard to the ULC-S338, which is the national standard of Canada. They added the European standard as another choice that they felt was comparable to the ULC-S338 Canadian standard.

Mr. Joe Comartin: But in fact our standards, Canadian standards, are higher than they are?

Mr. Richard Dubin: They modified their standards to meet a few of the attack tests and, when the system engages, to meet the national standard of Canada. So at this point in time, Transport Canada feels they are quite comparable.

Mr. Mark Yakabuski: The Canadian standards that we at the Insurance Bureau of Canada worked very hard on essentially have a shorter period of time by which you have to somehow get in between the immobilizer and the vehicle in order to compromise the anti-theft system.

Mr. Richard Dubin: That was modified.

Mr. Mark Yakabuski: Exactly.

The European standard has a slightly wider period of time, where it can be possibly potentially compromised, and that's why we pushed for a higher standard in Canada. We think it's the best in the world, and it's preventing the theft of vehicles. There's a lot more work to be done, because let's face it, as I said, you can put a car on a car bed; you don't have to worry about an immobilizer. You just drag that car away; that's not going to prevent the theft of the vehicle.

Mr. Joe Comartin: If we accept Sergeant Shields' evidence that 95% of the thefts in B.C. were more the non-organized crime...it's going to make a big difference.

You're right, Mr. Yakabuski, our standards are in fact the highest in the world, and this compromise by the government is wrong, really.

Has the Insurance Bureau of Canada taken any position? The Province of Manitoba has now made it mandatory as of September 1 that you do not get insurance in that province unless you have the immobilizer on your vehicle, and they make provisions to compensate people for getting the immobilizers on. Have the Insurance Bureau of Canada and the major insurance companies in Canada taken a similar position that they will not write insurance for vehicles that do not have the immobilizer?

Mr. Mark Yakabuski: We do not take that position, and we will not take that position, because in a competitive market the consumer ought to be able to make the final choice as to where they should get coverage and what kind of coverage they should get, and the market should be responsive enough to provide that coverage. That's the position we take, so we would differ profoundly from any government monopoly insurance approach to this issue.

Mr. Joe Comartin: That's probably why we have the monopoly insurance provisions in the country, Mr. Yakabuski.

No further questions, Mr. Chair.

The Chair: Thank you, Mr. Comartin.

I have one question for Mr. Dubin. You are an investigator. What is the most common means of transport for a vehicle that will be sent overseas?

Mr. Richard Dubin: We've had a number of projects recently that got right into that. The vehicle could be stolen, let's say, in Ontario, put on rail, sent to either the port of Montreal or Halifax, and exported by container overseas to eastern Europe. They're going to West Africa, to Central America, to the Middle East.

The Chair: Is there no actual evaluation or examination of container contents leaving the country?

Mr. Richard Dubin: Exactly. The current situation with the Canada Border Services Agency is that they feel they lack the jurisdiction to investigate, identify, and seize stolen vehicles at Canadian ports meant for export, and therefore they do not get involved at this point at Canadian ports to stop these stolen vehicles from leaving Canada.

The Chair: So there's knowledge that these vehicles are leaving the country—

Mr. Richard Dubin: Yes.

The Chair: —through a container, but nobody has the authority or the will or both to deal with it.

• (1240)

Mr. Mark Yakabuski: No one has the supposed authority. We have been discussing this item vigorously, as you can imagine, with Canada Border Services Agency and with the Minister of Public Security, who I know is doing his best to look into this matter to try to bring some order to it. But it is absolutely vital, in the interests of the security of Canada, the security of our ports, and for attacking the problem of auto theft, that there be some enforcement at our ports of containers that are illegally shipping stolen goods from Canada.

The Chair: It makes sense to me that something could be done.

Mr. Calkins.

Mr. Blaine Calkins: Thank you, Mr. Chair. I certainly appreciate the testimony I've heard here today.

I get the feeling from your presentation that the major thrust of this is to tackle the gang-oriented or the organized crime element of this. This bill will not discriminate against organized crime in any way, shape, or form, any differently than it would against somebody who, for whatever reason, wants to steal cars.

While I am certainly supportive of this, I'm curious. I asked this question of the sponsor of the bill earlier today. It would seem to me that if you want to strike at the heart of the criminal element or the organized crime element, you need to do more than take out the pawns that are out on the battlefield. This bill will certainly take out some of the pawns on the battlefield. But the question I have for you is, what other changes, what other additions, what other complementary legislation, what amendments to perhaps this legislation, would you like to see? In your testimony you said clearly that you want it in its current form.

There isn't anything in the Criminal Code that deals with possession of it. There's nothing that deals specifically with the example where you commit a break and enter or if you even have tools in your car that suggest you're about to commit a break and enter. Are there any provisions in the Criminal Code that you would like to see changed, such as having the tools to perform these kinds of activities in a chop shop, these kinds of things, where we can actually get at the organization or maybe get a little closer to the root?

Mr. Mark Yakabuski: Thank you very much. I think that is a very, very good question.

Politics, as you would know better than I, is partly the art of the possible. You have to be able to start somewhere and attack what is a very large problem that has, frankly, been going on for a long period of time. We are of the belief that this change to the Criminal Code will be of real benefit in allowing, essentially, the penalties associated with auto theft for repeat offenders to be substantially higher than they are currently. I believe that will send a very potent message to people who are inclined to steal cars in this country. They're going to think twice.

By making it an indictable offence after the third offence, I think what we really have in our sights are people who are repeatedly stealing cars. And if they're repeatedly stealing cars, there is an increasing likelihood that they are doing it in concert with some kind of organized crime. So I believe it will be effective in that respect.

As I've said in response to some other questions, there are other things that could be done and that need to be done in order to attack auto theft. We have identified, for example, VIN tampering. Tampering with a vehicle identification number is something that should perhaps be recognized as an indictable offence, because that is something that organized crime does, day in and day out, to steal the value from Canadians. That could be an addition that you would want to look at or that the government may wish to address in its own right, and we would be quite prepared to work either with this committee or with anyone else in the government to bring that about.

Some parallel amendments to the Youth Criminal Justice Act may also be necessary in order to reinforce the fact that, unfortunately, youths who get caught up in auto theft often become chronic criminals. That's not a destiny that I think anyone wants them to enjoy, and maybe we can do something on that front as well.

Mr. Blaine Calkins: Thank you for that.

If you take a look at the definition of motor vehicle in the Criminal Code, it doesn't include something like an RV trailer. I know, as do you as insurers or people who are responsible for those, there certainly is a business of stealing holiday trailers, recreational vehicles, anything that's not self-propelled. If you take a look at the definition of a motor vehicle, a motorboat would be a motor vehicle, as would a Sea-Doo, anything that's not associated with any rail use, but it doesn't include trailers or anything to that effect.

From that perspective, is that something you would like to see in this as well? I know there is a business in that area as well.

• (1245)

Mr. Richard Dubin: The main concern we had was private passenger vehicles, for the purposes of this bill, because when you consider 159,000 vehicles stolen in Canada, the majority of thefts involving organized crime are primarily of the private passenger, light truck type of vehicles. That's where organized crime is spending most of their time. But that's not to say they're not involved in all other types of organized crime, such as theft of trailers, and so on. They're also associated in so many other areas, as you know—in drugs, weapons, etc.—but we were concentrating on motor vehicle theft because that's where most of the export takes place.

The other area that could be considered and isn't in this bill is that there is a fair bit of theft of very expensive land-moving

equipment—Caterpillars, construction equipment, things like that. That's an area that could be considered, but it's not the volume.

Mr. Blaine Calkins: I think that would meet the definition of a motor vehicle, as long as it's self-propelled.

Mr. Richard Dubin: Right. That's just another area that organized crime gets involved in, but that wasn't the main thrust of what we were supporting in this bill.

The Chair: Thank you, Mr. Calkins.

Mr. Haywood, you have some comment.

Mr. Ken Haywood: Mr. Hanger, you asked about the vehicles being shipped overseas. We have a registrar of imported vehicles, called RIV. We do not have the same thing for vehicles going overseas.

I'm meeting with CBSA later this afternoon. If you wish, I can give you what he tells me, the reason they're not doing it, and forward it to you.

The Chair: I would like that information. Thank you very much, sir.

Mr. Bagnell is next.

Hon. Larry Bagnell (Yukon, Lib.): Thank you.

Thank you for coming. It's great to have people on the ground who work in the field.

I come from the Yukon, so you know where this question is coming from.

In Canada, do you find there are more thefts because a lot of us have to turn our cars on early—it was minus 40 this weekend in the Yukon—and go in the house and leave it running? Does it make it even a bigger problem in Canada?

Mr. Richard Dubin: I can address that.

It is a very large concern that we have here. In York Region alone, where I live, Chief Armand La Barge has his hands full with warm-ups, which lead organized crime to target these high-end vehicles for the clear purpose of stealing them quickly and exporting them across the country. In these situations immobilizers are ineffective. People leave the cars running, and the key, which basically sends the signal to the engine and tells it to start, is in the ignition and the owner isn't there. A significant amount of that takes place during the wintertime.

Mr. Mark Yakabuski: I could add that we work with police forces across Canada in a program that's called "Lock It or Lose It", which reminds people that unless they lock their vehicles, they are subjecting themselves to the possibility of theft, and they need to prevent that.

Hon. Larry Bagnell: My other area of questioning is related to the mandatory minimums. Of course, you probably notice we have a difference of opinion on this point in committee.

Generally, most of the witnesses who came before us as experts working with criminals and victims on the ground said they don't work, that in fact they could increase crime. By putting it in this way, we could actually be increasing auto thefts in Canada, which none of the opposition parties, at least, would want, and we also have a majority of the votes on the committee.

What we want is for the judge to have access to stiff penalties, but when you get these repeat offenders, people who are incorrigible, or people who don't undergo the treatment, we're lobbying to have more treatment in the prisons. Obviously that would be a much better way of stopping them. When they come out, they don't reoffend—but everyone comes out, and if you have someone in there for longer than they should be through a mandatory minimum and they learn how to be a better car thief, that's no help.

If the bill had to go through basically as it is, with steep penalties—and they're high-end penalties, so the judge can put them away for a long time—but there wasn't a minimum for those cases in which there are other and better ways of stopping the person from stealing more cars, would that compromise at least be better than nothing?

• (1250)

Mr. Mark Yakabuski: I would say that if every judge in this country were willing to take a training session to learn more directly the devastation related to automobile theft in this country, you might have a point.

The reality is that our courts are treating this crime largely as a victimless transgression. In response to that, we have—working with police, with crown prosecutors, and with others—clearly come to the view that after a certain point in time this ought to become an indictable offence.

Mr. Richard Dubin: Can I add something to that?

First, with minimum mandatory sentences, particularly for the serious reoffenders of three or more times, it's pretty tough to steal cars when you're held in custody.

Second, just for the sake of information, we investigated and interviewed a professional car thief here in Canada, in Quebec. This individual was a pro and had been doing it for 30 years. He told us that he started when he was a youth, and because the justice system was so lenient and he hardly ever got any serious jail time and was making \$300,000 a year, he decided to continue in this line of business and had done so for 30 years. So a strong deterrent such as a strong minimum mandatory for that type of criminal is really necessary in order to send a strong message out to them.

The Chair: Thank you, Mr. Dubin.

Mr. Moore is next.

Mr. Rob Moore: Thank you, Chair, and thank you, witnesses, for appearing.

Certainly, I think if all of us were to talk to our constituents and ask them if sending a deterring message to those who would be repeat offenders would have an impact on crime, most people would suggest that the answer would be yes. It's completely counter-intuitive to think otherwise, for some of the reasons you mentioned. We've heard over and over that because of a lax system, people have been encouraged to stay in a life of crime. Obviously the inference is that if the system were a little tougher on those early offences, then perhaps they would have taken a different path. So thank you for your testimony in that regard.

Mr. Scheer sponsored the bill. He mentioned, and I think you also mentioned in your submission, the \$600 million a year, and that would be just in insurance costs, right? There are all the other costs.

I mentioned to Mr. Scheer that the way I see it, it makes all of us who own cars and pay insurance victims of auto theft in a way, because we're all paying for the auto theft. I wonder if you can expand a bit on what, in your industry, this \$600 million a year means to consumers, and perhaps on some of the other associated costs, which aren't included in that figure, when it comes to combatting auto theft.

Mr. Mark Yakabuski: The \$600 million is simply the cost of the 159,000 vehicles that were stolen last year times a certain average price for a vehicle. As I said, Canadians are needlessly paying an extra premium in the car insurance they pay in order to account for the fact that we allow 160,000 cars to be stolen in this country. If we took a more vigorous approach to reducing the number of vehicles that are stolen, those savings would be passed on in reduced auto insurance premiums. Our goal, frankly, is to be able to stand before this committee and say, "You know what, Mr. Chairman? Canadians aren't paying a premium anymore because we've finally taken auto theft seriously."

The reality is that there are all kinds of other costs. The irony, as I mentioned in my remarks, is that we are spending hundreds of millions of dollars additionally in our health care system, in our court system, in policing resources. Why? Because we basically have a catch-and-release policy, so we just redo the work over again, and we're not getting at the problem. I would much sooner have those public resources directed in a more effective way to maybe deal with some of the social, health, and economic problems that some of these car thieves may be facing. I think that would be a much more effective use of resources than simply having a roller coaster and a revolving door in our justice system.

• (1255)

The Chair: Thank you, Mr. Moore.

You have time for one more question. Mr. Petit will not have time.

Mr. Moore, go ahead, please, quickly.

Mr. Rob Moore: I guess the adjusters and the agents in your industry would be on the front line of dealing with someone who has been a victim of car theft. You're probably, if not the first, then the second person they contact after the police, or somewhere in that order. I'm wondering if you can comment a bit on the feedback you might get from people who have been victims, when they see the type of sentence or the lack of sentence an individual receives, and whether that gives a sense of revictimizing them at all. Do you get any of that type of feedback?

Mr. Richard Dubin: Yes, we do. Canadians across this country are finding the leniency in the courts and the lack of a strong deterrent to this type of activity very frustrating, very disappointing. Families who have lost individuals—such as the McEvoy family who recently had somebody killed, and the family of a 37-year-old woman in Winnipeg—are devastated by this.

The other thing is that even immobilizers don't totally answer the problem, because people break into homes in order to steal the keys. These individuals feel highly victimized by this type of behaviour and feel very threatened because of it. There is a fair bit of that taking place. There is also the problem of warm-ups—vehicles that are targeted and stolen from driveways.

The Chair: I would like to thank the witnesses for coming forward today. I think this has been a very intense conversation and

discussion. I appreciate it, as do the committee members. Mr. Yakabuski, Mr. Dubin, and Mr. Haywood, thank you so much for being here.

We are now proceeding to an in camera session to deal very quickly with two business items.

[Proceedings continue in camera]

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