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(HANSARD)

Monday, February 26, 2007

Speaker: The Honourable Peter Milliken

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HOUSE OF COMMONS

Monday, February 26, 2007

The House met at 11 a.m.

Prayers

PRIVATE MEMBERS' BUSINESS

● (1105)

[*English*]

CRIMINAL CODE

Hon. Charles Hubbard (Miramichi, Lib.) moved that Bill S-213, An Act to amend the Criminal Code (cruelty to animals), be read the second time and referred to a committee.

He said: Mr. Speaker, Bill S-213, an act to amend the Criminal Code dealing with cruelty to animals is one of two bills before the House dealing with cruelty to animals. It is a Senate bill that was introduced in the House on December 11, 2006, following its approval in the Senate on December 7.

Senator John Bryden prepared this legislation and has had the support of many of his colleagues. Today at second reading I am asking for the support of this assembly to refer Bill S-213 to the justice committee for review and recommendations.

Since the dawn of civilization, mankind has had a close relationship with animals, with nature and with the environment. Evidently all was not perfect and, as a result, Canadian legislators, more than 100 years ago, saw the need to develop sections of the Criminal Code to take particular individuals who would abuse, mismanage or neglect animals to court.

Today we continue to hear reports of persons who cause undue harm to animals and of persons who are injured or killed by them. Today, there are press reports of a keeper at a zoo in the United States who was killed by a jaguar.

Municipalities, provinces and the federal government are called upon to legislate and regulate definite standards that we must follow with regard to our relationship with animals. In this debate, we must think in terms of both domestic and wild or natural animals, which are usually the responsibility of the provinces.

Domestic animals, whether household or farm related, have close ties with their owners. Owners are expected to provide food, shelter and protection. This is an expensive business and owners are usually prepared to spend a significant amount of income on their so-called pets.

Within our urban areas, this ownership and related care is a fast growing industry, with food, grooming and veterinary costs, yet in cities and in urban areas we have problems with pets that often are large and sometimes do things in the environment that cause problems for our sewage and drainage systems. We see problems related to that activity.

In rural Canada, animals offer similar enjoyment to their household owners, but most are managed to provide food and clothing or to do work for their owners. Also, our cities and rural areas have wild animals that live naturally without our help. Our heritage is reflected by the beaver, which helped explore our continent, and the polar bear, which symbolizes our present struggle with the environment.

Then, too, we must not forget the medical and scientific community, those researchers who use animals to study the health of mammals and our biological connections to them.

This legislation, Bill S-213, does not attempt to define standards by which owners or participants in relations with animals are judged. Rather, it is presented as an amendment to present legislation that will increase penalties on those considered by our society as abusing animals. It is a common sense approach to a standard of acceptable behaviour.

Undoubtedly there are those who want us to go further. However, it appears that there has been difficulty in reaching a consensus on developing explicit legislation. For example, there are concerns that certain pets are dangerous to the security of others; concerns with the killing of animals by hunters and especially aboriginal peoples in northern and remote communities; the assessing of farming operations; the confinement of animals at farms, in zoos or with the circus type of presentations; the monitoring of horse racing; the utilization of animals by university and scientific researchers; and above all, the elimination of pests in both urban and rural settings.

The list goes on. It is within the context of this debate that I offer to present Bill S-213 to the House.

The intention of Bill S-213 is to update the penalty provisions dealing with animal cruelty within the Criminal Code. In summary, Bill S-213 amends sections 444 to 447 of the Criminal Code by making all animal cruelty offences hybrid offences, meaning that prosecutors can choose, based on the determination of the seriousness of the offence, whether to pursue an indictment or summary conviction in a particular case. Previously, sections 445 to 447 were punishable only by summary conviction.

Bill S-213 also increases the maximum penalties. For offences of cruelty, the maximum penalties under summary convictions are increased to be a sentence of 18 months in prison and/or a fine of up to $10,000. For offences of neglect, the maximums are changed to a six month prison term and a $5,000 fine. In comparison, depending on the seriousness of the charge, those guilty of an indictable offence can be charged with either a term of up to five years in prison for cruelty offences or a term of up to two years in prison for offences of neglect.

Bill S-213 also makes two other changes to the Criminal Code. Under proposed subsection 447.1(1) it adds an order of prohibition and restitution. It allows the court to prohibit an offender from owning, having custody of, or residing with an animal for a period of time of any length or permanently, whereas the maximum now is only two years. As well, the accused may be ordered to pay any related costs for the care of an animal when it is under the care of another person or organization as a result of the commission of an offence.

Now that I have presented a brief description of this bill, I wish to address its place within the history of animal cruelty bills debated in this House. Amendments to the Criminal Code on cruelty to animals were introduced in December 1999 as part of an omnibus bill aimed to amend the Criminal Code. This was Bill C-17. After it died on the order paper, a similar bill, Bill C-15, was introduced in March 2001, but upon being referred to committee, this bill was split into two sections. Bill C-15B became an act to amend the Criminal Code (cruelty to animals) and the firearms act. However, it too died when Parliament was prorogued in October 2002.

Bill C-15B was later reintroduced as Bill C-10. Approved in this House, it reached the Senate committee for consideration and again the bill was split, this time to an act to amend the farms act, Bill C-10A, and an act to amend the Criminal Code (cruelty to animals), Bill C-10B.

Bill C-10B was the birth of the first bill solely dedicated to animal cruelty amendments. This bill, however, also eventually died on the order paper, as did its successors, Bill C-22 and Bill C-50. It is clear to see that the animal cruelty bills of the past have been victims of serious reservations and timings.

These attempts to amend animal cruelty legislation have been subject to considerable debate. Throughout this evolution, numerous stakeholders have been consistently critical of the proposed amendments pertaining to the substance of the bills and the nature of the offences.

It appears that the only consensus that has been drawn around the animal cruelty provisions in the Criminal Code was in regard to the proposed changes to the punishment for offences. These recommendations have remained virtually consistent throughout the different reincarnations of the animal cruelty bills. Bill S-213 is a replication of these penalty amendments. It attempts to change nothing in the Criminal Code. It does not attempt to redefine animal cruelty or to make new offences.

In response to the opposition to the bills previously studied in the House of Commons and the Senate, Bill S-213 attempts to simplify the issue and focuses animal cruelty legislation on penalties. It does this in order to amend legislation that was first enacted in 1892. These penalties were consented to in recently defeated legislation. Bill S-213 therefore responds to the demands to update Canadian law in accordance with public opinion on the seriousness of crimes of animal cruelty.

There have been several stated reasons for changing the animal cruelty provisions of the Criminal Code. First, the current penalties fail to reflect the seriousness of the crimes against animals. Second, the prohibition on offenders owning animals needs to be extended and Bill S-213 enables the court to place a permanent ban on ownership. Third, the court will be granted the means of ordering an offender to pay for the care needed for an animal as a consequence of an offence.

● (1110)

As mentioned above, in response to this impetus for change, Bill S-213 includes all of these in the amendments. This bill will update the Canadian Criminal Code in response to the desire to offer more protection to animals and to increase the power of prosecutors to advocate stronger punishments. It will ensure that crimes of animal cruelty will be taken more seriously, as they should be. Bill S-213 recognizes that changes to the penalty provisions are needed at present.

We cannot deny that there may be opposition to Bill S-213. Some critics contend that this bill does not afford animals enough rights, but what those critics may not so readily admit is that the reason many of the previous bills did not pass is that they potentially disrespected the rights of those dependent on animals for their livelihood. Farmers, university and scientific researchers, aboriginal peoples, and fishers and hunters have all had serious concerns.

The issue at stake, therefore, is that legal implications of changes beyond those in the penalty provisions are uncertain. Previous attempts to redefine offences of cruelty against animals have been interpreted by various stakeholders to threaten the legalities of animal use.

Indications are that Bill S-213 has wide-ranging support. Public support for this bill has been expressed by the Association of Universities and Colleges of Canada, the Canadian Federation of Biological Societies, wildlife federations and recreational associations from all 12 provinces. They have all indicated support.

By not proposing amendments beyond the penalty provisions, Bill S-213 ensures that what is legal today would remain legal tomorrow. Most important, Bill S-213 protects the rights of animals and offers better tools of prosecution, yet it does not offer new grounds on which to challenge legal animal use practices. However, amidst the debate on the matter of animal cruelty, these issues have been clouded.

Recently in this House and in the media the issue of animal cruelty has been getting more attention, but let us question what the issue really is. Our laws need to be improved. Penalties need to be increased. It is very important that the animals within our society receive proper care, proper protection and proper concern by our legislators.

● (1115)

Mr. Myron Thompson (Wild Rose, CPC): Mr. Speaker, I appreciate the presentation by the hon. member. I would like to ask him one question and get his opinion.

It seems that in the past few years there have been many heinous crimes committed against animals. I am thinking in particular of the growing interest in cockfights. I also understand that now there are scheduled arena events between pit bulls. There are puppy mills. All of that is not to mention the individual convictions that have taken place over a number of years.

Does the member strongly believe that what it is going to take to shut down certain operations of that nature is more severe penalties?

Hon. Charles Hubbard: Mr. Speaker, I would like to thank the hon. member for the fact that he has spoken in the public domain recently on this very important issue and for his question. I would hope that as society progresses we will see the termination of such things as puppy mills. Cockfights certainly have been prohibited by Canadian legislation for a long period of time. I know there are concerns about certain dogs. I have not heard not much about the so-called dogfights, but I know that certain dogs certainly are a menace to some people in society. I know that certain municipalities are attempting to control the fact that some of these dogs may be at large.

I know and I hope that as Canadians, if we work together at all levels of government, we can see that animals are treated properly, that they are respected and, above all, that they are enjoyed by the people who see them as some of their closest friends.

Hon. Wayne Easter (Malpeque, Lib.): Mr. Speaker, I support Bill S-213 but, as the member knows, while many of the veterinarian colleges seem to support the bill, the Atlantic Veterinary College does not. It uses the argument that penalties are not enough, that the legislation needs to move further in terms of puppy mills and those areas.

How does the member respond to the suggestion that just increasing penalties will do the trick when many in society feel that it is cruel the way puppies are raised in puppy mills? How does the member feel this bill would deal with that effectively?

● (1120)

Hon. Charles Hubbard: Mr. Speaker, the member for Malpeque has been a farmer most of his life. In the last number of years he has spent in the House he does done a tremendous job for his people back on Prince Edward Island and for all Canadians as a supporter of agriculture.

In terms of his question, we must remember that the amendments would place heavy fines on individuals and prohibitions from owning animals on those who have puppy mills or are abusing animals. It is sad to see in the press that some people have such a love of cats that they will be found to have 25 cats in their households under very unsanitary conditions. These people may do this through a love for their animals but we must have regulations to deal with it and prohibition would probably be the main one in terms of those who have puppy mills and attempt to breed a lot of dogs to have available for sale in various places without proper pedigrees or registrations.

Mr. Rob Moore (Parliamentary Secretary to the Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, I thank the member for Miramichi for sponsoring the bill in the House. I also want to recognize Senator Bryden for bringing this issue to the forefront.

As we all know, Bill S-213 passed the other place and was reported back from the Senate legal and constitutional affairs committee with only one amendment. The amendment deleted the second clause of the bill which was the coming into force provision. With that provision deleted, the bill would come into force without the need for an order in council.

Bill S-213 amends the Criminal Code in relation to the sentencing of offenders convicted of animal cruelty. It does not create new offences or modify existing ones.

Currently, the Criminal Code provides a number of distinct animal cruelty offences. Some offences prohibit very specific forms of conduct and others are more general in nature. They include: wilfully killing, maiming, wounding, injuring or endangering cattle; wilfully killing, maiming, wounding, injuring or endangering animals other than cattle which are kept for lawful purpose; wilfully causing unnecessary pain, suffering or injury to an animal; causing unnecessary pain to an animal by failure to exercise reasonable care; abandoning an animal in distress; baiting an animal; injuring an animal during transport; releasing a bird from captivity for the purpose of shooting it immediately upon its release; neglecting to provide adequate food, water and shelter or care to an animal; and keeping a cock pit.

The two most frequently charged offences are those of wilfully causing unnecessary pain, suffering or injury to an animal and causing pain, suffering or injury by neglect. These types of actions are in fact what most Canadians think of when they think about animal cruelty. Cruelty can be intentional, meaning the result of conduct that a person knows will or would likely cause harm, or it can be the result of gross negligence, severe inadvertence or just plain indifference to the potential suffering of an animal.

With respect to maximum available penalties, all offences, except those in respect of cattle, are summary conviction offences only. This means that the maximum sentence that an offender can get is six months in prison, a $2,000 fine or both. This maximum applies no matter how heinous the act of cruelty.

By contrast, offences in respect of cattle are pure indictable offences and subject to a maximum of five years imprisonment. One question raised by the law and addressed by Bill S-213 is whether this distinction is still justified. I will return to this point shortly.

The Criminal Code also contains what is called a prohibition order. This mechanism allows a judge to order a convicted offender to refrain from owning an animal for up to two years. Prohibition orders are not just meant to punish. They are mostly preventative. They actually work to keep animals away from animal abusers. In this way, they are aimed primarily at preventing future cruelty toward animals. Prohibition orders are actually imposed relatively often in animal cruelty cases. The courts clearly feel that the prohibition order is a valuable tool at their disposal in dealing with people who abuse animals.

Bill S-213 appears to propose three changes to the current animal cruelty regime, all in the nature of penalty enhancements. All the measures address concerns that have been identified with the existing law. Concerns with the law can be clearly and simply stated: the penalties are too weak to deter and punish animal abuse. Bill S-213 responds to this concern. No reasonable person would disagree that a maximum sentence of six months for even the worst case is inadequate and trivializes animal cruelty.

There is strong agreement across all sectors that the low maximum penalties for cruelty are both inadequate to denounce animal cruelty as acceptable and to punish acts of cruelty when they do occur.

To respond to this concern, Bill S-213 would amend the sections of the Criminal Code that set out the various offences of animal cruelty and describe the maximum penalties for those offences. It accomplishes its objective in the following three ways.

The first aspect of Bill S-213 increases maximum terms of imprisonment. To do this, Bill S-213 makes all offences hybrid, meaning that the prosecution may choose to proceed by way of summary conviction or by way of indictment, depending on the seriousness of the case. Currently, all the offences, except those in relation to cattle, are straight summary conviction offences.

● (1125)

Bill S-213 would then separate offences into two categories: first, for injuring animals intentionally and, second, for injuring animals by criminal neglect. This is an important distinction. Some people commit cruelty on purpose and others commit cruelty not on purpose but rather by extreme neglect. Under traditional criminal principles, knowingly or intentionally doing something is more blameworthy than doing the same thing by gross inadvertence. Accordingly, the maximum available penalties are normally much higher for crimes that involve deliberate action than for crimes committed by negligence.

The current six month maximum applies to cruelty committed by neglect as well as cruelty committed intentionally. Bill S-213 would address this by distinguishing between the two types of cruelty. Bill S-213 would assign different maximum penalties to each, according to the different degree of seriousness.

For the new category of offences that require intention or recklessness, the maximum term of imprisonment would be increased to 5 years on indictment and 18 months on summary conviction. The new 5 year penalty would also cover the offence of causing pain, suffering or injury by a failure to exercise reasonable care or supervision. For the other offences, such as abandoning an animal in distress or failing to provide suitable water, food or shelter, the maximum penalty on indictment would be raised from 6 months in prison to 2 years.

The separation of offences according to their degree of fault and the assignment of different maximum penalties would be consistent with other types of criminal offences.

Of course, the increase in the maximum terms of imprisonment would also better reflect the seriousness of animal cruelty and better accord with Canadians' views on this terrible crime.

A second aspect of Bill S-213 would remove the current two year maximum duration of an order prohibiting an offender from possessing or living with an animal. As I mentioned, the courts are fond of prohibition orders in animal cruelty cases and in some cases have found creative ways to extend a prohibition order past the maximum term of two years. The courts and the public clearly agree that some offenders should be denied the privilege of having animals in their homes for longer periods of time than just two years. This change would respond to those concerns and would enable courts to more adequately prevent future offences by prescribing whatever duration was appropriate.

Third, Bill S-213 would introduce a new power to allow the sentencing judge to order the offender to repay the cost of medical care and other forms of care that another person or organization spent caring for the animal that was victimized. Often, animal welfare agencies or humane societies take in animals that have been abused. If they take in an abused animal and the person who abused the animal is later convicted, this new power would be a means of holding the offender financially responsible for the cost of their crime. Making offenders reimburse those costs associated with the crime, like other kinds of restitution in the Criminal Code, would help to foster a sense of responsibility in the offender. It would also help animal welfare agencies recoup the cost of their work.

Under the applicable provincial legislation, agencies can recoup the funds associated with caring for neglected animals from the people responsible for neglecting them. It is important to recognize some of those agencies, like the SPCA, that help with animals that have been abused.

Those are the three principal amendments in Bill S-213. Together they constitute a significant improvement to the current law and one with which all Canadians would agree.

The government supports Bill S-213 and encourages all members to support it as well.

Of course, many members in the House are aware of past legislative efforts to improve the animal cruelty laws. As members are well aware, none of the bills introduced by the previous government over the course of about five years ever passed both chambers.

In addition, it is well-known that there was some disagreement concerning controversy over those bills. Some animal industry groups feared that certain changes would open the door to their being prosecuted for their traditional activities. We do not need to get into the details about that long and drawn out history.

What we have before us today is a private member's bill that has one simple objective: improving the law's ability to deter, denounce and punish animal cruelty and make offenders take greater responsibility for their crimes. It is for those reasons that I encourage all hon. members to support Bill S-213.

● (1130)

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Mr. Speaker, I, too, want to congratulate the member for Miramichi on sponsoring the bill introduced by the hon. senator, who was a member of this House and a colleague of mine when I was elected in 1993.

Everyone knows that the debate on cruelty to animals goes back a long way. Six other bills have been introduced in six years: Bills C-10, C-10B, C-15B, C-17, C-22 and, lastly, C-50, the most recent bill, which was introduced during the last Parliament.

Six bills have been brought before Parliament. The bill we are discussing this morning is the seventh. What is more, the member for Ajax—Pickering has introduced an eighth bill. All this has us thinking about the type of legislation we want.

One thing is certain: the status quo is not an option. It is unbelievable that, with one exception, the Criminal Code provisions on cruelty to animals have not been reviewed since 1892.

The situation can be summarized as follows: the punishment for people found guilty of wounding, neglecting, abusing, maiming or killing animals cannot exceed six months in prison or a $2,000 fine, except in cases where cattle are wilfully killed.

Certainly, the bill we are discussing this morning has merits. But it can be improved. I want to be very clear, for those who are watching. The Bloc Québécois will support the Senate bill, Bill S-213. And we also hope that this House will support Bill C-373, introduced by the member for Ajax—Pickering.

The bill before us this morning has three main points in its favour. First, it corrects the outdated sanctions, which are far too mild. These sanctions pertain to people's relationship with animals in the 19th century, when the Criminal Code was conceived.

This bill will make courts more likely to impose stricter sentences on those who commit offences against animals, that is, those who are convicted of misconduct against animals, such as mutilation, killing, negligence, abandonment or refusing to feed animals.

The minimum sentence, when prosecuted by indictment, will be five years of imprisonment and a fine of up to $10,000. The Bloc is pleased with that provision of the bill. That provision can also be found in Bill C-373, introduced by the hon. member for Ajax—Pickering.

This bill also corrects the existing anomaly that a court—through a prohibition order, which courts may impose —can prohibit the owner of an animal from having an animal in his or her possession for a maximum of two years. The bill before us today gives the courts the power to impose such a prohibition order for the owner's entire lifetime.

The third benefit of this bill is that it allows for restitution mechanisms through which the courts can order an individual to pay the costs if an animal has been taken in by an animal welfare organization, for example. A court could therefore order restitution and individuals who committed offences of negligence or intentional cruelty could be forced to pay the organizations that have taken in mistreated animals.

These three benefits alone represent a considerable improvement to the state of the law and warrant our support of this bill.

● (1135)

A number of our constituents have written to us comparing Bill S-213 from the Senate and the bill introduced by the hon. member for Ajax—Pickering that I hope will be debated later. If memory serves me correctly, the hon. member for Ajax—Pickering is 124th or 126th on the list. The political situation being what it is, Parliament may dissolve. We hope not, even though the Bloc Québécois is confident about the future.

In the event that Parliament dissolves before the bill by the hon. member for Ajax—Pickering is debated, we propose that this House fall back on the bill from the Senate. In any event, the short-term gain would be the possibility of increasing maximum penalties for those found guilty of mistreating animals.

I want to be very clear. The Bloc Québécois supports this bill. We would also want Bill C-373 to be passed, and for our constituents to know that these bills are not incompatible or mutually exclusive. The following three provisions are not incompatible with Bill C-373: increasing the penalties for animal cruelty offences; extending orders of prohibition on owning an animal; and implementing restitution mechanisms for individuals to compensate animal protection organizations. That is why the Bloc Québécois will support both bills.

Before explaining why this House should vote in favour of Bill C-373, I want to say that I know that my caucus colleagues and other parliamentarians in this House have always been concerned, when we have debated previous bills on protecting animals and on cruelty toward animals, about ensuring the ancestral rights of the first nations under section 35 of the Constitution, so as not to compromise legitimate hunting and fishing activities, and about legitimate research activities that may involve doing research on animals.

No one wants this House to adopt measures that would end up penalizing hunters and fishers. Senate Bill S-213 provides guarantees in this regard that may not be as attractive as those found in Bill C-373. Clause 3 of Bill C-373 sponsored by our colleague for Ajax—Pickering clearly states that, if the bill is adopted:

> 3. Subsection 429(2) of the Act is replaced by the following:
>
> (2) No person shall be convicted of an offence under sections 430 to 443 where he proves that he acted with legal justification or excuse and with colour of right.

This means that a hunter or fisher cannot be prosecuted for such activity if it is deemed an aboriginal right or if he or she has a hunting or fishing licence, and this activity is recognized by the legislator. I say this because I am convinced that several parliamentarians in this House have heard representations on the balance that must be maintained between our desire to protect animals against cruelty and the right of hunters, fishers and aboriginal peoples to carry out activities that are recognized in law.

The bill introduced by the member for Ajax—Pickering clearly sets out this guarantee. In conclusion, we hope to amend the Criminal Code insofar as these provisions are concerned. We recognize the three major benefits of this bill and we hope that the House will also adopt Bill C-373. These two bills are a winning combination.

● (1140)

[*English*]

Mr. Dennis Bevington (Western Arctic, NDP): Mr. Speaker, I rise to speak to Bill S-213. I would like to advise the House that the NDP will not be supporting the bill.

We take the issue of cruelty to animals very seriously. The current animal cruelty laws were enacted in 1892 and have not been substantially altered in 114 years of Parliament's rule over this land. The answer to dealing with these issues is not simply to cosmetically increase the sentences that are being meted out for offences that are not enforceable in the first place and have not been enforceable over many years.

There have been many instances of animal cruelty where the RCMP has not bothered with charges because the punishment meted out was not worth pursuing the case and it was impossible to prove wilful neglect. We need more of a deterrent. We need something that speaks to the nature of animal cruelty in a modern context.

Hon. members who have spoken before me have talked about the history of dealing with this issue in Parliament over the last seven years. Parliamentarians and governments have tried to focus on this issue and have found that it is impossible to move modern legislation through the two Houses that deals with animal cruelty.

The former government's Bill C-50 was not allowed to pass through the Senate. In 2003 it had support from animal protection groups, animal industry groups such as farmers, trappers and researchers, the vast majority of Canadians, and all parties in the House of Commons.

We have seen a disconnect when dealing with this issue of animal cruelty. We are stuck. We are only dealing with this bill now, not another companion bill, that would achieve support in the House and in the Senate. On the one hand we can put this bill forward which will cosmetically increase the penalties for animal cruelty, but it will not deal with the fundamental issues of a modern animal cruelty bill. That is not adequate. It should not be adequate to parliamentarians. It was not adequate in 2003 and I fail to see how it has become adequate today.

When we look at animal cruelty and the opportunities for the misunderstanding that comes with harvesting of animals, with the use of animals in agriculture, those things cry out for a clear definition. They cry out for a modern bill that would set the terms and conditions by which human beings could deal with animals. Without that, the deterrents are meaningless.

My constituents have spoken to me on this issue and have urged me not to support Bill S-213. I see their logic. I am concerned. The hon. member for the Bloc said that if we set higher deterrents without understanding the nature of cruelty to animals and without outlining it carefully in the legislation, we may find that it will lead to difficulties in different industries in the future.

● (1145)

My constituents still are part of the trapping industry. My constituents utilize animals in a modern fashion. When I look back through the history of trapping, humane traps were designed by trappers in response to their understanding of the nature of cruelty to animals. That is admirable. The industry looks at how it conducts business and regulates itself to a great degree. The understanding of the nature of that can lie with the industry very well.

In my own home community of Fort Smith, the Conibear trap was originally developed by a trapper who worked for many years in the bush. He saw how leghold traps worked and how effective they were and how the tools they used worked with the animal population they were harvesting.

Those types of issues need understanding in a bill. It is not good enough simply to increase the sentences for the actions of society toward animals. We need to understand how to use the law to make society work better with animals. That requires more than simply raising the penalties in a law that was first enacted in 1892 and virtually has not changed since then.

I do not think that this action today is correct. We need to look at the question in its entirety. Parliamentarians in the past have done that. We have not been able to come to a full consensus in both houses but we have a duty to Canadians to act correctly in this fashion.

Our party's justice critic may have an opportunity to expand on this in further debate. I urge members to consider carefully what is being done here.

[*Translation*]

Hon. Dominic LeBlanc (Beauséjour, Lib.): Mr. Speaker, I would like to begin my remarks by thanking my fellow New Brunswicker, the member for Miramichi, for introducing this important animal protection bill in this House.

The members who spoke before me this morning have clearly described the legal reasons why we have now reached the point where we must take action to improve the protection of animals and prevent cruelty to animals. In fact, this Parliament has expressed that feeling on several occasions in recent years. It did so unsuccessfully, however; it was unable to receive royal assent for a bill that would modernize the rules regarding penalties and the concept of animal protection.

The author of this bill in the other house is Senator Bryden, an eminent legal expert. As the parliamentary secretary said this morning, the senator has worked very hard to build consensus among a number of groups, around this bill and around the serious need to expand and strengthen the penalties available to judges when someone is convicted under the cruelty to animals provisions of the Criminal Code.

I have supported other bills in the past, like those introduced by my government at the time, to modernize the animal protection provisions of the Criminal Code. As other members, including the member for Hochelaga, have mentioned, those bills were not adopted or given royal assent before an election intervened or before the term of a Parliament ended.

Our colleague in the other house, the author of this bill, rightly decided that there was one aspect of the subject on which there was significant consensus: the need to increase the punishment, to expand the tools available to judges and prosecutors for sentencing someone who breaks the law or dealing with someone who has been convicted of violating these provisions of the Criminal Code.

In the past, other bills may have been too ambitious. As my colleagues have said, that does not mean that Bill S-213, which is now before this House, should not pass just because we are waiting for some more comprehensive reform in the future.

It is my opinion that if this House decides to support this bill today, that is a very good start. It is an acknowledgement, and a clear message to prosecutors, judges and the police, stating that this Parliament believes in animal protection and has sent a message against cruelty to animals in all its forms.

However, we recognize the need for balance. I believe the member for Hochelaga talked about balance.

In rural regions like mine, there are hunters, commercial fishers, recreational fishers and farmers. There are also people belonging to first nations. It is my privilege to represent in this House a first nations community, the Mi'kmaq. They have a long-standing tradition of using animals for perfectly legitimate purposes. These ways of using animals do not constitute animal cruelty at all. Moreover, for many people, this is also a research-related issue. We have made major progress in medicine because researchers have used animals in their research. I think that balance is essential in this respect as well.

These cases do not constitute animal cruelty in the same sense as the examples my colleague from Wild Rose brought up when he asked the member for Miramichi a question. Those were examples of abhorrent behaviour. I think there is consensus in this Parliament—at least I hope there is—that the sentencing regime in the Criminal Code must finally be modernized.

● (1150)

I was very pleased to hear the parliamentary secretary support this bill on behalf of the government. As all members are well aware, striving for perfection can sometimes prevent us from doing what is achievable.

● (1155)

[*English*]

This morning colleagues have described some of the very important technical reasons that Bill S-213 merits adoption by this House. The other place has studied this question extensively. Senator Bryden from New Brunswick has done an outstanding job at building consensus around one element that received not much objection, which is the issue of modernizing the sentencing regime.

Bill S-213 in a very compelling way sets up a system of hybrid offences. This is a long-standing tradition in criminal law where prosecutors can decide based on all the circumstances of the case if in fact the offence is one of deliberate cruelty to animals and would obviously require a more severe sanction than perhaps might one of neglect. By allowing prosecutors to proceed by way of indictment as a more serious criminal offence with much more serious prison sentences attached to a conviction under indictment, Parliament sends a very compelling message to those who might seek to abuse animals either by committing an act that the courts hold to have been an abuse or cruelty to animals or those who may neglect animals and fail to provide the essentials which, in turn, also are offences under the Criminal Code and appropriately should be.

Colleagues should think carefully before seeking to achieve a more global reform of the legislation with respect to cruelty to animals and miss the opportunity before us today to modernize in a very important way the sentencing regime. This can be a very good first step toward perhaps finding at some future point another balance in terms of other bills that may come before the House. A great deal of work has gone into this.

Statutory Order

[*Translation*]

Discussions lasted a long time, especially in the other place. A consensus was reached and I urge my colleagues to review the list of organizations across the country that support this bill. These groups represent, among others, urban communities, hunters, researchers and veterinarians.

I know that my time is running out, so in closing, I would like to congratulate the member for Miramichi, who took the initiative to introduce Bill S-213 in this House. I would ask my colleagues to acknowledge the work that has been done to find balance on this issue and to recognize, as I do, that this is an excellent first step that will modernize the animal cruelty provisions in the Criminal Code.

[*English*]

The Acting Speaker (Mr. Royal Galipeau): The hon. member for Wild Rose will have 10 minutes, of which five minutes are today.

Mr. Myron Thompson (Wild Rose, CPC): Mr. Speaker, I will cut my speech short today and try to cover a couple of points that I think were missed in the discussion this morning.

First, in response to my Liberal friend who just spoke, we have a history of owners of operations such as puppy mills who pay a $2,000 fine, relocate their operations and continue on with their mills.

There are two things I like about the bill. First, it increases the penalty for those kinds of operations. The second is the prohibition. They are ordered never to engage in that activity again. The ownership of animals should not be any part of their privileges.

The bill has a lot of good things in it that need to be moved forward. Is there room for improvement? Possibly so, but in order to get the improvement, this needs to pass second reading and get to committee. We need to listen to the witnesses and testimonies before committee, and if it can be improved, that is the time to do it.

The NDP would simply reject the bill and say that the status quo is good enough. However, the status quo is not good enough for Canadian people, of whom I am aware. They want to see some serious changes. If we reject Bill S-213, then the status quo will remain in effect for quite some time.

The bills that were previously mentioned would be forever getting to the House. We are operating under a minority government, never knowing when an election is going to be called and whether a bill is going to die. I would like to see this bill passed before any election occurs, and not have it die on the order paper. We have to show society that we are serious about doing something on these issues.

The one major thing we missed in all the speeches is the fact that studies have shown that a high majority of individuals sitting in penitentiaries today because they have violently attacked human beings, young children in particular, have a background of animal abuse prior to their convictions for these kinds of other violent crimes. There seems to be a connection.

If we keep that in mind, maybe we can realize the importance of getting the bill through the House and getting it approved as quickly as possible so we can try our very best to break that connection with increased penalties, more severe punishment and prohibition.

Any individual who mistreats an animal, as in some of the cases of which I have most recently been made aware, should not be allowed to own another animal for the rest of his or her life. We do that for many other kinds of crimes. In particular, I think of guns. If people misuse guns, there is a very good chance they will never own another one. It should be the same thing for pets or other animals.

There is also a myth out there that this will not cover wildlife and stray animals. They are already fully protected in the Criminal Code. However, we need are courts, adjudicators and Crown prosecutors who are willing to push the envelope when these things, these individuals, get to court. We need them to say loudly and clearly that the activities they have engaged in are unacceptable in this society and that they will pay dearly for their crimes.

I listened to the Bloc member who talked about the SPCA taking possession of animals when there was misuse. We have to be very careful. Not too long ago, I reported on a case in my riding of a farmer who took a culled cow to the market. He was charged because the cow had cancer eye. He spent $17,000 of his own money to fight it in court. He could have paid a $1,000 fine and not go to court, but on principle, he took it to court and won the case. Those kinds of incidents have to stop.

● (1200)

Let us get the bill to committee. We have to hear witnesses and have them testify as to what they would like to see in changes and amendments. Then we can move on with what I think is one of the most important issues of this year.

The Acting Speaker (Mr. Royal Galipeau): The time provided for the consideration of private members' business has now expired and the order is dropped to the bottom of the order of precedence on the order paper.

When Bill S-213 returns to the House, there will be five minutes left for the hon. member for Wild Rose.

ORDERS OF THE DAY

[*English*]

ANTI-TERRORISM ACT

The House resumed from February 12 consideration of the motion.

Ms. Alexa McDonough (Halifax, NDP): Mr. Speaker, I welcome the opportunity today to make some brief remarks. I have only 10 minutes to speak to the Anti-terrorism Act, which was passed by the House. I do not think a single member of Parliament would disagree that at the time we were in a climate of considerable fear and apprehension.

I want to take this opportunity to pay tribute to my colleague, the member for Windsor—Tecumseh. He has provided astounding leadership around the issues with which we have been grappling ever since.

Members who have been following the anti-terrorism debate in the House will know that my colleague from Windsor—Tecumseh has filed a minority report in relation to the two issues principally before us now, those sections of the Anti-terrorism Act that pertain to investigations and preventive arrests.

It will surprise no one that I am in absolute agreement with my colleague, the justice critic for the New Democratic party. In fact, all my colleagues stand together to oppose what we think remain provisions of the act that were clearly recognized at the time to be out of balance with what was necessary to achieve, weighing off security demands against civil liberties and human rights.

The fact that the government is not prepared to allow the sunset clause to apply to these two provisions is a clear and an alarming signal that it has not learned the lessons, lessons well learned by a great many Canadians at a grave expense and a tremendous cost to those victims of the overzealousness of some of these provisions.

No one has said this better than the NDP justice critic. Terrorism cannot be fought with legislation. It must be fought through the efforts of intelligent services, combined with appropriate police action. There is no act of terrorism that is not already a criminal offence, punishable by the most stringent penalties under the Criminal Code. This is obviously the case for premeditated, cold blooded murders. However, it is also true for the destruction of major infrastructures.

It is very much the view of the NDP that if in any respect the Criminal Code is lacking, the legislation is insufficient to deal with the threat of terrorism, then this can be amended. If the police do not have the full legal means needed to deal with terrorism threats, then that legislation should be amended. No one has brought forward the amendments that would address this in the Criminal Code.

In our view, the lessons of post 9/11 absolutely lead to the position we have taken today, and that is we have to learn those lessons and apply them. This means we should let those two overzealous measures expire as the sunset clause indicated.

As we began the debate on the legislation, there was a truly superb coalition effort of Quebec Muslim and Arab organizations. They came to the Hill and sought the opportunity to meet with members in all caucuses. I am not sure if they succeeded in doing that. However, it was an excellent experience for the NDP caucus to hear the presentation of that coalition.

I will briefly quote from what is an excellent brief. I want to ensure that it goes into the record. It was one of the most concise and intelligent analyses of the issues we face. The second point in the recommendations brought forward in their analysis of what happened post-9/11 reads:

> In Canada, antiterrorism laws...and the applications of the Security Certificates have created a socio-political climate of prejudice fueling Islamophobia and Arabophobia. Canadians and Quebeckers of Muslim faith or Arab heritage are singled out as a threat to national security which is affecting their rights and liberties.

● (1205)

If anyone questions whether that is an accurate description of what has happened to a great many Canadian Muslims and Canadian Arabs post-9/11, simply look back on the disgraceful question period that took place last week. At the sheer mention of the anti-terrorism provisions subject to the sunset clause, the Prime Minister stood in and by reference, by innuendo, spoke about a family member of a member of the House in terms of him being a candidate to come before the secret investigations.

Nothing could more stringently underline why the sunset clause should apply to those investigations. Instead of the Prime Minister creating such innuendoes, he should have been asking, if he has learned any lessons at all about RCMP leaks, why these leaks about someone who may or may not appear before a secret investigation were being given to the public? Why would the Prime Minister participate in referencing what had to be leaks coming from the RCMP? I hope members of the House will reflect on lessons that need to be learned.

I want to briefly quote from the final words of Maher Arar, which he shared with an audience of people across political party lines. However, it was a grave disappointment that only the leader of the Conservative Party, the Prime Minister, chose not to attend the event. The other party leaders were there. Also a large number of representatives from the other caucuses were there, except the government caucus. This again leads us to believe the government has not learned the lessons of the overzealousness post-9/11.

Here are the words of Maher Arar on that evening of tribute to Monia Mazigh and Maher Arar for the work that they had done for Canadians around the issue of the appropriate balance between security and civil liberties:

> —I want to remind you that our rights and freedoms are an inheritance, paid for dearly by countless others before us who saw or experienced injustice, and fought it, often not for themselves, but for those who would come after them. We need to respect this inheritance for its value to us and to our children, as well as for the price others paid for it.

Finally, there was a truly superb address given at the outset of that evening. It was a very fine, insightful, scholarly address by Dr. Tyseer Aboulnasr, who said in part:

> Friends, let us never forget that nations are not judged by the laws they write up and lock up in libraries, nations are judged by how they act at times when their dedication to these laws are truly tested. Every country that has chosen to sacrifice the liberties of its citizens and hold them in shackles has done that out of belief that this is necessary for its security. We, Canadians, know better. We know that security without liberty is simply imprisonment. Nothing is more secure than a maximum security prison. We deserve better. We cannot let Canada turn into a maximum security prison by imprisoning one Canadian without the presumption of innocence till proven guilty and without the full opportunity to defend themselves.

For that reason I was genuinely shocked. The day after this superb speech was made in tribute to Maher Arar and Monia Mazigh, the former solicitor general, under the Liberal government, stood in the House in answer to a question I raised. He said that as far as he was concerned we had achieved exactly the right balance between security and civil liberties in the post-9/11 era.

I respectfully disagree with him and I urge members to see the wisdom of letting the sunset clause of these two overzealous measures take effect. They are covered in the Criminal Code and can deal with future threats of terrorism, which we all take very seriously.

● (1215)

Mr. Michael Ignatieff (Etobicoke—Lakeshore, Lib.): Mr. Speaker, I rise to speak to the government's motion relating to extending certain clauses of the Anti-terrorism Act that are subject to sunset at the end of this month.

The Liberal opposition has thought long and hard on this issue. This party, while in government, introduced the Anti-terrorism Act and this House passed certain provisions subject to a five year sunset which we are considering in the House today.

The position of my party is clear. These provisions providing for preventive arrest and investigative hearings should sunset and they should sunset because they are flawed.

The Commons committee and the committee in another House that reviewed these provisions believed that while some of the provisions are worthwhile they were seriously flawed. The committees had made extensive recommendations on how to address these flaws, how to ensure they better contribute to our public safety and how to better safeguard against the potential abuse of human rights.

[*Translation*]

The Liberal Party is proud of its record on defence and public safety, and I want to stress that this record is in line with civil liberties.

[*English*]

The point is that government has ignored the recommendations of the House and Senate committees. The government has failed to present to this House clear proposals to extend these provisions in a modified form which take into account the concerns of parliamentarians.

[*Translation*]

In fact, the government has not formally engaged the opposition in any way. It has not submitted any proposals to us. We have known since last October that Canada's Anti-terrorism Act needed a complete review. The government has done nothing.

[*English*]

This has presented the House and the country with an up or down choice. The government seeks to present all parties in Parliament with the following choice: vote to extend these provisions or risk being labelled as soft on terror.

Let me be clear. This party has never been soft on terror. As the leader of my party has repeatedly stated, if the government presented this House with clear proposals to redraft the anti-terrorist legislation to take into account the sensible suggestions made by the House and the Senate committees, the official opposition would act expeditiously and responsibly.

To repeat, the party has never been soft on terror. The House knows and the government knows that after the attacks of 9/11 the Liberal government acted decisively and we will always do so.

[*Translation*]

The Liberal government at the time also knew something else: measures that may be necessary in an emergency must always be reviewed once the danger has abated. That is why the original legislation included sunset clauses so that, once the immediate danger had passed, Parliament could calmly assess whether those measures should be renewed and, if so, how.

[*English*]

This is where we are today or where we ought to be if this country were led by a responsible government. If this country were led by a government that said, “We are in a minority position in this House. Let us reach out to the opposition. Let us listen to what the committees of the House and the committees in another chamber said. Let us come back with revisions to the legislation that better balance security and liberty”, we would have responded positively. Instead, in the government everything is political. Everything is an opportunity to jam the opposition.

That is fair enough. We are all politicians in the House, but there are some issues on which we should try to put politics aside and put the security of our country first.

Hon. John Baird: I was reading a book of yours. It didn't say that.

Mr. Michael Ignatieff: Now, now. I do not believe the hon. member has read my words correctly, but I continue.

The government has alleged that it is the opposition that is playing politics and is endangering national security by voting to sunset these clauses. However, it well knows that these clauses have not been used once in the entire time they have been on the statute books. The case that we are endangering public safety by our actions is fanciful.

Here we do come to material that I have considered in my previous work. Abridgments of civil liberties can be justified but only if public safety absolutely requires it and then only under strict conditions. If this is the test, the clauses should sunset because they have not proven absolutely necessary to the public safety. The government, in essence, has not proven its case, and, on these questions where our liberties are at stake, the government must prove the case of public necessity beyond a shadow of a doubt.

Sunset clauses are placed in legislation precisely to ensure that temporary and emergency provisions of the law enacted to cope with special circumstances do not anchor themselves permanently in our law and, by so doing, begin moving the equilibrium of the law away from where it should always be: balancing security and liberty, public order and individual freedom.

If we renew these clauses as the government proposes, we risk moving that plumb line of the law. Temporary measures will become permanent and what becomes permanent will become unbalanced. The law will begin to privilege security at the expense of freedom, to the eventual detriment of us all.

Let me go further. If we consider the ruling of the Supreme Court last Friday on the security certificate provisions of the Immigration Act and if we further consider the reports of the parliamentary committees, both in this House and in another place, it is clear that the entire anti-terrorist architecture on the statute books needs comprehensive revision.

● (1220)

[*Translation*]

That is the main challenge that this government, which has been in power now for 13 months, has refused to face. The Conservatives may say that they need more time, but they have had plenty of time. The parliamentary committee in charge of reviewing the sunset clauses submitted its report last October, five months ago. Has the government been asleep since then?

[*English*]

The foundations were well laid but the building needs revision, that is the point.

While the government was slumbering, the parliamentary committee made recommendations on the investigative hearing provisions to give authorities the powers they need to protect us against forthcoming threats. The government has thus far failed to take into account the conclusions of that committee.

For preventive detention, the other sunset clause at issue in this debate, members of the parliamentary committee pointed out that section 495 of the Criminal Code already gives the police the authority to arrest without warrant a person who, on reasonable grounds, he believes is about to commit an indictable offence. This power is already in the criminal law of Canada and the additional powers sought in preventive detention are, in our judgment, strictly unnecessary.

If such powers exist in the criminal law, the government will need to prove, and it has failed to do so, that the preventive arrest provisions of the ATA have the overriding necessity that it claims.

That is the issue here. A free society can contemplate limited abridgments of the civil liberties of citizens only if the government offers clear public justification in Parliament of its case. It has failed to do so. These clauses must sunset and then the government should come back with redrafted measures and a case to justify them to the House and to the people. Should the government bring back measures that meet the test of public necessity and demonstrate that it has listened to the considered opinions of the committee of the House and the Senate, the opposition will respond.

[*Translation*]

The government needs to do more than just repair these defective clauses. It needs to give serious consideration to the opinions expressed by the honourable members of the Senate in the recent report entitled “Fundamental Justice in Extraordinary Times”.

[*English*]

This report makes my point. The entire architecture of Canada's anti-terrorism laws require substantial amendment. The foundations laid by the Liberal government are sound but there is room for substantial change if Canadians are to remain safe and have their liberties secure.

The report in the Senate, for example, recommends removal of the motive requirement from the Criminal Code definition of terrorist activity. It also recommends removing the reference to political, religious or ideological objectives from the definition of threats to security to Canada. All this, if done by a careful government, would provide greater protection for the free expression of opinion in Canada and prevent religious or racial profiling in Canada's anti-terrorist policy.

[*Translation*]

Without committing itself in advance to any specific initiative in this area, the opposition urges the government to listen to these suggestions and come back to this House with legislative amendments that meet public safety objectives while providing greater protection for Canada's minorities against religious and racial profiling.

● (1225)

[*English*]

In this and other areas, the report of the other house makes a convincing case. It states that our laws and policies to prevent and combat terrorism should be reformed to better reflect the objective of ensuring the security of Canadians while protecting the civil liberties that are the basis of our democratic society.

Why will the government not react positively to the sober second thought offered by the other chamber to Canada's anti-terrorism laws? Why will it not come to the House with proposals that reflect in detail these sensible recommendations? Why is it presenting members with a false, up or down, black or white choice to sunset or not to sunset? Sunset or not to sunset is not the question. Why has the government waited six months to take action to fix Canada's legislative framework on anti-terrorism? Why has the government, and it is a minority government after all, failed to reach out to the opposition and work with them to amend the laws we need to protect our citizens? Why has it decided that it is in its interest to jam the opposition rather than to serve the people?

I leave it to the other side to answer those questions but I would suggest that the answers tell us much about the character of the government and the character of the hon. member who leads it. For the government, politics comes first and good public policy comes a very distant last. Canadians deserve better.

[*Translation*]

The government has had plenty of time to review and improve these clauses, but it has done nothing. As a result, the sunset clauses will expire, if that is the will of this House. Once that happens, the government, which could have avoided that situation at any point in the past six months, will have to repair the damage it will have done itself. If it comes back to this House with reasonable measures that meet the test of public necessity, that protect the public while protecting civil liberties, the official opposition will be ready to do its duty constructively.

[*English*]

Mr. Pierre Lemieux (Glengarry—Prescott—Russell, CPC): Mr. Speaker, I would like to be clear right from the outset that the Anti-terrorism Act was tabled by a Liberal dominated House of Commons at the time. The act as it stands demands that an unamendable motion be laid before Parliament.

We are not here to debate a whole new bill. We are here to debate whether or not to renew the act due to the sunset clause for another three years.

The Liberals are under tremendous pressure. We are talking about the safety of Canadian citizens against terrorism. Former Liberal ministers have spoken against the current Liberal position; Anne McLellan and John Manley are two of them. The B.C solicitor general has also spoken against the Liberal position as it stands right now.

The families of the victims of the Air-India tragedy, one of the largest and most tragic terrorist events ever brought against Canada are asking the Liberals to reconsider their position on the Anti-terrorism Act.

Of course there is the Senate committee report which was released just last week which is asking the Liberals to reconsider their position and to act in the best interest of Canadians.

These are a lot of different groups, different in the sense that they do not necessarily have links between them. They are all asking the Liberal Party to reconsider its position because they know that the Liberal position is against the best interest of Canadians.

How would my colleague respond to that, especially to Canadians?

Mr. Michael Ignatieff: Mr. Speaker, the issue is relatively simple. The sunset clause issue cannot be seen apart from the flaws in the anti-terrorist legislation in general.

The remarks that I made to the House were that the parliamentary committee and the Senate committee have said that we can renew these provisions only if there are substantial revisions to the provisions themselves and if there are revisions to other aspects of the anti-terrorist legislation. It is that duty to introduce companion legislation where the government has failed, presenting the House with a false up or down choice on sunset which neglects the wider context of legislative change that simply has to be made if Canada is to be adequately protected.

The other side of the House is presenting this as a choice between those who are soft on terror or tough on terror, which is an entirely false issue. This side of the House is prepared to work constructively with the other side of the House to put a comprehensive piece of legislation together that addresses the flaws that two parliamentary committees have now indicated very clearly.

We cannot in conscience vote to not sunset clauses. What would happen is that the entire architecture of the anti-terrorist legislation would lumber forward into the future encumbered with all these defects. Now is the time to act, and the government should act.

● (1230)

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Mr. Speaker, I would like to ask the member for Etobicoke—Lakeshore the following question. Are there provisions other than those set out in the Anti-terrorism Act for preventing a terrorist plot in the works? How effective would these provisions be? Is it possible, among other things, to keep an arrested person in prison because they were plotting a terrorist act?

Could he also tell us what abuse he thinks there might be of these provisions, which would require persons arrested under the Anti-terrorism Act to sign a recognizance in order to be released, rather than be sent to jail. How could this be abused?

Mr. Michael Ignatieff: Mr. Speaker, it is with some hesitation that I will answer this question.

I will simply say that the Supreme Court ruled on these issues last week. In its decision, the court stated that it is possible to detain a person preventively, but that person's rights must be protected.

According to the Supreme Court's decision, our system for protecting the rights of these individuals is obviously not good enough. We must make some changes. It pointed out the dangers. There are some individuals who have been held for six years in an irregular situation. The Supreme Court is trying to fix this situation, which is part of a larger problem. Our country's anti-terrorist architecture is flawed, and there are problems we must solve with new legislation.

I hope the member from the Bloc will support the other opposition parties in pressuring the government to take responsibility and fix these flaws.

[*English*]

Mr. Chris Warkentin (Peace River, CPC): Mr. Speaker, I appreciate the intervention by the Liberal leader in waiting. Before he becomes Liberal leader, I think it is incumbent upon him to understand how Parliament works and how things have to go forward.

There is no question that the Liberals brought this legislation forward. They put a number of provisions and requirements in the legislation, including the fact that a single unamendable resolution be laid before Parliament and members had to say yea or nay.

He talked about negotiations and about the opportunity for the Liberals to have their say to make changes to the legislation. There is no provision for that according to the bill that was brought forward by the previous Liberal government. The Liberals simply have a responsibility to either stand with Canadians and protect them or to tell Canadians that their security and their safety do not matter. The future Liberal leader should make it clear to Canadians whether or not he supports the security of Canadians.

He talked about the Liberals not wanting to politicize this. The Liberals had the opportunity to delay this from happening and negotiate some type of an agreement, but they failed to do that. They have decided to proceed with politics and put the security of Canadians on the line.

● (1235)

Mr. Michael Ignatieff: Mr. Speaker, the member opposite introduced a number of entirely irrelevant considerations. I am struggling to winnow out the elements of his contribution that are irrelevant and focus solely on those that are relevant.

I would simply make the observation that the sunset clause issue has to be seen in the context of an anti-terrorist legislation whose foundations are solid because they were created by the previous Liberal government and commanded the assent of both sides of the House. As we have lived with these provisions over five years, it has become apparent both to the parliamentary committee and to members of my colleague's own party that there are substantial defects in this legislation that need to be addressed.

The government has had six months, since October, since the parliamentary committee reported, to come back to the House with legislation. A responsible government would have come back to the House with legislation that would have addressed in a comprehensive form the defects this legislation faces. Then we would not be put in the false position of sunset or not to sunset.

The key point here is that even those who support the renewal of these clauses are troubled by some of their implications, troubled by their potential operation. A responsible government would deal with these problems and solve them.

Instead, we have been put in a situation which seems to me not to serve the public interest. In my judgment, the public interest should be served by a comprehensive review of this legislation. As I have said already several times, and the leader of my party has said many times, we would be prepared to respond positively to that initiative.

Mr. Pierre Lemieux (Glengarry—Prescott—Russell, CPC): Mr. Speaker, in view of the ongoing debate concerning provisions of the Anti-terrorism Act subject to sunsetting, I felt it my duty to rise in the House to set the record straight. I ask all hon. members to listen with an open mind on what is unquestionably a matter of critical importance to our collective safety.

When speaking about these powers, investigative hearings and recognizance with conditions, we must work by way of comparison to the anti-terrorism powers of other democratic states. They will clearly show that restraint is built into the scope of their application. Let me first discuss the investigative hearing procedure.

The United States has a grand jury system. The grand jury wields significant powers not shared by other investigative agencies. The federal grand jury may compel the cooperation of persons who may have information relevant to the matters it is investigating. Any person may be subpoenaed to appear and testify under oath before a grand jury. If individuals who are subpoenaed fail to appear or refuse to answer questions, they may be held in contempt absent a valid claim of privilege.

The grand jury may subpoena the owner of documents or other evidence to present them to the grand jury, on pain of contempt, absent a valid claim of privilege. If a witness or the custodian of a document asserts a valid privilege, he or she may be provided with use and derivative use immunity and then be required to comply with a subpoena to testify or produce evidence.

The U.S. Patriot Act represented a marked departure from past changes to grand jury secrecy rules. The act permits disclosure without court order to a list of federal agencies with duties unrelated to law enforcement. Although the material disclosed must relate to foreign intelligence or counter-intelligence, the Patriot Act defines those terms with considerable breadth. I would add that there are also equivalent investigative hearing provisions in Australia and South Africa.

By contrast, in the United Kingdom the onus is on the person having relevant information relating to terrorism to disclose the information to the police. A person who fails to disclose to the police information which he or she knows or believes might be of material assistance in preventing an act of terrorism is guilty of an offence and liable to punishment of up to five years' imprisonment.

Let me now turn to the recognizance with conditions power. In Canada the use of the recognizance with conditions provision is dependent on reasonable grounds to believe that a specific terrorist activity will be committed in addition to a reasonable suspicion that the imposition of a recognizance is necessary. Arrest without warrant is limited in scope where, for example, there are exigent circumstances and if the person is detained, the period of detention is limited, generally up to a maximum of 72 hours before the hearing takes place. If the person refuses to enter into the recognizance with conditions, he or she may be jailed for a term not exceeding one year.

Compare the scope of this provision to some of those found in the U.K. In the U.K. the police may arrest without warrant a person whom he or she reasonably suspects is a terrorist. This differs from normal arrest powers in that there is no need for there to be any specific offence in the mind of the arresting officer, thereby allowing for wider discretion in carrying out investigations. The maximum period of time that a person could be held in detention without charge under this power has been extended since 2000 from 7 days to 14 days, to the current 28 days.

There are other powers as well given to the police in the U.K. For example, under section 44 of the Terrorism Act 2000, a constable in uniform, having received an authorization from a police officer having at least the rank of assistant chief constable, may stop a vehicle in the place set out in the authorization and search the vehicle, driver or passenger. It also extends to a pedestrian or anything carried by him or her in the area. The senior official may issue the authorization if it is considered expedient for the prevention of acts of terrorism.

The police are required to inform the secretary of state of the authorization as soon as is reasonably practicable, and to continue, it must be confirmed within 48 hours. An authorization may be up to 28 days and can be renewed.

As well, the U.K. also put in place in 2005 a system of control orders which may be imposed on a person to prevent terrorist attacks. These orders can be imposed on citizens and non-citizens alike. There are two kinds of control orders that may be imposed: those which do not derogate from the European Convention on Human Rights, and those which do derogate from the convention. The latter would arguably apply in cases of house arrest. Some of these control orders have been challenged in the lower courts and their lawfulness will ultimately be decided by the House of Lords.

Statutory Order

● (1240)

In Australia, legislation has been enacted creating a system of control orders and preventative arrests of terrorist suspects. With regard to preventative detention, the Australian federal police may apply for an order for preventative detention of a terrorist suspect where there has been a terrorist act or where a terrorist act is imminent.

However, the period of preventative detention is limited to 48 hours. In contrast, and in addition, many Australian states and territories have enacted legislation allowing preventative detention for up to 14 days.

Given this comparison, I would suggest that far from being blunt instruments, these provisions in the Anti-terrorism Act designed to prevent terrorism are modest in scope and finely tuned to their purpose.

At this time, I would like to turn to another major issue that has been raised by opposition parties in deciding, to date, to oppose the recognizance with conditions provision found in section 83.3 of the Criminal Code.

The hon. member for Marc-Aurèle-Fortin has argued that the recognizance with conditions power is not needed because paragraph 495(1)(a) of the Criminal Code has long provided a peace officer with the power to arrest without warrant a person whom he or she believes is about to commit an indictable offence.

It has been further argued that in such a case the person can be brought before a judge and released on recognizance with conditions. The hon. member for Marc-Aurèle-Fortin has also contended that the recognizance with conditions power under the ATA is very different in nature from the peace bond process found in section 810 of the Criminal Code and has very different consequences.

He has argued that in his experience section 810 is often used with regard to apprehended domestic violence or stalking rejected lovers. In contrast, in his view, the recognizance with conditions under the Anti-terrorism Act can catch innocent people who may not be aware of the reasons for which terrorists are soliciting their aid.

He also states that under section 810 a person is subject to a summons to come before a judge and is not arrested, and that the judge cannot commit the person to a prison term unless the person refuses to sign the recognizance after listening to all the parties and being satisfied by the evidence educed that there are reasonable grounds for the fears.

Allow me to reply to these arguments in turn. There are a number of differences between section 495 of the Criminal Code and the provisions setting out the recognizance with conditions contained in the Anti-terrorism Act.

Paragraph 495(1)(a) of the Criminal Code, in part, sets out the power of a peace officer to arrest without warrant a person who is reasonably believed to be about to commit an indictable offence; that is, a serious crime.

The recognizance with conditions provision in the ATA requires, first, that a peace officer have reasonable grounds to believe that a terrorist activity will be committed and suspects on reasonable grounds that the imposition of a recognizance with conditions on a person is necessary to prevent a terrorist activity.

In short, under the recognizance with conditions provision in the ATA the timeframe allowed for preventive intervention is longer than that provided for in section 495. There is no requirement that the terrorist activity be imminent; namely, about to be committed.

This represents a substantial difference that may, in practice, result in the prevention of terrorist activity and in saving lives.

The relevant arrest without warrant power in section 495 is restricted to those persons who, it is reasonably believed, are about to commit an indictable offence. These individuals, in other words, must be on the verge of committing a serious crime.

The recognizance with conditions provision in section 83.3 of the Criminal Code is not as narrow as section 495. It can apply to anyone who fits the statutory criteria set out in section 83.3 of the Anti-terrorism Act. A peace officer requires reasonable grounds to believe that a terrorist activity will be committed and that the imposition of the recognizance with conditions is necessary to prevent a terrorist activity from being carried out.

For example, while the police may suspect on reasonable grounds that particular individuals have contributed to or been associated with certain terrorist activities, they may not yet have the grounds to arrest these individuals and charge them with having committed a provable crime. In other words, they would not have grounds to arrest without warrant for being about to commit an indictable offence under section 495 of the Criminal Code.

● (1245)

They would, however, be able to request a judge to impose a recognizance with conditions under the Anti-terrorism Act and place the person under judicial supervision in an effort to prevent any terrorist activity from actually occurring.

To be fair, the hon. member for Marc-Aurèle-Fortin recognizes that the recognizance with conditions power is broader in scope than section 495 of the Criminal Code. However, he disapproves of this, expressing concern that a person placed under this kind of recognizance with condition can be branded a terrorist without ever being charged with a terrorism offence. He makes an analogy to a robbery about to take place, arguing that police can use section 495 to arrest the accused because he or she is about to commit a crime. The police, he says, can do the same with regard to a terrorist activity being planned.

This argument ignores the fundamental difference between terrorism and other forms of serious crimes, including organized crime. In this regard, the hon. member for Marc-Aurèle-Fortin has chosen to disregard the advice given to him by Lord Carlile, the independent reviewer of the U.K.'s anti-terrorism legislation, who was questioned by the House subcommittee in November 2005.

In response to a suggestion from the hon. member that terrorist investigations are quite similar to those which must be undertaken into organized crime, Lord Carlile disagreed. He said:

> With organized crime, it is often possible for the police investigating that crime to leave arrest until very late. Indeed, for example, there was a huge robbery at London Heathrow Airport a couple of years ago—I was involved in the case for a time professionally—in which they allowed the robbery to take place, and they arrested the robbers whilst they were committing the robbery, with the result that in the end most of them pleaded guilty. You can't run that risk with terrorism.
>
> I could point to a number of operations, if I were able to describe them in detail, in which the police and the security services in the United Kingdom have felt they had to intervene very early because of the risk of frightened or nervous terrorists trying to bring an act to fruition much earlier than was originally intended. This means that a great deal of the evidence gathering has to take place after what is sometimes regarded as a premature arrest.

This reality of the need to intervene at an early stage to disrupt and deter a potential terrorist activity in its nascent stages lies at the heart of the difference between the recognizance with conditions in the Criminal Code and section 495 which, while appropriate for regular crime, including organized crime, is not adequate in order to prevent acts of terrorism most effectively.

Let us carefully examine the differences between section 810 of the Criminal Code from the recognizance with conditions power under the Anti-terrorism Act.

First, under the recognizance with conditions in the Anti-terrorism Act, as in section 810, a judge may issue a summons to a person to appear. The general rule is that a peace officer must lay information before a judge and have the judge compel the person to attend before him to determine if a recognizance with conditions should be imposed.

The arrest without warrant in section 83.3 is very limited in scope. It applies only where exigent circumstances make it impracticable to lay the information, or where a summons has been issued for the person to appear and the peace officer suspects unreasonable grounds that the detention of the person is necessary to prevent a terrorist activity from taking place. This is in sharp contrast with section 495, which is exclusively an arrest without warrant power.

Second, under the recognizance with conditions power in the Anti-terrorism Act, as in section 810, if the person signs the recognizance and abides by the conditions, he or she remains at liberty and will not be sentenced or have a criminal record.

Third, the suggestion has been made that the section 810 peace bond process deals only with cases of domestic assault or stocking that do not really rise to the high level of harm or notoriety that terrorism does.

It should be noted, however, that peace bonds in the Criminal Code can also apply in respect of other serious criminal conduct, such as the cases of fear on reasonable grounds that a person will commit a criminal organization offence. A person placed under a peace bond in these circumstances is also not guilty of any offence, and yet is placed under a severe stigma without necessarily being found guilty of any crime.

Finally, I would point out an important difference between the peace bond set out in section 810 and the recognizance with conditions power in the Anti-terrorism Act. Unlike the section 810 peace bond, the recognizance with conditions under the Criminal Code cannot be used unless the relevant attorney general consents to information being laid by a peace officer before a judge, and this applies in all cases.

● (1250)

This is a key and important safeguard that is curiously not mentioned by the member for Marc-Aurèle-Fortin.

For the benefit of all members of the House, let me summarize the major safeguards found in the recognizance with conditions provision found in the Anti-terrorism Act.

First, the consent of the Attorney General of Canada or the attorney general or solicitor general of the province is required.

Second, a peace officer has limited power to arrest a person without warrant in order to bring him or her before a judge, such as in exigent circumstances.

Third, a peace officer who detains a person must either lay information with the consent of the relevant attorney general or release the person.

Fourth, in order to lay information, a person detained in custody must be brought before a provincial court judge without unreasonable delay, and in any event within 24 hours of arrest or as soon as possible thereafter if a judge is unavailable.

Fifth, only if the judge is convinced that the necessary reasonable grounds exist, may the judge order that the person enter into a recognizance to keep the peace and be of good behaviour, and to comply with any other reasonable conditions for a period of 12 months. Only if the person refuses or fails to enter into the recognizance can the person be committed to prison.

A person subject to a recognizance has the right to apply to vary the conditions under the recognizance order.

Finally, federal and provincial attorneys general are required to report annually on most uses of this power. The Minister of Public Safety and ministers responsible for policing in the provinces are required to report annually on the arrest without warrant power.

Given these safeguards, it is apparent that this provision has numerous safeguards to prevent possible abuse.

Let me end by imploring the members opposite to consider the words of Lord Carlile of Berriew. Yes, there is a difference between organized crime and terrorism. The threat of mass murder is different from the threat of individual violence.

We need to have the tools to prevent these attacks at their nascent stages, not just when the crime is about to be committed, for to wait is to endanger the lives of those we wish to protect. It is a time for foresight, and foresight demands that these provisions be extended.

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Mr. Speaker, I would nevertheless like to point out that these provisions have never been used in the past five years. I would like to remind the hon. member who spoke before me that the offence of conspiracy also exists. Conspiracy is an agreement between two people to commit an indictable offence. I do not see how the police can believe they should arrest an individual if they do not have any information to indicate that that individual has demonstrated, in one way or another, their intention to commit a terrorist act. When an individual has discussed such an act with someone else, or when they have begun preparations, only then has a conspiracy offence been committed and the police can arrest a suspect, bring that individual before a judge and charge them with conspiracy. The judge can even refuse bail if they believe that the plans are advanced or are dangerous.

Lord Carlisle tells us that we should not allow terrorist acts to be committed. However, it also seems to me that, if we use the conspiracy charge to bring a suspect before a judge, we interrupt the terrorist activity the same as if we bring that individual before a judge to enter into a recognizance.

How would the hon. member react if his son or one of his friends had met terrorists at school or university and had contact with them without knowing they were terrorists? How would he react if authorities concluded—as it was concluded in the Maher Arar case —that he was likely a terrorist and ordered to enter into a peace bond, because there was evidence and grounds to believe, given those meetings, that he may have been part of a terrorist plot? Does the hon. member think that his son could later travel to the United States or even keep his job?

● (1255)

[*English*]

Mr. Pierre Lemieux: Mr. Speaker, to answer the first part of the question regarding the point about how these powers appear not to have been used in the last five years and whether we really need them, just because they have not been used does not mean they are not important and that they will not need to be used in the next three years. I would like to point out as well that the member's very question undermines the position of the Liberal Party, in that it shows that great restraint is used by peace officers in actually applying the provisions we are talking about under this Anti-terrorism Act.

Second, the member asks about my son or daughter and how I would like it and so on. The provisions contained within the Anti-terrorism Act are constitutional. In 2004, in a reference related to the Air-India prosecution, the Supreme Court of Canada upheld the constitutionality of these provisions. That is important to know.

Third, these provisions are used only under the most dire of circumstances. At the end of my speech, I read out for members the conditions that must apply and pointed out the caution that is taken before applying these two provisions. If somebody meets the circumstances of those provisions, then yes, these provisions should be brought against them, and if not, then they would not be. I think we have seen that in the lack of use of these provisions over the last five years.

Mr. Chris Warkentin (Peace River, CPC): Mr. Speaker, I would like to thank the hon. member for Glengarry—Prescott—Russell for his work on this and many issues in making Canada truly a safer place for every Canadian and in ensuring that we have the tools necessary to keep Canadians safe.

Earlier I questioned the member for Etobicoke—Lakeshore about this whole issue. He talked about bringing a resolution forward to amend the bill. I would like to ask the member for Glengarry—Prescott—Russell if it is his understanding that a resolution could amend this bill to include all the things that the Liberals want included. The Liberals are talking about all kinds of things in regard to changing it. Is it the understanding of the hon. member that a resolution could truly do what the Liberals are asking it to do?

Mr. Pierre Lemieux: No, Mr. Speaker. It is my understanding, and it is common knowledge, that the Anti-terrorism Act that we are debating right now was brought forward by the Liberal-dominated government at that time and passed in Parliament. It was considered important legislation. It was considered well presented legislation as well.

Within the Anti-terrorism Act, it demands that an unamendable motion be laid before Parliament. As I was explaining to the member who spoke just before me, we are not here to discuss completely redoing the Anti-terrorism Act, but within the act is this provision regarding an unamendable motion at the end of the sunset period in order to renew the provisions contained within the Anti-terrorism Act.

What Liberal Party members are doing, of course, is throwing up a smokescreen, one of delay, duck and dodge. They do not want to address this issue head-on. They do not want to act in the best interests of Canadians. They are acting in a very partisan manner. As I also read out for the member previously, they are under tremendous pressure from different organizations across Canada to change their position for the best interests of Canadians.

● (1300)

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Mr. Speaker, I listened with interest while the hon. member for Glengarry—Prescott—Russell was explaining this to the House and particularly to Canadians, because in this House, of course, we are unfortunately beginning to see lines being drawn where lines should not be drawn. By lines being drawn, I mean that parties are taking positions surrounding the Anti-terrorism Act that historically they have not taken. In particular, our Liberal confreres across the way are now displaying what I believe to be an ill-advised stance with regard to the Anti-terrorism Act.

In regard to the act, I would like to ask my hon. friend a question. Why is the government not considering in this motion the changes recommended by the subcommittee? I will repeat that, in this particular motion, because this is a motion that has some procedural mechanisms surrounding it. Perhaps the hon. member would be able to respond to that.

Mr. Pierre Lemieux: Mr. Speaker, as I explained in my previous response, the Anti-terrorism Act as passed by a Liberal-controlled Parliament at the time demands that an unamendable motion be laid before Parliament, so we are not able to amend the motion.

What we want to do is implement the provisions contained within the Anti-terrorism Act for another three years, in which case there is another sunset clause after three years, and then Parliament will revisit the Anti-terrorism Act to weigh the security of Canadians, the threat of terrorism and the conditions within Canada at that time.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Mr. Speaker, it is a great privilege for me to rise and speak to this motion. I must say that I feel rather ashamed. I was here in the House in 2001 when we had the debate. I remember very well all the questions raised by the hon. member for Laurier—Sainte-Marie, who was the opposition leader at the time, as well as those of our justice critic, Michel Bellehumeur, the hon. member for Berthier—Montcalm.

We were worried about a number of things. The first was the very definition of terrorism and a terrorist act. I do not want to return to all that because the Supreme Court did not rule on it. The other extremely important questions that we raised had to do with procedural fairness, the right to a full and complete defence, and how best to achieve a laudable objective. We need to remember the situation in 2001 and how concerned we were, especially in view of what had happened in the United States. We know how close the historical bonds have been between Canada and the United States, bonds that led a former Canadian Prime Minister to say of our relationship that geography made us neighbours but history made us friends.

We could not remain unmoved by the collapse of the twin towers and all the information pouring forth about terrorist networks, real or potential. I would like to thank the hon. member for Marc-Aurèle-Fortin, by the way, for all the vigilance he has shown.

The speeches we heard this morning are pretty amazing in some respects. I should say, first, that for me the Liberals and the Conservatives are the same. We need to remember what the Liberals were saying. The Bloc was very clear. Not that we were great seers or prophets, but we did anticipate a few things. Some provisions of the bill that was being introduced, Bill C-36, were obviously incompatible with the basic principles on which our justice system is built.

I remember very well the questions and comments made by the justice minister at the time. They were even more unacceptable in that she was a former professor of constitutional law who had written articles on legal guarantees and procedural fairness, which I had had occasion to read.

The Liberals and Conservatives were animated by a common desire to move as quickly as possible and respond to the emergency because the situation was indeed very worrisome.

I read the Supreme Court ruling from beginning to end. What the Supreme Court told us is that in a democracy, and in a system where the rule of law means something, the end never justifies the means. As parliamentarians, we must respect that. The Conservatives and the Liberals were of one mind; we realize, with hindsight, that their position does not stand up to our most basic principles of justice.

It is demagogy, to some extent, to rise this morning in this House and to make it seem as though there are those who are concerned about the safety of citizens and those who are not. All parliamentarians in this House are concerned about the safety of citizens. However, it may be that, in our work as parliamentarians, we have to propose measures that push the boundaries when it comes to how we perceive the evidence or how we see the process unfolding.

I was in this House when Bill C-95, the first anti-gang bill, was adopted in 1997.

● (1305)

The definition of a criminal organization then was: five individuals who, in the past five years, committed offences punishable by more than five years' imprisonment.

At that time, there was also a sense of urgency. However, I would never have thought about rising in this House and voting for this bill, which was to be revised by Bill C-24, if the principal condition of the law had been to deny the accused access to all the evidence. That is the problem with this bill. I am surprised that no government members have noted this fact.

We will have an opportunity to mention this: the Criminal Code does contain mechanisms for preventive detention. First, common law recognizes this principle and the Supreme Court has recognized it several times. We need not go very far. Section 495 of the Criminal Code—if my memory serves me correctly—allows a police officer to arrest, on reasonable grounds, a person he believes has committed or is about to commit an offence.

Later, of course, the individual will have a trial and can be represented. All legal guarantees will be offered and justice will be served the way it should be in an adversarial system, in other words, the public prosecution lays charges and provides evidence and the accused can defend himself or herself. Getting to the truth is what this confrontation should be all about. That is not what is being proposed in the antiterrorist provisions.

We are not against the fact that measures are needed. I am sure that the hon. member for Marc-Aurèle-Fortin never said anything of the sort. We acknowledge that some individuals may pose a threat to national security. It is true there are terrorist movements.

I remember attending lectures given by researchers from the Raoul Dandurand Chair in strategic and diplomatic studies. We know that terrorist movements have been at work and that they will be in the years to come. We are even told that the largest terrorist movements, which constitute the worst threat to the security of modern states, are those with religious motivations.

We know all that. We are not questioning the fact that in legislation, whether in the Immigration Act or in other legislation, a minister may be asked to review situations where individuals will have to be deemed threats to national security. We recognize that and we agree that in all modern countries, particularly in vast countries and countries where borders are porous, it is acceptable for these provisions to exist.

Nonetheless, there is something quite unbelievable in these provisions. The Supreme Court said that the way in which the antiterrorist provisions are set up, in their wording and the way the courts are called to interpret them, some procedural guarantees are being breached. I will come back to that.

This leads to the following question. Can these terrorist movements be dismantled by using the provisions in sections 83.27, 83.28, 83.29, and 83.3? Why have these provisions not been invoked? Logically speaking, just because they have not been invoked yet does not mean they will not be in the future, but this is nonetheless a measure of their immediate relevance.

Under the existing Criminal Code—as we were reminded—an individual can be arrested without a warrant. It even sets out that in individual can be brought before a judge, compelled to enter into a recognizance to keep the peace and prohibited from contacting certain individuals. This is set out in section 810 of the Criminal Code.

● (1310)

Section 465 even includes a provision that allows for the arrest of individuals on the basis of conspiracy alone and because there is a risk they will commit acts at a later date. It is not as though we are completely without any other legislative recourse, or as though there is nothing in our existing legislation.

Something is very troubling. While we may not agree on how our political system operates, we cannot deny that there is a recognized tradition of respect for human rights. This includes Diefenbaker's Canadian Bill of Rights, the Canadian Human Rights Act adopted in 1977 and, more recently, the Canadian Charter of Rights and Freedoms.

In the National Assembly, in 1982, at the time the Canadian Charter was debated, we did not agree on the management of linguistic rights. Nor did we agree on section 27 pertaining to the enhancement of multicultural heritage. We nevertheless recognize the charter as a tool for the protection of human rights, particularly for judicial guarantees, which, moreover, already exist and were already set out in the Quebec Charter of Human Rights and Freedoms. We recognize that it serves as a tool for the promotion and enhancement of human rights.

As legislators, how could we have let ourselves become distracted? The Bloc Québécois cannot be blamed because, based on the recommendation of the leader of the Bloc and our justice critic, we voted unanimously against BIll C-36.

Why did we vote against Bill C-36? Because we did not believe that an individual could receive a fair trial without access to the evidence, especially the most important pieces of evidence, the ones supporting the charges or leading to a guilty verdict. The Supreme Court spoke of "sensitive information". That was the main problem with the proposed law.

I would like to quote what the Chief Justice of the Supreme Court said on page 54. A unanimous ruling is significant, after all. In a decision written by Madam Justice McLachlin, the court said:

> I therefore conclude that the IRPA's procedure for determining whether a certificate is reasonable does not conform to the principles of fundamental justice as embodied in s. 7 of the Charter.

This is serious. Legislators should be very concerned about this paragraph. I have difficulty understanding the government's obstinate refusal to recognize the proposed law. Of course, the Conservatives were not responsible for creating it; the Liberals were.

I hope that all Parliamentarians in this House will acknowledge that things have been taken too far, that due process is not happening and that even though we have a general duty to protect our fellow citizens, we must have safe communities. Specifically, we must protect our fellow citizens from possible terrorist attacks.

The court will explain what it means by the "principles of fundamental justice" embodied in section 7. This section is well known to us all. It concerns life, liberty and security of the person. The Supreme Court will say that those rights cannot be interfered with. First and foremost, we must ensure an impartial hearing.

The Supreme Court considered the question of the evidence being introduced *ex parte*, that is, the judge reviews the evidence, but not in the presence of both parties, specifically, defence lawyers for the person named in the certificate.

Is it not troubling to know that a person who does not appear before the judge—a judge who has reviewed the evidence, including the sensitive information—cannot refute that information, cannot correct the facts, cannot explain them, cannot respond to the quality of the information provided and the credibility of the informants?

● (1315)

Not only did the Supreme Court say that it was a miscarriage or denial of justice, as must exist for section 7 of the Charter to apply, but it also said that judges hearing the evidence *ex parte* are placed in a position where they cannot be impartial. Is this not tantamount to asking them to be investigators?

The court said that not allowing a person detained under a certificate to receive all of the evidence and be able to refute, explain and correct it, and to question the source of the evidence infringes section 7.

The court did not say that security certificates are unnecessary. Over the next year, the court invites the legislator to review the way in which certificates are issued. It is interesting to remember that the court gave the United Kingdom as an example. In committee, this was even brought to the attention of parliamentarians. The court even gives Canadian examples where the members of a House of Commons subcommittee, who were hearing from employees of the Canadian Security Intelligence Service, were able to respect the security and confidentiality requirements and still carry out their parliamentary work.

The court also has the following observation, and again I will cite Justice McLachlin. Furthermore, no parliamentarian or minister has provided an explanation for this. I hope they will during our exchanges later. Justice McLachlin said, "—Why the drafters of the legislation did not provide for special counsel to objectively review the material with a view to protecting the named person's interest— as was formerly done for the review of security certificates by the Security Intelligence Review Committee, and is presently done in the United Kingdom...has not been explained".

The United Kingdom has also passed antiterrorist provisions. The court wonders why we did not take the same route. The court proposes a compromise between complete denial of access to sensitive information about the person named in the security certificate and the possible confidential nature of certain information in thwarting terrorist attacks, in other words a procedural fairness requirement, a requirement for respecting basic justice. The court says that if we want to maintain these balances, these powers that have to be balanced between national security, confidentiality of certain information, but also the rights of those who may be charged —who are in fact charged in some cases—then we need access to information. I hope the government will take this into account during the review it has been given one year to do.

In closing, I cannot believe that people were detained for five or six years. I am running out of time. However, we have to remember that different rules apply depending on whether the person is a permanent resident or a foreign national when it comes to a review of detention. A permanent resident gets this review within 48 hours and every six months. A foreign national can be imprisoned for 120 days without ever having their detention reviewed. As the Supreme Court pointed out, this does not make any sense.

I will stop here, but, once again, I believe there is no reason to be proud today of Bill C-36. In my opinion, this House would have been better advised to listen to the Bloc Québécois when it gave these warnings. Fortunately, the Supreme Court was able to take an informed look at this legislation that offends human dignity and the best we can do is to review it.

● (1320)

[*English*]

Mr. Alan Tonks (York South—Weston, Lib.): Mr. Speaker, I have carefully followed the line of reasoning the member has put forward and I must say that I find it very compelling where he alludes to ex parte orders and the general application of the rule of law where within a reasonable period of time one who is accused for alleged criminal activities has the absolute right to confront those who are making the allegations within a reasonable format.

I realize that this particular legislation balances out the higher interest with those individuals but I do not understand that. I wonder if the member could help the House understand in terms of natural law, the right for a balanced and fair hearing and due process, how this legislation can be charter compliant when the charter has from time to time adjudicated on the rights of individuals under similar circumstances as they are placed on the fulcrum of public debate with respect to the higher community interest.

How, in the member's view, can this legislation be charter compliant? I really have not been able to understand that and perhaps with the background he has he could take the opportunity to outline that for the House.

● (1325)

[*Translation*]

Mr. Réal Ménard: Mr. Speaker, I thank my colleague for his question. I do not know whether I understood it, but I will try to answer as best I can.

First of all, I believe that the Supreme Court has clearly established that the charter provides the same guarantees, the same protection, whether or not someone is a Canadian citizen, and that that must be applied.

Does this mean that *ex parte* hearings are incompatible with the charter under any circumstances? No. For example, for fingerprint orders, in some cases of judicial release and in other situations, it is possible to hold a hearing where only one party is present.

However, that is not what we are talking about with regard to anti-terrorism provisions. What we are talking about is the fact that the person named in the certificate never has the opportunity to see all the evidence, especially so-called "sensitive" information.

The individual is not only denied the right to see this evidence, but is not represented. First, this places the judge in an unusual position, and second, the individual's rights are denied. The Supreme Court focussed its analysis on section 7 of the charter. Other provisions were mentioned, such as arbitrary detention and the right to equality under section 15, but the Supreme Court based 80% of its judgment on this point.

This is disturbing. I repeat, what concerns me is that for a legislator, for a democrat, the end never justifies the means. Canada also had and still does have Criminal Code provisions on conspiracy, preventive arrest—section 810—and arrest warrants. All that is possible.

I believe that there was a desire to act quickly and that the government and the official opposition at the time misjudged the situation. The best thing we could do for Canada's reputation with respect to human rights, which has already been marred by the Arar case, would be to correct these provisions.

The Supreme Court itself has proposed solutions. The Standing Committee on Public Safety and National Security has also proposed solutions, but I am afraid that this government is so dogmatic and hard-nosed that it is likely to ignore such recommendations. I know what this government thinks of judges, and it is not very reassuring.

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Mr. Speaker, we clearly heard that one of the checks on potential abuses with the application of these sections subject to a sunset clause is the requirement to obtain the authorization of the Attorney General.

Since the appointment of the Attorney General, my colleague for Hochelaga has heard him reply to various questions and participate in certain debates. Is it reassuring for him to know that the Attorney General can deny the sometimes unreasonable requests of the police?

Statutory Order

Mr. Réal Ménard: Mr. Speaker, I have no doubt that the Attorney General is quite a respectable person. Some say that he is charming, conciliatory and that he is very committed to being an honourable parliamentarian. However, we must look at the entire relationship that he may have with police forces and the complete respect that he must have for certain procedural guarantees that we are entitled to expect in a state which abides by the rule of law. My colleague is right: I am somewhat concerned.

The ruling has been handed down. It has put the government on notice to correct certain abuses. The Supreme Court identified potential solutions but it has given the government a fair amount of leeway. I hope this government will come to its senses.

To be true to history, I must also say that the government is not solely responsible because, at the time, the government of the day acted just as precipitously.

In reply to my colleague's question, I would say that I am somewhat concerned because I am familiar with the Attorney General's view of the police and judges. I hope that the Conservatives will nevertheless set aside a somewhat unfortunate dogmatism and will put forward solutions that respect the guarantees provided by section 7.

● (1330)

[*English*]

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Mr. Speaker, I am pleased to participate in the debate on the motion to extend the provisions of Section 83 of the Criminal Code, which, if they are not extended by a vote of the House, will lapse and die. Arguably, if there is a need for these types of provisions, new legislation will need to be introduced, thereby creating a gap in our law, if it is the will of the House and the government to proceed in that way.

These particular sunset provisions were added to the Criminal Code by Bill C-36 after extensive justice committee study and public debate. I was very involved in the work of the justice committee and I do have some personal knowledge of those events at that time.

The sunset provisions were inserted at the insistence of a number of people, including members of the House, for two possible scenarios. The first was the possibility that the provisions, which were quite new to the Criminal Code, might be misused in some way. It turns out that the sections have not been used and therefore have not been misused.

The second reason was in the event that the sections were not needed. Over time it was felt that the perceived need for this type of procedure might not be there and if the conspiracy that gave rise to this legislation was to end, diminish or calm, it could be argued that these more robust procedural provisions might not be necessary and that our ordinary laws might prevail and be usable.

In my view, I do not think either of those circumstances have occurred. There has not been a misuse of the provisions and the conspiracy that gave rise to them has not ended or calmed. I will speak to that later in my remarks.

One could say that these provisions were certainly not enacted because they were not needed. If they were not needed, they would not have been enacted. In fact, the public servants and parliamentarians who generated the legislation could see the need at that time and that is why they were enacted. One could argue that circumstances have changed and that is part of the subject of debate here today.

Why were the sections needed five years ago? I think the reason relates to the fact that there was an acknowledged gap in our criminal law, our common law, that simply evolved through the passage of time. Prior to the last century, the subject of security of the state was in the hands of the king. In fact, it was listed among the king's prerogatives and the king actually did take care of that kind of business.

We have all read history books and seen the movies. The king and his forces would actually detain and arrest people who were conspirators against the state. I suppose they did not make fine distinctions in those days whether it involved a conspiracy, a sedition, a subversion or a treason. These were all components of the common law in those days. The king simply would detain the person, perhaps arrest the person and make use of the dungeon and eventually liquidate the conspiracy.

● (1335)

After we entered into the 20th century, with the growth of civil liberties and written constitutions, it became apparent that our citizens needed rule of law. Commonwealth jurisdictions then adopted what were then known as the war measures acts. When the state entered into a serious war conflict, it relied on special legislation called the war measures act. It was used during the first world war and the second world war.

Eventually, in the modern context, those pieces of legislation were seen to be a bit too draconian for peacetime and therefore were dropped. We no longer have a war measures act. As a result, the legislation we relied on through the Korean War and the two world wars up to about the 1960s is no longer there so that the state cannot rely on any special provisions. It must use the criminal law.

We then had the terrible events of 9/11. Roughly 300 or 400 miles from here as the crow flies, we witnessed the events in Washington, New York and Pennsylvania. Following that, other events occurred in Bali, Madrid, Philippines, London and an almost event in Los Angeles. These events have been ugly. They were terrorist attacks, killing and maiming many and creating the maximum in violence, disruption and disorder. That is the nature of the threat.

As I mentioned, we do not have the provisions that used to be contained in the war measures act, and not only do we not have those, but in years gone by the state could rely on conspiracy laws. However, with the evolution of modern evidentiary rules, it becomes very difficult to convict for a conspiracy. As a result, because the sections have fallen into disuse, not many police or crown prosecutors are good at using them and the courts are not comfortable with them.

I would also point out that we no longer have grand jury investigations. These were part of our criminal process. A grand jury would be invoked, put in place and would investigate allegations of a criminal act or a conspiracy before they actually occurred or just after they happened but before criminal charges were laid. Two or three decades ago our jurisdiction stopped using the grand jury procedure.

At the end of the day, our laws have given up on the war measures act, the law of conspiracy and grand juries. My point is that there has been, by happenstance, a gap in our law. In peacetime, our laws work quite well. We are always reforming them but our laws generally are up to the test, but when the state gets into a conflict or it is at risk, it would be my view that the state needs to rely on a different set of provisions. These sunsetted provisions in Bill C-36, the Anti-terrorism Act, were intended to fill the gap.

It is also worth noting that all of our major allies had to do the same thing. This is not just a Canadian story. Our allies in the U.K., the United States of America and Australia all had to legislate to fill this gap in their laws as well. That is a notable thing and we in the House should take note of it. This is not a circumstances peculiar to Canada.

● (1340)

It is important to segregate things which are not politically, legally connected. I have read some of the debates and I have seen some of the media on this. We are not dealing with investigative warrants under the Security of Information Act. We are not dealing with investigative warrants taken out by CSIS to deal with threats to the security of Canada under the CSIS Act. We are not dealing with continued detention under the Immigration Act. We are not dealing with security certificates, which are removal procedures under the Immigration Act. All of those things are outside the envelope of what we are dealing with here.

We are dealing with two sections. The first one, the investigative hearings section, is both retrospective and prospective in its stance. It can look in the rear view mirror at threats and offences and terrorist activities that happened previously, or prospectively or pre-emptively into the future. The second one is the detention with recognizance section and that is pre-emptive in perspective. In other words, it does not look backward. It is there for the purpose of pre-empting an imminent terrorist attack.

I have tried in my own layman's way to conjure up a scenario when these sections would be used. This is one thing that is actually missing from the debate and I am not sure why. I am curious why security professionals or government officials have not offered a scenario which would explain a bit more clearly how and why these sections would be used. I realize that security professionals do not want to alarm the public. They do not want to reveal existing procedures. They are under oath to keep their information inside a security loop. These are probably some of the reasons we have not had that element of this debate.

It is also notable that this country's security apparatus is populated by officials who do not have the power of arrest. This is a very important distinction here. Most people think that CSIS officials can run around and scoop people off the street. The fact is they cannot legally or otherwise. CSIS officials are not even armed. They do not arrest people. The only people who arrest in this country are peace officers, that is, police officers. All the security professionals on the job are not able to make an arrest, whether it is at CSIS or CSE or in transport. They must be peace officers before they can arrest anyone.

As we develop our intelligence data, it is important to realize that if there is going to be any pre-emption of a terrorist attack by an arrest, it would be done by a policeman, not by our security apparatus. Most of the information we get involving security and intelligence comes from the broader security and intelligence apparatus. Some of it comes from police intelligence, but the bulk of it comes from our security and intelligence apparatus and our allies. That is a very important and indispensable function.

Because we do not have a scenario here, I am going to suggest the scenario of a border attack somewhere on the Canadian border. I do not think I am being right off the page here in suggesting there could be an attack. I do not have to go into any gory details; let me just say that an attack is possible and that the attack is imminent. Let me suggest that police and authorities may not have all the data needed to obtain a Criminal Code warrant for any of the existing provisions in the Criminal Code. They may have only one or two persons identified. They may have a possible target identified. They may have detected part of a cell and a likely target. They may not be able technically to connect all of the dots necessary to obtain a Criminal Code warrant. If they can, then they can take out a Criminal Code warrant and make an arrest.

Let me suggest as well that this data has not come from their own sources, but has come from an intelligence agency or an allied intelligence agency. I will assume for the sake of my scenario that the information is credible and real.

● (1345)

Given the potential for massive violence and disorder, pre-emption becomes the order of the day. It becomes a priority. If people are not sure what massive violence and disorder is, they should think about what happened in London, Madrid or New York City, just to get the flavour of what this is.

Under these sections a peace officer using credible data, probably packaged by an intelligence agency, either domestic or ally, would then present the information very quickly to the attorney general of a province. If some members think that is time consuming, some of our constituents have to wait sometimes to see an MP or to see a cabinet minister, but I can say that getting through to the attorney general of a province on a matter of priority happens very quickly. I have had the pleasure of dealing with an attorney general on a matter of that nature, and it was a very prompt and a very quick turnaround time. The information is then packaged for an attorney general, who must provide consent in writing. The information is then taken to a judge, who must also sign off and issue the warrants.

Statutory Order

The procedure for the use of these sections is judicially supervised in the beginning. It is consented to by the attorney general representing the government. It is managed by a peace officer, police officer, subject to the Criminal Code. The entire process in both sections has been judicialized. It is totally judicially supervised. There is a warrant, a judge, an attorney general, and a totally judicialized procedure. It looks awfully charter compliant to me.

It has already been mentioned that our courts have agreed that these procedures are charter compliant. An argument that the charter is a reason that these sections should not be renewed, in my view, respectfully to all of those who feel that way, is not on; I do not accept that. There may be other issues involving civil liberties that concern them, but certainly not the charter, at least not in a way that I have heard in this House or in the courts up to now.

There are some side notes worth noting. Both the committee of this House and the committee of the Senate have reviewed these provisions and have reported back confirming their support for the provisions.

Also, there exists, as I pointed out earlier, an arguable symmetry between the provisions that we have enacted here and the provisions enacted by our major allies. They operate on the assumption, and I know there was collaboration back at the time these sections were enacted, that our legislation bears some analogy to their own, that when we deal with our allies, they will have the ability to act quickly, and when they deal with us, we will have a similar ability to act quickly.

If these two sections are to lapse, it is arguable that our legislation will not be so symmetric, will not coincide with the legislation of our allies. Since the threat of conspiracy persists, and I am informed that it does, they may be curious as to why we would allow these two sections to lapse.

I would attribute the argument that the sections have not been used to good intelligence work and good luck. Both of those have contributed to that. Regarding the suggestion that the sections are not needed, one only has to look at weekend reports from the United Kingdom, where public reports are that the threat level there is as high as it has ever been.

With all due respect to many in the House who are concerned about the civil liberties aspects of this, I hope the record will show that these sections are charter compliant and that they are there for the benefit of Canadians as a whole as a protection order. I hope colleagues will take all of that into consideration in the vote.

● (1350)

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Mr. Speaker, I listened intently while my hon. friend was speaking on the two very important issues surrounding the Anti-terrorism Act and those parts of it that are governed by the sunset clause. I heard him recount with great intensity the necessity of having attorneys general supervise some of the issues surrounding those two provisions.

I would like to read a quote from the Supreme Court which deals specifically on this issue. The Supreme Court justices were referring in this case to certain issues surrounding the two items we are talking about here. They dealt specifically with an accusation that the sections violated section 7 rights of the charter. The quote is as follows:

> The challenge for democracies in the battle against terrorism is not whether to respond, but rather how to do so. This is because Canadians value the importance of human life and liberty, and the protection of society through respect for the rule of law. Indeed, a democracy cannot exist without the rule of law....Yet, at the same time, while respect for the rule of law must be maintained in the response to terrorism, the Constitution is not a suicide pact,

I wonder if the member would like to comment on that.

Mr. Derek Lee: Mr. Speaker, I could comment by agreeing with it. I think the court has it right.

I think everyone in this House would agree that the Charter of Rights and Freedoms should not be used as a recipe book for a terrorist attack. The challenge is to have a balance where the state has the tools necessary to protect the broader public interest, including preventing an attack, but at the same time ensuring that all citizens are treated fairly in terms of their civil liberties.

We have made some mistakes as a country. We could argue they were minor; for the individuals involved they were serious. Failure to observe the letter and spirit of the charter has gotten us into difficulty. Our country would be better if we could observe the charter throughout everything. Getting that balance just right is the goal.

In creating these provisions, the two we are dealing with, I cannot recall provisions which were subjected to greater charter compliant scrutiny at the parliamentary level than these. The provisions are littered with charter compliance mechanisms and sidebars. Although the court has not had the ability to test these provisions in a real life scenario, I am very confident that the court would be supportive of Parliament in doing whatever it thinks best, provided we give due regard to the individual under the charter.

● (1355)

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Mr. Speaker, I would like to begin by saying just how much I admire the member for Scarborough—Rouge River and to what extent I have valued his legal mind in the past.

First, I would like to comment on something he said. He said that many of our allies have taken similar measures. I would like to quote something Kofi Annan said during the International Summit on Democracy, Terrorism and Security held in Madrid on March 10, 2005. After discussing the dangers of terrorism in relation to human rights and the rule of law, he added that:

> —If we sacrifice them in our response, we are handing a victory to the terrorists.
>
> I regret to say that international human rights experts, including those of the UN system, are unanimous in finding that many measures which States are currently adopting to counter terrorism infringe on human rights and fundamental freedoms.
>
> Upholding human rights is not merely compatible with a successful counter-terrorism strategy. It is an essential element in it.

In my opinion, these are the kinds of remarks we consider when we try to strike a balance between the effectiveness of the proposed measures and the potential for abuse they represent.

The honourable member quite rightly said that he himself was obliged to invent a scenario to explain when these provisions would be used. How is it that even though committee members asked, nobody else was able to identify a dangerous situation to which these provisions could apply, when there are other provisions in the Criminal Code, especially those against conspiracy?

According to him, charges of conspiracy are now uncommon. Yet in my practice, I have seen a great many. They are very easy to prove because most of the time, they are uncovered by electronic surveillance. Even in the example he gave, there was clearly a conspiracy and, therefore, the potential for charging someone and bringing them before a judge, who could deny bail on the basis of the evidence presented.

We, too, want to strike a balance with effective measures. That said, they never have been and it seems they never will be, yet they are still dangerous.

[*English*]

Mr. Derek Lee: Mr. Speaker, the hon. member himself is no stranger to public security issues.

I do not have any trouble with the quote from Mr. Kofi Annan or with the Supreme Court quote earlier. Even our deputy leader, the member for Etobicoke—Lakeshore, has articulated similar sentiments in a book.

I accept that there has not been placed before the House a hypothetical real scenario whereby we could show that our conspiracy laws would be inadequate and fail and the terrorist attack could proceed unimpeded unless we wanted to abuse the law in the absence of these sections that we are dealing now with in the sunset.

It is an excellent question. It may be that the absence of a scenario reveals that we in Canada just are not able to put together enough evil minds to create that kind of ugly scenario. I hope one never develops.

STATEMENTS BY MEMBERS

[*English*]

SCOUTS CANADA

Mr. Gary Schellenberger (Perth—Wellington, CPC): Mr. Speaker, through Scouts Canada, young people in my riding, like those across the country, are making enormous contributions to their communities. In the process, they are learning valuable life skills and becoming better citizens.

Although I was not among the founding scouts in 1907, I am proud to have been a member of the first scout troop in my hometown of Sebringville. I can appreciate the positive influence this organization continues to have in shaping young lives.

This year, scouts from across Canada are celebrating their centennial year. I urge all members to pay tribute to their local scout troops and their dedicated volunteers for this important milestone.

NEW BRUNSWICK

Hon. Andy Scott (Fredericton, Lib.): Mr. Speaker, I was pleased that Fredericton was among a delegation of communities from Atlantic Canada to visit Ottawa to advance their priorities and concerns. Their projects remain in limbo because of government inaction.

In my riding, there is Fredericton's proposed convention centre, to which we committed $8 million. While the Conservatives said “me too” in the last election, no progress has been made because they failed to replenish the strategic infrastructure fund.

On the route number 8 Marysville bypass, I am concerned that the government is putting feeder routes on the back burner. The people in Fredericton and Nashwaak Valley cannot wait any longer for this safety issue to be addressed.

We have yet to see a new round of the municipal rural infrastructure fund despite the minister's assurances it would be replenished for New Brunswick by December.

Lastly, victims exposed to agent orange and other herbicides at CFB Gagetown are still waiting for the government to deliver on its promise of full and fair compensation.

This minority government is not getting things done in New Brunswick.

* * *

● (1400)

[*Translation*]

JEAN-PAUL FILION

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): Mr. Speaker, I would like to pay tribute to Jean-Paul Filion.

On February 24, Mr. Filion turned 80 years old. This resident of Sainte-Anne-de-Beaupré, in my riding, is one of the big names in the cultural history of Quebec and Canada. Before singer-songwriters such as Vigneault, Ferland and Leclerc, Mr. Filion was making his mark in the late 1950s. His first album, in 1958, earned him the Grand prix de la chanson canadienne. That same year, his famous song *La Parenté* sold more than 100,000 copies and made Mr. Filion a well-known songwriter.

The Canadian Songwriters Hall of Fame recently inducted this song during an evening of tribute, honouring his musical genius and his great contribution to our cultural heritage.

This song, forever etched into the musical memories of an entire generation, resonated deeply with many Quebeckers, especially on New Year's Day.

Happy birthday, Mr. Filion.

[*English*]

FORESTRY INDUSTRY

Mr. Tony Martin (Sault Ste. Marie, NDP): Mr. Speaker, St. Marys Paper is an important employer in Sault Ste. Marie. Its 400 employees produce paper that is purchased primarily by magazines and large retail companies for high quality advertising flyers and catalogues. Bankruptcy protection means that St. Marys is part of a forestry sector in crises.

When the northern Ontario economy was in trouble before, the NDP government in Ontario stepped up and saved many mills and communities. Fifteen years later we need governments to step up.

It is good news that FedNor will commit to help with the technology upgrade that will make the company more competitive, but much more will be needed, including significant resources and a plan.

The federal government must return to its traditional role of helping to stabilize economies. Pensions must be protected. The government should immediately convene a summit of all stakeholders in the forestry sector to formulate a national recovery plan. This summit should look at trade and monetary policy, research and development, and manpower planning.

Working families are suffering. This crisis cannot be solved without governments doing their part.

* * *

SCOUTS CANADA

Mr. Colin Carrie (Parliamentary Secretary to the Minister of Industry, CPC): Mr. Speaker, it is my privilege to rise in the House today to recognize Scouts Canada as they celebrate 100 years of services to the young people of our great nation.

The art of teaching life skills is a value unparalleled, because it teaches young people to excel and prosper. Lieutenant-General Baden-Powell's original vision has touched millions of young people. The scouts have used their value-based scouts' promise and law to help build a better world, where people are fulfilled and contribute to society.

Today there are more than 600 youth member scouts able to experience fascinating programs at our very own Camp Samac, a 200-plus acre facility donated by Colonel Sam McLaughlin of Oshawa.

Scouting volunteers are the lifeblood of Scouts Canada and are proud to contribute thousands of hours annually to ensure that youth across Oshawa and Canada receive quality programs that enable youth to experience their full potential.

I ask all parliamentarians to rise today to recognize Scouts Canada's service to our nation and celebrate its centennial year.

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CANADA WINTER GAMES

Hon. Carolyn Bennett (St. Paul's, Lib.): Mr. Speaker, I was thrilled to be at the opening ceremonies of the Canada Winter Games this past weekend in Whitehorse.

It was inspirational to see Larry Smith there as the chair of the Games and Piers McDonald as the president of the host committee. I congratulate them and the 4,100 volunteers who are there in Whitehorse right now helping all the people.

It was inspirational to see those young athletes, who we know will own the podium in 2010 in Vancouver.

It was unfortunate, however, that the sport minister for the federal government was unable to be there in order to hear the committed and urgent pleas by provincial and territorial ministers for sport infrastructure and physical activity infrastructure. That is what we as a government had promised them previously.

* * *

● (1405)

FISHERIES

Mr. Gerald Keddy (South Shore—St. Margaret's, CPC): Mr. Speaker, on Friday past, instead of contributing to second reading debate or even taking a position on a new Fisheries Act, the new Liberal fisheries critic moved a hoist amendment.

Why? He said it was to allow further consultation and to answer “so many questions”.

Parliamentary procedure states:

> The adoption of a hoist amendment is tantamount to defeating the bill by postponing its consideration. Consequently, the bill disappears from the Order Paper and cannot be introduced again, even after the postponement period has elapsed.

Here is what the Liberal critic intends to prevent: real accountability of a minister to Canadians; giving provinces and fishers a real say in the decisions that affect them; strengthened fish habitat protection; and a fair and deterrent sanctions regime.

The Liberals had 13 years to consult. They just did not get it done. Somehow it is hard to believe they just need another six months.

* * *

[*Translation*]

SHEILA WATT-CLOUTIER

Mr. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ): Mr. Speaker, I am proud to inform this house that Sheila Watt-Cloutier, from Kuujjuaq in northern Quebec, has been nominated for the 2007 Nobel Peace Prize.

This nomination recognizes Ms. Watt-Cloutier's invaluable contribution to social and environmental causes that affect the Inuit and honours her for drawing the world's attention to the impact of climate change and pollution on the traditional way of life of the aboriginal peoples and the Inuit who live in the Arctic and elsewhere.

Ms. Watt-Cloutier, along with 62 Inuit elders, has filed a complaint with the Inter-American Commission on Human Rights, alleging that American greenhouse gas emissions violate the Inuit's environmental and cultural rights.

I want to salute the outstanding work done by this woman, who has made the world's great decision-makers aware of the dangers of global warming, yet has not managed to convince one of the main stakeholders: this government. The Bloc Québécois and I congratulate Ms. Watt-Cloutier on her nomination.

* * *

THE ENVIRONMENT

Mr. Steven Blaney (Lévis—Bellechasse, CPC): Mr. Speaker, the cat is out of the bag on the Kyoto protocol. We have learned that when the Liberals were in power, they thought only of their image. What a surprise.

According to the *Toronto Star*, Eddie Goldenberg, former Prime Minister Chrétien's strategist, has said that the Liberals never really believed it was possible to achieve the Kyoto targets. The Leader of the Opposition was a member of the cabinet at that time, and that is what he himself said in the *National Post* in July 2006.

Signing the protocol was nothing but a sop to public opinion. Nevertheless, greenhouse gas emissions rose by 28% under the Liberals. What deception.

Unlike the Liberals, our government is not only telling it like it is when it comes to the environment, but taking practical steps to reduce greenhouse gas emissions with the ecoenergy initiative and the Canada EcoTrust program, which have a total envelope of $3.6 billion.

Yes, the Conservatives are thinking globally and acting locally.

So what are the Liberals waiting for to support the clean air and climate change bill?

* * *

[*English*]

THE PRIME MINISTER

Mr. Mario Silva (Davenport, Lib.): Mr. Speaker:

> One moment it's a cathedral, at another time there [are] no words to describe it when it ceases, for short periods of time, to have any regard for the properties that constitute not only Parliament, but its tradition. I've seen it in all its greatness. I have inwardly wept over it when it is degraded.

Those are the words of former Prime Minister John Diefenbaker.

I believe that had Mr. Diefenbaker watched the Prime Minister's attempt to undermine the character of a member of the House last week he would have "inwardly wept".

Often in life we as human beings in a rash moment may find we have regrets. Our character is found in our ability to admit we were wrong and to apologize. I would hope that given another opportunity today the Prime Minister will apologize for his remarks and aspire to Mr. Diefenbaker's higher ideal.

* * *

[*Translation*]

ANTI-TERRORISM ACT

Mr. Pierre Lemieux (Glengarry—Prescott—Russell, CPC): Mr. Speaker, I rise to speak here today in order to clarify the government's motion to extend the clauses of the Anti-terrorism Act that are about to expire.

[*English*]

The motion is not about security certificates. It is about the security of Canadians. It is not about detainees in Kingston or the war in Afghanistan. It is about the right to be protected from terrorist attacks. And it most certainly should not be about partisan politics. It is about providing two important tools to Canada's law enforcement authorities to assist in the investigation and prevention of terrorist attacks, nothing more.

The extension we are proposing does not in any way threaten civil liberties. In fact, the Supreme Court of Canada has upheld the constitutionality of these provisions.

The Liberal Party should stop the partisan games. Do what is right. Do what is right to defend the safety and security of Canadians. Vote to defend the Anti-terrorism Act.

* * *

● (1410)

CLUSTER MUNITIONS

Ms. Dawn Black (New Westminster—Coquitlam, NDP): Mr. Speaker, on Thursday thousands of Canadians will take part in a national day of action against cluster bombs and landmines. Events and demonstrations across the country will include making piles of shoes, representing all the lives and limbs lost to mines and cluster bombs, and collecting signatures urging the Conservative government to take a leading role internationally against cluster bombs.

Late last week the Government of Canada belatedly gave its pledge to destroy its stockpiles of cluster munitions and joined with other countries agreeing to a process that will forever ban these weapons, which indiscriminately kill and maim. Ninety-eight per cent of the victims are civilians and twenty-seven per cent are children.

The Ottawa convention banning landmines came into effect eight years ago this week and Canada led the world in that fight. In the fight against cluster munitions, Canada is being dragged along rather than showing the way. It is time for Canada to show it can be at the forefront of disarmament again. It is time to show real leadership.

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HEALTH CARE

Mr. Paul Zed (Saint John, Lib.): Mr. Speaker, I rise to express my support for the establishment of the Medical Education Training Centre at the Atlantic Health Sciences Corporation in Saint John. We must ensure that this school is established immediately so enrolment can commence in the fall of 2008.

There is widespread bipartisan support for this project, from New Brunswick health care workers, from the Moncton, Miramichi and Fredericton hospital authorities and from Premier Shawn Graham, who supports the immediate establishment of this school.

Currently, there is an acute shortage of doctors in New Brunswick. The Atlantic Health Sciences Corporation in Saint John is a national leader for health care and a centre of excellence. It is the natural place for the establishment of our medical school.

I once again urge the Minister of Health and the federal government to provide funding that will help make this project a success. By working together as a team in Saint John, we can build a stronger community.

* * *

[*Translation*]

SKI COMPETITIONS

Ms. Johanne Deschamps (Laurentides—Labelle, BQ): Mr. Speaker, it was a memorable weekend for two Quebeckers who earned gold medals for skiing. On Saturday, Érik Guay earned the distinction of being the first Quebecker to earn a gold medal in world cup downhill skiing. The next day, Jasey-Jay Anderson won the gold medal at the world cup of snowboarding in the parallel giant slalom event.

Érik Guay, from Mont-Tremblant, is currently ranked fifth in downhill for the season and 13th overall. His bronze medal, won on Friday, made him a favourite to win gold the next day. He will dedicate the next few days to training for upcoming competitions. This athlete, still recovering from injury, can be proud of his performance, and especially of his tenacity and perseverance.

Jasey-Jay Anderson, also from Mont-Tremblant, won the gold medal during the world cup of snowboarding. It is his first medal in two years.

The Bloc Québécois is very proud of the performances of these two athletes from Quebec and we wish them many more victories during the rest of the ski season.

* * *

[*English*]

ACADEMY AWARDS

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Mr. Speaker, last night Canadians were given a reason again to be proud. Torill Kove, one of our Canadian filmmakers, won the Oscar for best short animated film for *The Danish Poet*. This is the second time that Ms. Kove has been nominated, but last night's award enshrines years of successful work in animation, scripting and directing.

[*Translation*]

Norwegian by birth, this woman passionately transformed her childhood hobby, drawing, into a creative force. Her studies at Concordia University in Montreal, begun in 1982, led to her first Oscar nomination in 1999 for her short animated film *My Grandmother Ironed the King's Shirts*.

Last night's Oscar will be added to a number of other awards, including Kodak awards for the films *All You Can Eat*, *Fallen Angel* and *Squash and Stretch*.

[*English*]

On behalf of all Canadians, I extend my sincere congratulations to Ms. Kove and thank her for once again showing the world that Canada is the place for artists to showcase their world-class potential.

* * *

LEADER OF THE OPPOSITION

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Mr. Speaker, Dr. Dolittle has done it again. The Liberal leader has flip-flopped on whether our troops should risk their lives in Afghanistan. He has now taken three contradictory positions on the mission.

First, as a former government minister, the Liberal leader helped send our troops into harm's way in Kandahar. Then, in opposition, he voted against that same mission. Now Dr. Dolittle says that he wants the troops to stay for another two years, something he voted against only two months ago. The Liberal leader is playing politics with the lives of our troops.

What kind of man puts our troops into battle as a minister, votes against their mission while they are risking their lives for it and then reverses himself again to support the mission when it suits him?

Dr. Dolittle cannot be trusted to lead our troops or keep us safe when he changes his mind every time he sees a new poll. The Liberal leader did not get the job done. He will never get the job done.

ORAL QUESTIONS

● (1415)

[*English*]

ANTI-TERRORISM ACT

Hon. Stéphane Dion (Leader of the Opposition, Lib.): Mr. Speaker, during the last election, the Prime Minister wrote to the Canadian Arab Federation that in order to have balance between public security and rights and freedoms, “We believe there needs to be periodic reviews by Parliament of the Anti-terrorism Act”.

Why has the government not done a full review of the act, despite having received a comprehensive report from the committee of the House over five months ago on how to improve the act?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, the committees of both chambers have been studying the bill and the committee has been given an extension to study the bill.

In the meantime, the government has proposed extension of the existing provisions of the act. We did so with the support of the Leader of the Opposition until a couple of weeks ago when he abruptly flip-flopped his position on the issue, ignored the facts, ignored the advice of leaders of his own party and ignored the need for compromise.

However, late last week members of the other place suggested a specific compromise on this legislation. Would the leader of the Liberal Party agree to that compromise suggested by his own colleagues?

Hon. Stéphane Dion (Leader of the Opposition, Lib.): Mr. Speaker, the Prime Minister must understand, we cannot extend today and worry about rights tomorrow.

[*Translation*]

As far as anti-terrorism is concerned, the government has a duty to use an effective, fair and rational approach.

Does the Prime Minister agree that his immoral and demagogic behaviour of last week undermines his credibility when it comes to finding an effective, fair and rational approach for Canada?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, the Supreme Court has already ruled that these things respect civil rights and the Charter of Rights and Freedoms. The Leader of the Opposition should also respect this ruling.

I see that last week, the Liberal Party accused the RCMP of working with the government to leak information to the media. The journalist in question has denied this allegation. This is an attack against the RCMP. It is another attempt by the Liberal Party to discredit the RCMP, and the Liberal Party should apologize to the RCMP.

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THE PRIME MINISTER

Hon. Stéphane Dion (Leader of the Opposition, Lib.): Mr. Speaker, it is quite legitimate to attempt to discover how such a leak occurred, a leak that tarnished the reputation of a family, with the complicity of the Prime Minister.

Last Friday, Public Safety and Emergency Preparedness Canada posted on its website—a site paid for with public money—an outrageously partisan press release basely attacking all members of the opposition.

Is the Prime Minister now going to tell us that, after saying that he wants to politicize judges, he now wants to politicize the public service?

[*English*]

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, it sounds to me like the leader of the Liberal Party has just repeated the charge, the charge being that the RCMP is somehow working with the government to leak information to the media. In fact, the journalist in question has denied this.

The RCMP, as everybody in the House knows, conducts its investigations independently of the police. This is an outrageous, unsubstantiated slur against *The Vancouver Sun*, the journalist, the RCMP and once against blocking justice for the Air-India families.

In response to the allegation about the website, I spoke to the minister. He is willing to change the statement “soft on terror” till the Liberal leader—

● (1420)

Mr. Michael Ignatieff (Etobicoke—Lakeshore, Lib.): The Speaker: The

Mr. Speaker, the Prime Minister is seeking to conceal or make us forget the fact that he scandalously impugned the reputation of a member of the House last week.

I return to the issue that we are discussing, which is the House and Senate committees have been reviewing Canada's anti-terror legislation. They have come up with suggestions to improve it. The government has ignored those recommendations.

The question before the House should not be to sunset or not to sunset. The question is how to fix Canada's anti-terror laws. Why is the government failing to live up to its responsibilities?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, up until two weeks ago we would have been able to agree on re-passing former Liberal legislation. I point out that I just offered, in this question period, to adopt the recommendations of the Liberal Party's own Senate report last week. I understand the leader of the Liberal Party is not interested in compromise.

Since the deputy leader apparently is, would he be interested in working together to pass legislation based on that compromise?

[*Translation*]

Mr. Michael Ignatieff (Etobicoke—Lakeshore, Lib.): Mr. Speaker—

The Speaker: Order, please. The member for Etobicoke—Lakeshore has the floor. We would all like to hear his question.

Mr. Michael Ignatieff: Mr. Speaker, as the leader of our party has often stated, we are willing to work with the party in power, with the government, in order to find sound solutions to our problems.

Will the Prime Minister commit today to propose measures to replace those that expire this week?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, this government has already proposed several possible compromises to the Leader of the Opposition. Up to now, he has refused these compromises and threatened members of his own caucus who wished to protect Canadian citizens against terrorism.

If the leader of the Liberal Party is not prepared to support his own legislation, will the deputy leader of the party support the compromise proposed by his Senate colleagues?

* * *

QUEBEC ELECTIONS

Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ): Mr. Speaker, yesterday, Jean Charest suggested that equalization and federal transfer payments would be eliminated should the Parti Québécois be elected. According to *Le Devoir*, Mr. Charest said, “There is every indication that the money will be cut significantly the day the PQ comes to power”. During a press conference, the Prime Minister said that this was an interesting debate.

Can the Prime Minister tell us what he finds so interesting about this debate? Does he agree with Mr. Charest?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, I read the Premier of Quebec's comments. I think that what he said is not at all what the leader of the Bloc is suggesting. The Premier of Quebec is a very serious man and he is perfectly capable of stating his own position.

As Prime Minister of Canada, I have no intention of getting involved in Quebec's elections.

Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ): Mr. Speaker, nevertheless, it is his duty to clarify things. Mr. Charest also stated that the day after a sovereignty referendum in Quebec, the federal government would cut Quebeckers' old age pensions and the guaranteed income supplement, even if Quebeckers continue to pay their taxes until negotiations begin.

Does the Prime Minister agree with Jean Charest?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, the leader of the Bloc decided not to run for the leadership of the Parti Québécois. That would have been his opportunity to participate in provincial elections. The leader of the Bloc has proposed a lot of funding for Quebec in the environmental file. The government promised to give the Government of Quebec even more. That funding will be in the budget.

Will the leader of the Bloc support his own policy?

● (1425)

Mr. Michel Gauthier (Roberval—Lac-Saint-Jean, BQ): Mr. Speaker, the Prime Minister is being vague. I am simply asking him to tell us, here in this House, whether he can correct the comments made by Jean Charest, who is using blackmail in the middle of an election campaign.

Can the Prime Minister simply confirm to us that as long as Quebeckers are paying taxes to the federal government they will in turn be entitled to payments from Ottawa? We are simply asking him to confirm that.

[*English*]

Hon. Jim Flaherty (Minister of Finance, CPC): Mr. Speaker, unlike the previous Liberal government, this government recognizes the fiscal imbalance between governments in Canada and is committed to rectifying that fiscal imbalance; that is, moving to fiscal balance in Canada, which we will do on March 19 in the budget.

[*Translation*]

Mr. Michel Gauthier (Roberval—Lac-Saint-Jean, BQ): Mr. Speaker, since the Minister of Finance is responding, I have another question for him. It is important to know what he thinks exactly.

There is a budget coming up on March 19. Does he have two scenarios in mind: in other words, does he have one scenario if the Liberals win in Quebec, and another if everything points to a PQ win in Quebec? Does he have two scenarios, or just one? This will answer the question.

[*English*]

Hon. Jim Flaherty (Minister of Finance, CPC): Mr. Speaker, I can assure the member opposite that the rectification of the fiscal imbalance toward fiscal balance will be in the budget. It will be a very good budget for Quebec. I look forward to welcoming the support of the Bloc Québécois for the budget.

SECURITY CERTIFICATES

Mr. Bill Siksay (Burnaby—Douglas, NDP): Mr. Speaker, the Supreme Court has ruled unanimously that security certificates violate the charter and principles of fundamental justice.

One alternative, the special advocate model used in the U.K., is unfair and inadequate. Prominent advocates have resigned because they know it prevents the right to a fair hearing and the accused are still deprived access to the case against them.

What solution does the Minister of Public Safety propose to ensure a fair and transparent process, in line with the charter and principles of fundamental justice?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, I think the hon. member somewhat miscategorizes the Supreme Court's decision.

The Supreme Court said that the security certificate process is necessary for public safety in the fight against terrorism. It did find some provisions unconstitutional. It suspended the effect of that judgment for one year and, I think, laid out for Parliament a pretty clear road map on how to rectify the legislation so that we can continue to sustain the security certificate regime.

However, the government will be acting on the recommendations of the Supreme Court and I would hope that this hon. member and all members of this House will support the government when it does so.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Mr. Speaker, Mohammad Mahjoub, Mahmoud Jaballah and Hassan Almrei, three security certificate detainees, have been on a hunger strike protesting the inhumane conditions at the Kingston Immigration Holding Centre. It is now day 83 of their hunger strike.

Will the Minister of Public Safety appoint the Correctional Investigator of Canada as an ombudsperson to investigate their grievances immediately and before someone dies on this hunger strike? Is the minister prepared to start negotiations on conditions of release for all of these men?

Hon. Stockwell Day (Minister of Public Safety, CPC): Mr. Speaker, rather than the typical approach of the NDP of trying to introduce yet another layer of bureaucracy to deal with the problem, we have already taken more rapid action on that by having the Red Cross visiting this facility on a regular basis, by making sure there is a health care practitioner there every day, and by making sure that the variety of fruit juices, soups and other items, such as honey and yogourt, that the people are requesting are there.

Even more important, the Supreme Court did not say that it was wrong for people to be kept in that facility. We intend to keep them there in a humane manner.

[*Translation*]

COURT CHALLENGES PROGRAM

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Mr. Speaker, the court challenges program played an important role in preventing the government from violating the Constitution. It allowed minority groups, such as the Canadian Arab Foundation, to intervene in key matters such as that of the security certificates. This Conservative government cut this program and believes that only the rich should be heard at the Supreme Court.

Does the government recognize that it is putting women and minority communities at a disadvantage?

● (1430)

[*English*]

Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, nothing could be further from the truth. We have the most open and fair judicial system on the face of the earth. A review of the court cases that have come before the courts and the decisions by these courts are testimony to how well our system is working. That should be applauded by the hon. member.

[*Translation*]

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Mr. Speaker, I believe that the Minister of Justice misunderstood my question on the fact that this government cut the court challenges program. Today, the highest court called for changes to the legislation on security certificates. In 2006, the Prime Minister wrote to the Canadian Arab Foundation and promised to change this legislation.

Why did the Prime Minister go back on his promise? Why is he refusing to respect the Charter of Rights and Freedoms, unless the courts require him to?

[*English*]

Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, I would hope that the hon. member would respect the plan that we have put before this Parliament. We have had extensive legislation to fight crime to make our communities safer.

What has amazed me in the last couple of weeks has been the Liberals' attack on the anti-terrorism provisions and now they have a problem with security certificates. After all, this was their agenda. Why can they not at least support the agenda that they brought before this Parliament?

* * *

PUBLIC SERVICE

Hon. Sue Barnes (London West, Lib.): Mr. Speaker, on Friday the Minister of Public Safety broke Treasury Board guidelines and jeopardized the non-partisan neutrality of Canada's respected Public Service. He posted Conservative propaganda on his department's website that attacked opposition MPs and co-opted the machinery of government, which is supposed to be neutral.

Will the minister explain to Canadians why he crossed the line and used a government website to launch partisan slurs? Where was his judgment when he did this?

Hon. Stockwell Day (Minister of Public Safety, CPC): Mr. Speaker, it is very clear that a direct quote from me was put on that particular site. It was not a Public Service comment. It was a direct quote. The quote said, "Opposition parties are being soft on security and soft on terrorism."

If the member would like, I could add to that to make it more accurate, or not more accurate, but to intensify the point. I could simply add that the Liberals have voted against their own terrorism legislation. I could add that if that would make her feel better.

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THE PRIME MINISTER

Hon. Sue Barnes (London West, Lib.): Mr. Speaker, he does not understand the neutrality of the Public Service and the respect it deserves not to be pulled into partisan politics.

Last week, the Prime Minister used an article from *The Vancouver Sun* to launch an attack against a private citizen and a member of this Parliament. The Prime Minister has a duty to determine the facts before going carelessly ahead with allegations.

Did the Prime Minister verify the information, or does he not care about whether smears are true? Is he ready to apologize today to this member of Parliament?

Hon. Stockwell Day (Minister of Public Safety, CPC): Mr. Speaker, we were pleased to hear members of the families who had lost loved ones in the Air-India disaster join many Liberals and others in saying that some provisions should be left in place, so that we can prevent a tragedy like this from happening again.

In fact, when the Air-India family members were here, it was the Liberal leader who dismissed them as being emotional. They were emotional, but they were still on point. We should have those provisions to protect Canadians and the Liberals should support them.

* * *

[*Translation*]

THE ENVIRONMENT

Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ): Mr. Speaker, an internal report intended for the Prime Minister suggests that, by formulating a plan based on intensity rules for greenhouse gas emissions, the Conservative government will allow the oil sands industry to increase its greenhouse gas emissions by 179% between 2000 and 2010.

Will the government admit that, with these intensity rules, it is only encouraging a significant increase in greenhouse gas emissions?

Hon. John Baird (Minister of the Environment, CPC): Mr. Speaker, not at all. We are in the process of creating a policy to regulate the industry in Canada, not only concerning greenhouse gas emissions, but also concerning air quality. Our work is not complete. We are still consulting before we take action.

Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ): Mr. Speaker, troubling reports show that climate change is seriously affecting life in northern Canada. The permafrost is melting, and houses and other structures are becoming unstable.

Does the government not understand that the only possible solution—and it is urgent—is establishing absolute reduction targets and creating a carbon exchange?

The government must stop showing favouritism for the oil companies and shift that favouritism to the environment.

● (1435)

Hon. John Baird (Minister of the Environment, CPC): Mr. Speaker, our first piece of legislation for Canadians was to reduce greenhouse gas emissions.

Positive action has not been taken here in Canada for the past 10 years. That is why we are in the process of formulating the strictest regulations for industry in the history of Canada, for the benefit of the environment. We are working very hard and we will discuss this excellent initiative more in the coming weeks.

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TRANSPORT

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Mr. Speaker, the Minister of Transport can repeat all he wants that air safety is not threatened. However, making airline companies responsible for determining the level of safety is another stop towards a system of self-regulation that eventually will eliminate inspectors.

How can the minister claim that he wants to maintain the required inspection levels when he plans on cutting in half the number of inspectors in a few years?

Hon. Lawrence Cannon (Minister of Transport, Infrastructure and Communities, CPC): Mr. Speaker, once again, my honourable colleague in leading us down the wrong path.

[*English*]

I will quote Captain Brian Boucher, senior director of flight operations, Air Canada Pilots Association, who said:

> We understand that the rationale for the Bill is to enhance the safety of Canada's aviation system...We deal daily with the operational implications of the Air Regulations. It is not an exaggeration to say that flight safety IS our world.

[*Translation*]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Mr. Speaker, if his approach is so perfect, as the minister claims, how is it that a senior public servant of his department, Mr. Preuss, threatened the Canadian Federal Pilots Association with reprisals if it testified before the Standing Committee on Transport? If everything is perfect, as he claims, what is his department afraid of?

Hon. Lawrence Cannon (Minister of Transport, Infrastructure and Communities, CPC): Mr. Speaker, the committee is free to call whomever it wants to shed light on the matter.

To date, Canada's civil aviation system is the best in the world. It provides the Canadian public with the necessary measures and an additional system, a safety factor, to make all citizen feel safe.

[*English*]

FINANCE

Hon. John McCallum (Markham—Unionville, Lib.): Mr. Speaker, the Canadian Taxpayers Federation calls him the minister of gimmicks. He has used deceitful gimmicks, like saying he will cut the lowest income tax rate and then putting it up, or costly gimmicks, like when his Ontario government ran on a balanced budget, knowing that it had a $5 billion deficit. Let us not forget this very silly net tax gimmick, which thankfully he does not talk about any more.

Ontarians gave the Conservatives the boot for these practices. Why does he think they will work in Ottawa?

Hon. Jim Flaherty (Minister of Finance, CPC): Mr. Speaker, only a Liberal finance critic could think it is silly to pay down public debt, reduce the interest that has to be paid on public debt, and guarantee tax reductions to Canadians year after year going forward. Only a Liberal finance critic would say that.

Hon. John McCallum (Markham—Unionville, Lib.): Mr. Speaker, going back to Queen's Park, only a Conservative would think that a $5 billion deficit was a balanced budget. He still has not learned from that experience of running a deficit when he said it would be in balance. Back in those days that government booked and spent billions of dollars from the sale of Crown assets and then it forgot to sell the assets.

As this minister contemplates the sale of up to $7 billion in government buildings, why does he think that the Queen's Park mismanagement will work in Ottawa?

Hon. Jim Flaherty (Minister of Finance, CPC): Mr. Speaker, I can assure the member opposite that as the finance minister of Ontario I balanced the budget. I will say this to the member opposite—

Some hon. members: Oh, oh!

The Speaker: Order, please. The minister will say it in a minute, but I have to be able to hear what the minister says. A whole bunch of other members want to hear it too.

We will have some order. The member for Markham—Unionville has asked a question. He is entitled to hear the answer. I am sure he is very interested to hear it.

The hon. Minister of Finance has the floor and we will now hear from the minister with some order in the House.

● (1440)

Hon. Jim Flaherty: Mr. Speaker, I want to thank the finance critic opposite for finally admitting this weekend that Canadians are overtaxed. I do have a complaint. If he is going to use lines from my speeches, he should pay royalties.

[*Translation*]

Hon. Lucienne Robillard (Westmount—Ville-Marie, Lib.): Mr. Speaker, the Conservative government reminds one of a remake of the Harris government: $3 billion in anticipated revenues that did not come in; $2.6 billion in savings that have not been identified; several billion in asset sales that did not happen. In Ontario, this resulted in the discovery of a $5.6 billion deficit. Imagine what would happen here in the federal government.

Why is the Minister of Finance using economic trickery to fool Canadians?

[*English*]

Hon. Jim Flaherty (Minister of Finance, CPC): Mr. Speaker, I do not know why the members opposite in the Liberal Party are so depressed about Canada's great economy. We have the lowest unemployment rate in 30 years. We have the highest rate of engagement in the workforce in 30 years. We have controlled inflation and we will have a great budget on March 19. I hope the member for Wascana enjoys it.

Hon. Lucienne Robillard (Westmount—Ville-Marie, Lib.): Mr. Speaker, it only proves that the member of Parliament for Wascana worked very well when he was the minister of finance.

[*Translation*]

Before Ontarians fired it for making such a huge financial mess, Mike Harris's government massaged the province's numbers. It announced the sale of assets worth over $2 billion, but all they really collected was $132 million. They were off by 94%.

Currently, the Conservatives are getting ready to sell federal buildings.

Why is the Minister of Finance planning to make the same mistakes for Canadians that his government made in Ontario?

[*English*]

Hon. Jim Flaherty (Minister of Finance, CPC): Mr. Speaker, the budget will be balanced and we will continue our prudent economic management in Canada. However, there has been a big change in the past year, which is that taxpayers' money is being returned to the taxpayers of Canada. It is being returned to families for the benefit of children in Canada and not to the friends of the Liberal Party referred to by Justice Gomery.

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AFGHANISTAN

Mr. Ron Cannan (Kelowna—Lake Country, CPC): Mr. Speaker, through a concerted multilateral, multifaceted effort, Canada is helping to build a secure, democratic and economically viable Afghan state. This morning, the Prime Minister announced up to $200 million in additional aid funding for Afghanistan's reconstruction and development.

Could the Minister of International Cooperation share with the House how this funding will be used?

[*Translation*]

Hon. Josée Verner (Minister of International Cooperation and Minister for la Francophonie and Official Languages, CPC): Mr. Speaker, these funds will be used to strengthen good governance, community development and the microfinance sector. They will also go toward demining and road construction. This new contribution is in addition to the money we have already spent on a number of programs that have produced tangible results.

Last spring, our government decided to do more to help Afghanistan, unlike the former government. This announcement reaffirms our commitment to development and reconstruction. With our whole of government approach and increased cooperation with our partners, we will achieve the desired results.

[*English*]

Ms. Dawn Black (New Westminster—Coquitlam, NDP): Mr. Speaker, there was no plan with the announcement on Afghanistan aid today to change this mission for the better. The recycling of old commitments and a change in the communication plan will not save Afghan lives.

What the government continues to ignore is the role that Pakistan is playing in the insurgency. What the Afghans need is more clean water, electricity and food aid for displaced people, not more tanks.

When will the government make real news and rebalance this mission?

[*Translation*]

Hon. Josée Verner (Minister of International Cooperation and Minister for la Francophonie and Official Languages, CPC): Mr. Speaker, clearly, the member does not understand the meaning of our mission in Afghanistan. I will give a few examples of the tangible results we are achieving there.

This year, over 300,000 Afghans will receive microcredit. That is double last year's figure. Every month, nearly 12,000 Afghans access microcredit to start businesses and create jobs for themselves. Children are attending school. Nearly a third of these children are girls. Training is also being provided for women.

I repeat, clearly, the member does not understand the meaning of our—

● (1445)

The Speaker: The hon. member for New Westminster—Coquitlam.

[*English*]

Ms. Dawn Black (New Westminster—Coquitlam, NDP): Mr. Speaker, it is really sad that even an announcement from the Prime Minister does not change the tired old lines from the government.

Sending leased German tanks to Kandahar will not improve Afghan lives. These are 30 year old tanks designed for fighting in European forests, not the deserts of central Asia. The chief of the land staff told me that the crews on these tanks will see temperatures of up to 60° Celsius by summer.

Why is the government sending Canadian soldiers into battle with tanks that overheat and armour that does not stand up to the new Taliban weapons?

Hon. Gordon O'Connor (Minister of National Defence, CPC): Mr. Speaker, we are looking at all possible options to deal with this issue. I am quite confident that in the next few months we will have a solution. We send to Afghanistan the very best equipment we can for our forces and, yes, we intend to win the arms race with the Taliban.

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VISITOR REBATE PROGRAM

Hon. Scott Brison (Kings—Hants, Lib.): Mr. Speaker, on December 20, Nova Scotia's minister of tourism sent a letter to the federal Ministers of Industry and Finance saying that the government's decision to cut the visitor rebate program will negatively impact the tourism industry.

Why did the Parliamentary Secretary to the Minister of Finance mislead the House by telling it that Nova Scotia supported the decision when all provinces opposed the decision to kill the rebate program that will kill thousands of Canadian tourism jobs?

Hon. Jim Flaherty (Minister of Finance, CPC): Mr. Speaker, the evidence indicated only 3% of tourists used the GST rebate. It was a relatively inefficient program.

I can say, however, that we have heard various representations concerning the issue, particularly with respect to conventions and so on. These are matters that are being taken into consideration in our deliberations in trying to encourage tourism in Canada.

We have also heard representations on behalf of the Canadian Tourism Commission, another important aspect of building up tourism in Canada. These are all important issues, not only for Nova Scotia but for all of Canada.

Hon. Scott Brison (Kings—Hants, Lib.): Mr. Speaker, the minister ought to read his mail from provincial ministers who are united in their belief that it is bad public policy to make Canada the only country in the OECD without a visitor rebate program.

On December 4, the industry minister met with all the provincial tourism ministers, all of whom expressed their opposition to the government's decision. The Minister of Industry agreed with their position and offered to champion their position at the federal cabinet table.

Has the Minister of Industry championed their position at the cabinet table or was he just telling them what they wanted to hear?

Hon. Jim Flaherty (Minister of Finance, CPC): Mr. Speaker, the Government of Canada, as the member opposite knows, is spending about $350 million this year to promote tourism in Canada. This is an important challenge for all of us. It is one of Canada's major industries.

We are working hard as we prepare the budget to try to further enhance the support we can offer for tourism in all regions of Canada.

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HUMAN RESOURCES

Hon. Garth Turner (Halton, Lib.): Mr. Speaker, last month, of the 160,000 people who entered the workforce, half of them found no work. In fact, the jobless rate has been rising since a low point reached during the last government. It is no wonder when more than $8 billion have been cut from programs such as workplace training, student employment and science and innovation.

The question is simple and direct. Where is the government's plan to train people for the jobs of the 21st century?

Hon. Peter Van Loan (Leader of the Government in the House of Commons and Minister for Democratic Reform, CPC): Mr. Speaker, I am very puzzled to see the member for Halton in the House today. I thought he had committed to Canadians that if a member of Parliament changed sides, himself for example, there should be a byelection. Perhaps he could go out and ask the people of his constituency the questions.

Hon. Garth Turner (Halton, Lib.): Mr. Speaker, I asked a legitimate question of a government in power looking after the interests of Canadians.

Let us think about it: 3,000 jobs lost at Chrysler, 200 jobs lost at Canard, 300 jobs lost at Hershey and that is all the minister and his government can come up with. My constituents and Canadians deserve an answer and they deserve it now.

● (1450)

Hon. Peter Van Loan (Leader of the Government in the House of Commons and Minister for Democratic Reform, CPC): Mr. Speaker, I understand the member's concerns with job losses, at least with regard to himself, since he did not seem to be willing to put that one on the line even though he said before that he would.

However, this is an economy that has been very strong. We are very concerned about the potential layoffs that have been occurring but let us keep in mind that last month was one of the biggest job creation months in the history of Canada.

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[*Translation*]

STATUS OF WOMEN

Ms. Johanne Deschamps (Laurentides—Labelle, BQ): Mr. Speaker, women's groups and unions are rallying, calling on the Minister of Canadian Heritage and Status of Women to reverse her decision to close 12 of the 16 regional offices of Status of Women Canada this April.

Does the minister intend to agree to the demands of these women's groups, which are asking her to reverse her decision and to restore the funding for Status of Women Canada?

Hon. Bev Oda (Minister of Canadian Heritage and Status of Women, CPC): Mr. Speaker, unlike the previous government, this government will redistribute these administrative savings to projects that help women directly.

Ms. Johanne Deschamps (Laurentides—Labelle, BQ): Mr. Speaker, I am speaking to this government. The minister already confirmed that the $5 million in cuts to Status of Women Canada will affect only administration and that services offered to women will not be affected.

Will the Minister of Canadian Heritage and Status of Women admit that cutting $5 million from the budget and closing 12 of the 16 regional offices will lead to reduced services for women, whether we like it or not?

[*English*]

Hon. Bev Oda (Minister of Canadian Heritage and Status of Women, CPC): Mr. Speaker, I totally disagree. In fact, $5 million will go to women directly in their communities, which means more money and more services right in their communities. This will make a difference in the lives of Canadian women.

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IMMIGRATION AND REFUGEE BOARD

Mr. Omar Alghabra (Mississauga—Erindale, Lib.): Mr. Speaker, Mr. Jean-Guy Fleury has served Canada with distinction for over 40 years, including holding senior positions at the Public Service Commission, CSIS and the Treasury Board.

Could the government confirm to the House the status of Mr. Fleury as chair of the Immigration and Refugee Board of Canada? Has he in fact resigned?

Hon. Diane Finley (Minister of Citizenship and Immigration, CPC): Mr. Speaker, on Friday, I received a letter of resignation from Mr. Fleury. I would like to take this opportunity to thank Mr. Fleury for the 42 years of public service that he has provided and I wish him all the best in the future.

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JUSTICE

Mrs. Nina Grewal (Fleetwood—Port Kells, CPC): Mr. Speaker, Ontario convicted violent sex offender, Paul Callow, known as the balcony rapist, has served his sentence, has been released from prison and is now planning to settle in my constituency of Surrey, B. C. This man has admitted to raping over 26 women and is considered a high risk to reoffend.

What is the government doing to stop high risk dangerous criminals like Callow from moving into our communities when they are likely to reoffend?

Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, I cannot comment on a specific case but I can assure the hon. member that we are absolutely committed as a government to containing violent criminals, keeping them off the streets and making our communities safer.

The good news is that we have introduced Bill C-27 which takes direct aim at repeat offenders who commit crimes over and over again by placing the onus on them to show why they should not be designated a dangerous offender. That is the good news. The bad news is, like all anti-crime measures this month, it is being opposed by the Liberal Party.

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CANADA REVENUE AGENCY

Mr. David Christopherson (Hamilton Centre, NDP): Mr. Speaker, an internal audit at Canada Revenue Agency has revealed that the government is unwilling to investigate big corporations for fear of harming relations with them. That fear is costing ordinary Canadians about $1.4 billion in owed corporate taxes. That is equivalent to the income tax paid by almost 400,000 ordinary Canadians earning $40,000 a year.

Why is the government increasing the prosperity gap between the middle class and the big corporations instead of making those corporations pay their fair share?

● (1455)

Hon. Carol Skelton (Minister of National Revenue, CPC): Mr. Speaker, the internal audit of the CRA demonstrates yet another example of the Liberals ignoring the Auditor General's recommendations.

In 1996, the AG made recommendations to the Liberal minister but it took 10 years and nothing was done. The Liberals may not take the Auditor General seriously but this government does and the internal audit will be implemented this year.

Mr. David Christopherson (Hamilton Centre, NDP): Mr. Speaker, this is not the only example of neglect we have seen at the Canada Revenue Agency. The Auditor General reported this month that taxes on foreign incomes were not being investigated or collected either. In fact, in Toronto, which has 40% of the workload, there are no investigators with international tax expertise.

When will the revenue minister stop neglecting her duties and make corporate Canada pay up, just like they make everybody else pay up?

Hon. Carol Skelton (Minister of National Revenue, CPC): Mr. Speaker, I take my job very seriously and we are trying our best to get people who can audit our corporate overseas accounts, as many as we possibly can. I must reassure my colleague that they are very qualified people and we intend to look after the situation.

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IMMIGRATION AND REFUGEE BOARD

Mr. Omar Alghabra (Mississauga—Erindale, Lib.): Mr. Speaker, we know that the Prime Minister is bent on stacking the judiciary to suit his own ideological partisan agenda. It now appears that Mr. Fleury and the IRB are victims of Conservative bullying as well.

How can Canadians be comfortable with the fairness of the IRB process when the Prime Minister wants to use it as a tool for Conservative social engineering?

Hon. Diane Finley (Minister of Citizenship and Immigration, CPC): Mr. Speaker, I believe Mr. Fleury would take exception to that. He himself said that he chose to retire because he wants to spend more time with his family. After 42 years of dedicated public service, he deserves that. I believe that the hon. member should apologize to Mr. Fleury for that.

* * *

THE ENVIRONMENT

Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC): Mr. Speaker, in the *Toronto Star* last week Eddie Goldenberg, former chief of staff to former prime minister Jean Chrétien, pulled back the dark curtain and admitted the Liberals had no intention of meeting the Kyoto accord. He said the government was not even ready to do anything about it. Yet in the same newspaper on the same day the Leader of the Opposition said, "The previous Liberal government's plan laid the foundation for positive action to fight climate change in Canada and [put] us on a path to meet Kyoto commitments".

Can the Minister of the Environment tell the House what he thinks of this flip-flop and what the government is doing to take action on the environment?

Hon. John Baird (Minister of the Environment, CPC): Mr. Speaker, I was troubled to read the headline in the Montreal *Gazette*, "We had no hope of meeting Kyoto: Chrétien's top adviser".

Last night many Canadians watched the *Academy Awards* and there was, sadly, one award which was not handed out. That is the award for the biggest flip-flop on the environment. Do you know who won, Mr. Speaker? Stéphane Dion and the Liberal Party of Canada.

Some hon. members: Oh, oh!

The Speaker: I can see why there are a lot of cries of disapproval of that conduct. The hon. Minister of the Environment has violated two rules.

Hon. Monte Solberg: He is a new member, Mr. Speaker.

The Speaker: I would like to think of him as a rookie, but he knows he is not.

The hon. minister knows that mentioning other members' names is against the rules and so is using a prop, and that looks suspiciously to me like a prop. I hope he will restrain such conduct in future and refrain from such answers.

The hon. Leader of the Opposition for the next question.

* * *

ANTI-TERRORISM ACT

Hon. Stéphane Dion (Leader of the Opposition, Lib.): Mr. Speaker, about the Anti-terrorism Act—

Some hon. members: Hear, hear!

● (1500)

The Speaker: Order. The hon. Leader of the Opposition has the floor.

Hon. Stéphane Dion: Mr. Speaker, about the Anti-terrorism Act, I guess that the Minister of Public Safety, having received the report of the House five months ago, has done a point by point analysis of the report. Will he table his point by point analysis of this report and when will he table it so that we may see it?

Hon. Stockwell Day (Minister of Public Safety, CPC): Mr. Speaker, we are very prompt to table all information related to this particular issue. As a matter of fact, part of the review that was conducted had the Liberals on record as supporting an extension of two very important provisions. The Liberals are actually asking for an extension of five years. We thought three would be good. We have offered other compromises.

We would like to see the report that the Leader of the Opposition must have received to create this colossal flip-flop. He has gone against the committee, he has gone against the Senate, he has gone against former Liberals. What report did he receive to cause this colossal flip-flop that he has done?

* * *

[*Translation*]

INTELLECTUAL PROPERTY

Mr. Robert Vincent (Shefford, BQ): Mr. Speaker, copyright infringement costs between $20 billion and $30 billion annually in losses to our businesses. For example, Polyform in my riding holds a patent for an insulating foam, and its innovation has been copied by another company. Obtaining a patent is expensive, but defending it in court costs even more.

The Standing Committee on Industry, Science and Technology recommends amending the legislation on intellectual property. What is the Minister of Industry waiting for to provide better protection for intellectual property and give this legislation more teeth?

Hon. Maxime Bernier (Minister of Industry, CPC): Mr. Speaker, I want to thank the hon. member for his question. We are concerned about what my colleague has just said.

I am waiting for detailed recommendations from the Standing Committee on Industry, Science and Technology in order to continue our study of all the recommendations.

ROUTINE PROCEEDINGS

[*Translation*]

REPORT ON AFGHANISTAN

Hon. Peter MacKay (Minister of Foreign Affairs and Minister of the Atlantic Canada Opportunities Agency, CPC): Mr. Speaker, pursuant to Section 32(2) of the Standing Orders of the House of Commons, I have the honour to lay upon the table, in both official languages, the Report to Parliament on Afghanistan entitled "Canada's Mission in Afghanistan: Measuring Progress".

[*English*]

POINTS OF ORDER

BILL C-257—CANADA LABOUR CODE

Hon. Peter Van Loan (Leader of the Government in the House of Commons and Minister for Democratic Reform, CPC): Mr. Speaker, I rise on a point of order.

I want to rise at this point to seek a ruling on whether two amendments to Bill C-257 adopted by the Standing Committee on Human Resources, Social Development and the Status of Persons with Disabilities are in order.

Bill C-257 was reported from committee on February 21 with amendments. I submit that three of these amendments are out of order, namely, the committee amendments to the bill's proposed new subsections 2.1, 2.3 and 2.4 of section 94 of the code.

These amendments are out of order because they are beyond the scope and purpose of Bill C-257 for two reasons. These amendments now seek to indirectly amend the application of section 87.4 of the Canada Labour Code, a section requiring the maintenance of services where interruption would cause immediate danger to health and safety, which is a provision that is not originally included as part of Bill C-257. In so doing, they would also dramatically expand and alter the effect of section 87.4 introducing the much broader concept of essential services.

Not only is this beyond the original content of Bill C-257, it is arguably contrary to its original purpose. These amendments do not relate to the purpose of section 94 of the Canada Labour Code, the original purpose of that section being to proscribe unfair practices.

In terms of subsection 2.1, the amendment to subsection 2.1 of section 94 of the code is out of order because it is beyond the scope and purpose of Bill C-257.

This amendment attempts to make the bill "subject to section 87.4" of the Canada Labour Code, which is a section, as I said, dealing narrowly with imminent danger to life and health in the event of a strike. Because section 87.4 is not referred to elsewhere in this bill, this is clearly a provision that attempts to reach back to this section. I therefore submit that the amendment is out of order.

The amendment to subsection 2.3 of section 94 of the code is out of order because it is beyond the scope and purpose of Bill C-257. That was the ruling of the chair of the committee on February 15 when this amendment was first put forward by the member for Davenport. However, this decision was overruled by the committee, which then adopted the amendment. Let me take a moment to explain why this amendment is beyond the scope of the bill.

Section 94 of the Canada Labour Code prohibits employers and unions from using unfair labour practices. This section would be changed under Bill C-257 by prohibiting replacement workers during a strike or lockout, and adding powers for the minister to investigate compliance.

The committee chair ruled that the amendment to subsection 2.3 was out of order because it adds the new concept of "essential" services to section 94 of the Canada Labour Code, which is not relevant to that section.

In order to understand the context of the committee's decision, it is important to note that on February 14 the member for Davenport proposed an amendment to section 87.4 of the Canada Labour Code which sought to ensure the continuation of essential services in a strike given the ban on replacement workers proposed by Bill C-257. The chair ruled that amendment out of order because section 87.4 was not opened up in Bill C-257 as originally introduced.

Section 87.4 of the code addresses the obligations of employers, unions and employees to maintain certain activities during a strike or lockout. It does not use the word "essential" to describe these activities. Rather, it allows the Canada Industrial Relations Board to designate which activities, services and operations must be maintained in order to prevent an "immediate and serious danger to the safety or health of the public".

After the committee chair ruled on February 14 that amending section 87.4 was out of order, the member for Davenport moved an amendment on February 15 to add a new subsection 2.3 in section 94 of the Canada Labour Code to set out essential services which must be continued during a strike. However, section 94 of the code does not deal with the continuation of services in any way but simply lists unfair labour practices for employers and unions.

Adding the new concept of essential services in section 94 of the Canada Labour Code could affect the operation of section 87.4 by the back door by altering the way the Canada Industrial Relations Board would interpret section 87.4.

As this amendment also attempts to broaden the role of the board, this amendment both reaches back and broadens the scope of Bill C-257. It is therefore out of order on both counts. What is more, this new concept of essential services is not a defined term either in the previous statute or in the amendment. No definition is offered.

● (1505)

The amendment to subsection 2.4 of section 94 of the code is also beyond the scope and purpose of Bill C-257. The committee chair also ruled on February 15 that the amendment to subsection 2.4 was out of order. However, again the committee overturned the chair's ruling and adopted this provision. This amendment to the Canada Labour Code would add new powers to the Canada Industrial Relations Board regarding essential services during a strike or lockout. However, as noted earlier, section 94 deals with unfair labour practices, not the powers of the board for essential services. Therefore, the amendment to the proposed new subsection 2.4 significantly alters the nature of section 94.

I would also note that because section 87.4 of the Canada Labour Code provides authority for the Canada Industrial Relations Board to maintain services during a strike or lockout, the new subsection 2.4 would affect section 87.4 of the Canada Labour Code in two ways. First, it would provide the board with new powers to amend any agreement and it would supercede any decisions the board may take under this section. Second, because it introduces the new concept of essential services, it would undoubtedly change the interpretation of the board's existing powers for carrying out its activities under section 87.4.

I believe the committee chair's ruling was correct. Subsection 2.4 adds a new purpose to section 94 of the code and it is not relevant to section 94. It is not in the jurisdiction of the committee or the House to alter, by amendment, a private member's bill so an entirely new purpose is introduced. Therefore, the amendment is out of order and should be removed from Bill C-257.

I note that Marleau and Montpetit specify, at page 654, that an amendment must relate to the original matter of the bill. It states:

> —it must always relate to the subject matter of the bill or the clause under consideration. For a bill referred to a committee *after* second reading, an amendment is inadmissible if it amends a statute that is not before the committee or a section of the parent Act unless it is being specifically amended by a clause of the bill.

Marleau and Montpetit also state that amendments must be within the principle and scope of the bill.

> An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill.

To sum it up, just as it is out of order to amend section 87.4 of the Canada Labour Code because this section is not afforded by the original Bill C-257, it is also out of order to amend the same section through the amendment's indirect effect.

Subsections 2.3 and 2.4 are out of order because they do not relate to the original subject matter of Bill C-257 as introduced, and because they introduce new issues which were not part of Bill C-257 as originally introduced. The amended subsections 2.3 and 2.4 are therefore beyond the scope of Bill C-257 and should be removed from the bill.

● (1510)

Mr. Mario Silva (Davenport, Lib.): Mr. Speaker, I point out to the member, to the House leader and also you, as you make your ruling, that all the amendments made at the committee were friendly and appropriate. That is, they were consistent with the intent and the objectives of Bill C-257.

They would bring further precision to the manner in which the prohibition against replacement workers would be implemented and administered. These amendments do not negate the purpose, objectives nor substance of a bill. They ought to be accepted as part of the process by which bills are defined in committee.

The first amendment, which is introduced the phrase "Subject to section 87.4, for the duration of a strike or lockout", is consistent with the existing provisions of the code, which establish that there must be satisfactory resolution of all issues under section 87.4 before a strike or lockout begins. In fact, the CIRB, on many occasions, has interpreted section 87.4 to mean essential services. Therefore, it is not beyond the scope of the bill, nor beyond the scope of this section.

Amendments Nos. 2 and 3 once again are consistent with the objectives of the bill and simply seek to clarify the intent of the bill in terms of avoided any unintended effects. Amendment No. 4, once again, deals with the fine tuning of the objectives and intents of the bill.

All these amendments are within the principle and purpose of the bill. I would ask in your ruling, Mr. Speaker, that you clearly look at them. I believe you would agree with me that it was within the intent of the bill and the principles and purposes that these amendments were made.

[*Translation*]

Mr. Michel Gauthier (Roberval—Lac-Saint-Jean, BQ): Mr. Speaker, the Leader of the Government in the House of Commons would like the amendments tabled by our Liberal colleague to be considered out of order and unacceptable because he believes that they are beyond the scope of the bill.

Although I have a great deal of respect for my honourable colleague, I will show that these amendments do the exact opposite. This is a law that prohibits the use of replacement workers during a labour dispute. That is the general framework for the legislation. The proposed amendments more or less state the following: with this legislation prohibiting the use of replacement workers during a strike, we must refrain from applying the law in the case of essential activities.

I do not understand how we can say that a point such as this, which excludes certain applications of the law in certain circumstances, is beyond the scope of the bill. The amendments limit the application of the bill in certain cases, that is, when essential services must be maintained. The hon. Leader of the Government in the House of Commons says that essential services do not exist in Canada; they are not mentioned in the Canada Labour Code.

Every responsible government on the planet recognizes that some essential services cannot be jeopardized under any circumstances. I have had interesting discussions about this with the Minister of Labour, who once told this House that hiring replacement workers could not be prohibited in the case of some essential services. The Minister of Labour himself said that. I remember that he rose in this House and said that this anti-scab bill could not be adopted because some services had to be maintained. He said that adopting this bill would threaten the economy, security and all sorts of things.

Since we listen to the Minister of Labour, we decided that we would respect his concern and support the amendments that restrict the bill's application. In all my years as a parliamentarian, I have never seen someone claim that an amendment clarifying the scope of a bill and limiting its application would broaden the scope of the bill. The opposite is true. As for the concept of essential services, the Minister of Labour went on at length about them in this House, saying that he could not accept the bill because of essential services. What is more, some federal legislation refers specifically to them.

I hope that the Leader of the Government in the House of Commons and the Minister of Labour know that the Public Service Modernization Act is an extremely important act that they must enforce. If they are not aware of that, it is time they learned. Section 4 of the Public Service Modernization Act reads as follows:

> "essential service" A service, facility or activity of the Government of Canada that is or will be, at any time, necessary for the safety or security of the public or a segment of the public.

When we are told that this concept does not exist, I have to sound the alarm to wake up the Conservatives: it is in one of the most important pieces of legislation they have to enforce. This concept is also found in section 127 of the Canada Labour Code. It is the very essence of the Minister of Labour's mandate, and he is seated next to the Leader of the Government in the House of Commons. Both of them are claiming that it does not exist.

This is a new one. A minister is telling us that the very essence of his responsibilities, section 127, does not exist. We are talking about essential public services.

● (1515)

Anyone who is not completely irresponsible is aware of the concept of essential services. I am sure the Government of Canada is aware of it; if not, how discouraging.

The concept of essential services exists. The concept of public services exists. It is defined in two important acts. Another definition is to be added in a third act, the replacement workers act. They are limiting the scope by referring to essential services as defined in the Public Service Modernization Act and the Canada Labour Code. The replacement workers act will address it; it will say that we have to be careful and that there are limits.

An hon. member: That is right.

Mr. Michel Gauthier: Essential services must be maintained, contrary to the concerns the Minister of Labour raised several times in this House. That is the essence of what I have to say today.

If I may, Mr. Speaker, given that my honourable colleague talked about a number of sections that I obviously do not have right here in front of me, I would like to review his valuable arguments. I know that you always seek to make enlightened decisions based on the facts and on the law, so I would ask, Mr. Speaker, that you give me the opportunity to speak tomorrow if you would. I am sure you will allow it because you appreciate help in making your decisions.

An hon. member: Clarification.

Mr. Michel Gauthier: Mr. Speaker, tomorrow I will address more technical issues more specifically with reference to the arguments presented by the Leader of the Government in the House.

In the meantime, it is clear that the arguments put forward by the members opposite may serve them politically, but they do not hold water.

An hon. member: That is convincing.

● (1520)

[*English*]

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Mr. Speaker, I want to make a very brief comment. It may well be that these amendments are outside the scope of the bill in terms of the references to the Labour Board and the implications for the concept of essential services.

However, Mr. Speaker, in making your ruling, you might take this opportunity to convey to the House and through the House to its committees that just because we have a minority government and just because opposition members on committees are numerically and mathematically capable of overruling a chair, it does not mean that by overruling the chairs the issue involving the scope of the bill does not remain and that if the issue is not fairly dealt with at the committee, it could end up on the floor of the House, as it has today. This practice could multiply and accumulate if perhaps Mr. Speaker does not convey the message that the scope of the bill rules still apply at committee. Just because we can overrule a chair for whatever reason, it does not mean the issue will not come up here and that the Speaker will not accurately deal with that issue here.

Hon. Peter Van Loan: Mr. Speaker, I will respond very briefly to the comments made by my friend from Roberval—Lac-Saint-Jean , who made a very compelling argument in substance. I thank him for that compelling argument in substance. The difficulty was the appropriate time for him to have made that argument would have been before second reading. It was a private member's bill from Bloc and it was at second reading that the intent and purpose of the bill was established. Therefore, whatever the merits of the arguments after that fact, the fact remains that through the amendments in front of us the scope and purpose of the legislation has been changed dramatically.

While I may support the substance of his arguments, that does not get us over the procedural difficulty we have, that it is simply not in the jurisdiction of the committee or of the House to entertain those amendments.

The Speaker: The Chair would like to thank the hon. government House leader for having raised this matter.

[*Translation*]

I would also like to thank the hon. member for Davenport, the hon. member for Roberval—Lac-Saint-Jean and the hon. member for Scarborough—Rouge River for their comments.

I agree entirely with the hon. member for Roberval—Lac-Saint-Jean that he must be given another opportunity to respond to the comments made by the hon. Leader of the Government in the House of Commons concerning the details of these arguments on this matter.

[*English*]

I will accordingly delay my decision until after he has had that opportunity, which I believe he will do tomorrow. However, there is I believe some need for making a rapid decision on this matter and I will of course get to work on it in the meantime. I will certainly allow the hon. member for Roberval—Lac-Saint-Jean to make additional comments.

I thank the hon. member for Scarborough—Rouge River for his suggestion that it is important for the Chair to rule on this matter. He is absolutely correct. In my view it is possible for appeals on committee decisions to be made in cases where amendments go beyond the scope of the bill.

I am making no judgment in respect of the argument put forward to me yet. I will have to examine the bill and the arguments made by the government House leader.

S. O. 52

[*Translation*]

I will also examine the arguments put forward by the hon. member for Roberval—Lac-Saint-Jean concerning this bill, likely tomorrow morning. Afterwards, I will come back to the House with my ruling concerning the bill and the amendments.

[*English*]

For the moment, I thank hon. members. We will move on with motions.

ROUTINE PROCEEDINGS

[*English*]

PETITIONS

CLIFTON BREAKWATER

Hon. Wayne Easter (Malpeque, Lib.): Mr. Speaker, I am pleased to rise under Standing Order 36 to present a petition by quite a number of residents in my riding in regard to the Clifton breakwater on the north end of Prince Edward Island National Park. This breakwater is deteriorating at a phenomenal rate. It is crucial to the protection of our coastline, our parkland, our navigational channel and our ability to sustain a living from the fishery.

Therefore, the petitioners call upon the Minister of Fisheries and Oceans and the Minister of the Environment to take immediate action to repair the Clifton breakwater. The petitioners request that this action be undertaken prior to the opening of the 2007 spring lobster season.

I very much support this petition.

● (1525)

The Speaker: I am sure the House is fascinated to hear that, but the hon. member for Malpeque has plenty of experience and knows that his views on a petition are irrelevant and he should not express those in the House.

HUMAN TRAFFICKING

Mrs. Joy Smith (Kildonan—St. Paul, CPC): Mr. Speaker, today I would like to present petitions on behalf of Canadians from all over our great nation. The petitioners call for a stop to human trafficking. The petitioners call upon the government to continue its work to combat the trafficking of persons. Human trafficking is a very serious matter. I fully support this petition.

SRI LANKA

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Mr. Speaker, I am delighted to present a petition from constituents in the greater Toronto area. The petitioners call upon the government, through Parliament, with respect to the jurisdiction of Sri Lanka that Sri Lanka allow international relief agencies to provide humanitarian relief to Tamil areas, allow the investigation of a massacre of Tamil aid workers, and stop military operations, including bombing, against civilian targets.

MARRIAGE

Mrs. Nina Grewal (Fleetwood—Port Kells, CPC): Mr. Speaker, I am pleased to rise today on behalf of the constituents of Fleetwood—Port Kells to present a petition signed by nearly 40 residents of my riding. The petitioners call upon Parliament to establish a royal commission to examine the state of marriage and the family and all related aspects of the issue in order to give MPs a better understanding of the feelings of Canadians.

* * *

QUESTIONS ON THE ORDER PAPER

Mr. Tom Lukiwski (Parliamentary Secretary to the Leader of the Government in the House of Commons and Minister for Democratic Reform, CPC): Mr. Speaker, I ask that all questions be allowed to stand.

The Speaker: Is that agreed?

Some hon. members: Agreed.

* * *

REQUEST FOR EMERGENCY DEBATE

CITIZENSHIP

The Speaker: The Chair has an application for an emergency debate from the hon. member for Scarborough—Agincourt. I will hear from him now.

Hon. Jim Karygiannis (Scarborough—Agincourt, Lib.): Mr. Speaker, just after Christmas we all received a letter at our offices from the Minister of Citizenship and Immigration, a letter that informed us about section 8 of the Citizenship Act. The letter stated that some Canadians born outside Canada to Canadians could lose their citizenship if they did not reaffirm their citizenship by their twenty-eighth birthday. That affected a member of my family.

Wanting to get to the bottom of this, I immediately contacted the office of the Minister of Citizenship and Immigration asking for clarification. It took the office three days before I received an answer. I also have faxed the minister several recommendations to follow in order to deal with this urgent matter.

Reports were coming out that this situation could affect up to 50,000 Canadians, according to Statistics Canada. The minister, while testifying at committee last week, stated that only a few hundred Canadians are affected. The deputy minister also stated that the department has undertaken an aggressive advertising campaign to inform Canadians of this problem.

Today we had witnesses at committee, the so-called lost Canadians, who gave testimony showing facts opposite to those given by the minister. We were given testimony that the people born in Canada have lost their citizenship. These people are about to enter their retirement age, and we could find ourselves with hundreds of thousands more Canadians affected. As witness Barbara Porteous said this morning, this is only “the tip of the iceberg”. Hundreds of thousands of Canadians will be affected.

We are dealing with individuals who were born in Canada and also with children born to members of our military forces while serving abroad. We are denying citizenship to children born in Canada and to children born to Canadians outside Canada, children born to men and women fighting for our freedom in the theatres of war. These men and women gave their lives for Canada and to refuse their children the right to be Canadians is a shame and a despicable act.

When witnesses in committee were asked today if the House should hold an emergency debate, they unanimously answered yes. In view of the minister having failed to inform Canadians of this matter, the onus is upon us to advise Canadians that they have or may have lost their citizenship. On behalf of the hundreds of thousands of lost Canadians, and in memory of our men and women of the armed forces, we owe it to them to hold this emergency debate.

● (1530)

Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.): Mr. Speaker, I am rising to join in speaking to this point of order. I think what is very clear—

The Speaker: I am sorry. This is not a point of order. The hon. member is making a submission for an emergency debate. We cannot hear additional submissions on an emergency debate. I am afraid the hon. member is not going to be able to make any submissions.

Hon. Andrew Telegdi: I have a very compelling piece of information for the Speaker.

The Speaker: That is great, but unfortunately the rules are very exact. The hon. member who makes the application may make submissions to the Speaker, and no one else. If I started hearing the hon. member I am sure there would be plethora of hon. members who would want to make their views known on this subject.

As fascinating as that might be, we will have to wait to see if there is going to be an emergency debate and then all kinds of members can make their views known on the subject. But it will be done in the context of the emergency debate and not on the question of whether we have one or not. The two questions are a little different.

SPEAKER'S RULING

The Speaker: I have considered carefully the remarks of the hon. member for Scarborough—Agincourt and I have no doubt that the subject he raises is one that is of considerable interest to a great number of people.

There are various ways that this matter could be resolved, not just by debate but by of course changes to the Statutes of Canada, changes to regulations under the statutes, discussions among the members of the committee, and recommendations from the committee to the House, but I do not believe it is a situation that has resulted in an emergency within the provisions of the Standing Orders of the House. Accordingly, at this time, I am going to say to the hon. member that I do not believe the subject warrants an emergency debate in this House.

I stress to him, as I have on previous occasions to other hon. members, that by agreement among House leaders there can be take note debates in the House, and the committee that is studying this issue may wish to recommend such a course of action to the House leaders and have this matter discussed there with a view of having a take note debate. But to ask the Speaker to order an emergency debate on this subject at this time, in my view, is not made out in the comments made by the hon. member or in his letter. And accordingly, I decline the request at this time.

ORDERS OF THE DAY

[*English*]

ANTI-TERRORISM ACT

The House resumed consideration of the motion.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Mr. Speaker, I rise today to provide further clarification regarding the government's motion to extend the sunsetting provisions of the Anti-terrorism Act.

Let me begin by telling the House what the motion is not. It is not about security certificates. It is not about the detainees in Kingston. It is not about the war in Afghanistan. And it most certainly should not be about partisan politics. It is about continuing to provide two important tools to Canada's law enforcement authorities to assist in the investigation and the prevention of terrorist attacks, nothing more.

Prevention in medicine, as we know, is the most economic and efficient way to reduce and prevent disease. Also, in law enforcement, prevention of the crime is much more cost effective and much more effective in every sense of the word than investigating an actual crime.

There has been a great deal of hyperbole in this House in the course of this debate. The word “draconian” has been thrown around and there have been claims that these powers are an assault on the civil liberties of Canadians. Nothing could be further from the truth.

The recognizance with conditions power is not new or unusual in Canadian law. Similar powers exist in the peace bond provisions of the Criminal Code that aim to prevent the commission of personal injury and sexual offences as well as criminal organization offences. Parliament has clearly found it appropriate to take the preventative approach to these types of crimes. To argue that we should not do so for terrorist activity would be illogical.

I mentioned the recognizance portion of the two apparently very worrisome parts of the Anti-terrorism Act, worrisome in that some members choose to make more of these two provisions than they really should. As I mentioned, recognizance with conditions is already in the Criminal Code. These two provisions were inspired by existing provisions such as the recognizance with conditions power under section 810, where personal injury or damage is feared. As well, section 495 of the Criminal Code permits a peace officer to arrest without warrant anyone he or she believes is about to commit an indictable offence.

With respect to investigative hearings, that we compel witnesses to testify at the investigative stage is new to criminal law, but witnesses have always been compellable at trial. However, this has parallels in the Mutual Legal Assistance in Criminal Matters Act as well as the Competition Act, in public inquiries and in coroners' inquests, so this is not new.

As for the investigative hearing power, it has been upheld by the Supreme Court of Canada. The majority of the court held that it does not violate section 7 rights of the charter and does not infringe on the protections regarding self-incrimination. In doing so, the justices described the situation we face as follows:

> The challenge for democracies in the battle against terrorism is not whether to respond but rather how to do so. This is because Canadians value the importance of human life and liberty, and the protection of society through respect for the rule of law. Indeed, a democracy cannot exist without the rule of law....
>
> Yet, at the same time, while respect for the rule of law must be maintained in response to terrorism, the Constitution is not a suicide pact....

It is a complicated task for sure. We strive to maintain the rights and liberties that make Canada great while addressing a threat that strikes at the very basis of our society, but our Supreme Court has determined that Parliament got it right. Parliament got it right in the first instance. That is why we are here today, attempting to maintain that “getting it right”, to make sure of that in trying to maintain the delicate balance of rights and the protection of human life and property when we have to bring in acts such as the Anti-terrorism Act.

● (1535)

I would also refer to the words of the member for Mount Royal who, in 2005, provided a perhaps more nuanced description of the challenges we face. He said:

> The underlying principle here is that there is no contradiction in the protection of security and the protection of human rights. That counter-terrorism itself is anchored in a twofold human rights perspective.
>
> First, that transnational terrorism—the slaughter of innocents—constitutes an assault on the security of a democracy and the most fundamental rights of its inhabitants—the right to life, liberty, and security of the person.
>
> At the same time, and this is the second and related human rights perspective embedded in the relationship between counter-terrorism and human rights, the enforcement and application of counter-terrorism law and the policy must always comport with the rule of law.

The member for Mount Royal concluded his comments by stating:

> The importance of this legislation cannot be understated. Canadians need to be reassured that their government has both done all we can to protect them against terrorist acts without unnecessarily infringing on their individual rights and freedoms.

We have also heard recently the comments of other prominent members of the Liberal Party. Anne McLellan, for example, has been quoted in the media as saying, “The situation today is, if anything, more dangerous and more complex and the powers have never been abused”. Why would we take these tools away from law enforcement? Former deputy prime minister John Manley also took the unusual step of issuing a statement in support of these powers. He stated, “I believe that cabinet and Parliament got the balance right in 2001-02,” and “I do not believe that anything has changed to make that balance inappropriate today”.

The extension we are proposing does not in any way threaten civil liberties. In fact, if the motion were defeated, Parliament would be putting at risk what the member for Mount Royal acknowledged as the most fundamental right we enjoy: the right to life, liberty and security of the person. The right to be protected from terrorist attacks is what we are addressing with this motion.

All members should also carefully consider the statements that have been made by the victims of terrorism in support of these powers. The Air-India families and others have made it clear that the investigative tools of law enforcement must not be curtailed. Many have reacted with shock and dismay at the prospect of losing the investigative hearing power which may yet provide the answers to the questions surrounding the deaths of 329 innocent airline passengers in 1985; 329 innocent airlines passengers who died as a result of one of the most horrific terrorist acts that has been portrayed on Canadian citizens.

British Columbia's solicitor general has also echoed these concerns.

In concluding my statement, I would like to clarify one other matter relating to reviews of the Anti-terrorism Act being undertaken by committees in both Houses. I do appreciate the fact that the House of Commons committee tabled an interim report last October on these powers. I appreciate its diligence and hard work. I am proud to say that in this House today there are two members of that committee. The government continues to await the final reports of both committees. I am proud to say that those reports are within weeks of coming to this hallowed institution.

● (1540)

Referring to the committee's reports, I can tell the House that all told, the work totalled some 44 meetings over 83 hours and literally hundreds of hours of research. The committee's report will be thorough and it will be comprehensive. I can assure the House of that.

Because of delays in the parliamentary review of the Anti-terrorism Act, the committees have asked their respective houses for more time to report. The government also needs more time. We need more time to delicately fine tune a piece of legislation that is already providing the kind of protection that this country needs.

I am asking for support to extend these provisions. The government is simply saying it does not want these important powers to expire while it is considering the House of Commons committee's recommendations and awaiting its final report. We also hope to soon receive the Senate's input. I believe we have recently done so.

This is why we are seeking only a three year extension, not five years, but a three year extension. It is a temporary extension that will allow for proper government analysis of the entire workings of the Anti-terrorism Act and the preparation of an appropriate government response and subsequent parliamentary debate.

We will be responding to the subcommittee's interim and final reports together. This has been our intention all along. But we must not allow timing issues to scuttle these important provisions. If the Anti-terrorism Act reviews had been completed by December 2005 as anticipated by the legislation and not interrupted by the last federal election or other delays, this would not be an issue today, but the parliamentary reviews were delayed.

Extending the powers for three years will give effect to the original intent behind the sunsetting and parliamentary review clauses of the act; namely, the debate on the sunset clause would be fully informed by the final reports of both parliamentary review committees, as well as by the government response to their recommendations. The government's motion will ensure that these measures are not lost by default in the absence of this informed debate.

● (1545)

Mr. Mike Wallace (Burlington, CPC): Mr. Speaker, I know my hon. colleague works very hard on the law and order issues that face us here in Parliament. I appreciate his comments because of his experience as a law enforcement officer and his intimate knowledge of what police forces need in terms of support from elected officials on the valuable work they do in this country.

I wonder if my colleague as a former police officer and with the knowledge that he has wants to comment on how important it is that Parliament support legislation that will continue to support the police in their efforts to make sure this country and all of its citizens are safe from terrorism.

Mr. Rick Norlock: Mr. Speaker, it is important to educate people who are watching and listening to the debate as it unfolds and who may be asking themselves what an investigative hearing is. I am going to inform the House and my hon. colleague on some of the issues surrounding investigative hearings.

Sections 83.28 and 83.29 of the Criminal Code allow the courts to compel a witness who may have information regarding a terrorism offence to justify and provide real evidence. The process is as follows and here are the protections in this legislation.

With the prior consent of the attorney general, a peace officer investigating a terrorism offence that has been or will be committed may apply to a judge for an order requiring a witness who is believed to have information concerning the terrorism offence to appear before the judge to answer questions or produce an item of real evidence.

If the judge believes that there are reasonable grounds that the person has information concerning a past terrorism offence, the judge may make an order for the gathering of information. If the judge believes there are reasonable grounds that a terrorism offence will be committed in the future, that the person has direct and material information and that reasonable attempts have already been made to obtain the information, the judge may make an order for the gathering of that information.

What are some of the safeguards with regard to these investigative hearings? Only a judge of a provincial court or of a superior court of criminal jurisdiction can hear a peace officer's application for investigative hearings. We see that there is a protection to society that says if a police officer has some information that he or she thinks is important, the police officer cannot willy-nilly make arrests. The police officer must first go to a judge to ensure that the rights of the person who has that information are protected.

To make sure that there is additional balance the prior consent of the Attorney General of Canada or the attorney general or solicitor general of a province is needed before a police officer can apply for an investigative hearing. We see the maintenance of balance and those protections are not only there but they continue. The law of this country makes sure that police officers go through the appropriate steps with the appropriate counterbalances to ensure the right thing is done. There must be reasonable grounds to believe that a terrorism offence has been committed and that the information concerning the offence, or that reveals the whereabouts of a person suspected by a police officer having committed the offence, is likely to be obtained by the hearing before an order is granted. Or there must be reasonable grounds to believe that a terrorism offence will be committed, reasonable grounds to believe that a person has direct or material information that relates to a terrorism offence and reasonable attempts have been made to obtain the information from the person.

We can see that there are balances. We can see that the previous government kept in mind and that this government continues to keep in mind and to maintain those balances which are necessary to ensure that person's rights and freedoms are protected.

As I previously stated, the Supreme Court has upheld these two so-called controversial parts of the Anti-terrorism Act. That is the protection that Canadians need to know and do know are there.

I thank the hon. member for the opportunity to inform the House and Canadians that the matters we are discussing here today are relevant, and that the Supreme Court has already reviewed them and found them to be totally within the Charter of Rights and Freedoms.

● (1550)

Mr. Tom Wappel (Scarborough Southwest, Lib.): Mr. Speaker, I enjoyed listening to the hon. member's presentation. He and I had the opportunity to be members of the subcommittee appointed by the public safety committee to examine the Anti-terrorism Act. Indeed as he mentioned in his remarks, an interim report of that subcommittee was presented to the main committee, the Standing Committee on Public Safety and National Security. The main committee adopted that subcommittee report and reported it to this House in October.

I note since I was one of the authors of the report along with the hon. member, that the subcommittee made a number of recommendations to, in its view, improve the operation of the two sections in question. I wonder if he would like to comment on them.

Mr. Rick Norlock: Mr. Speaker, I thank the hon. member for his hard work. As he knows, I cannot get into certain specifics but I can tell the House that the hon. member provided the committee with what I would say was the major part of the revisions that were enacted. The reason we did so is a testament to his work ethic and desire to ensure the Anti-terrorism Act is fine-tuned in order to make it more relevant to today's needs.

During the committee's deliberations, we discussed the powers the police or the state actually have and whether those power were radical. We decided they were not. At one point we were specifically referring to recognizance with conditions. Recognizance with conditions was inspired by the existing powers of the Criminal Code, such as recognizance with conditions under section 810 where personal injury or damage is feared. We know those provisions have been and continue to be used.

As well, we know that section 49 of the Criminal Code permits a police officer to arrest without warrant anyone he or she believes is about to commit an indictable offence. One of the great protections of the Anti-terrorism Act is that it permits police to apprehend individuals before the terrible thing happens, before an aircraft is blown out of the sky or flown into a building. This is one of the necessary components of the Anti-terrorism Act.

With regard to investigative hearings, witnesses can be compelled to testify at the investigative stage, which is new to the Criminal Code, but witnesses' testimony has always been compellable at trial. However, as I mentioned before, it parallels the Mutual Legal Assistance in Criminal Matters Act, the Competition Act, as well as in public inquiries and coroner's inquests.

The committee deliberated and considered those provisions and I am confident that the Minister of Public Safety will be introducing them as a result of the comprehensive work my friend has alluded to. He will continue to ensure that the Anti-terrorism Act provides the protections necessary for Canadians.

● (1555)

Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.): Mr. Speaker, I will be sharing my time with the member for Scarborough—Agincourt.

As I get into the debate, I will deal with a few thing. Today the Prime Minister accused the Leader of the Opposition of threatening members of his own party that they had to vote a certain way. I am a member of Parliament. I have a free mind and I can vote whichever way I want. I want to put that on the record because I think it is important for members opposite to understand.

When we first dealt with the anti-terrorism legislation, I, as a member of Parliament, spoke to the issue three times. I took in the debates, read the information and at the end of the day I came to the conclusion that I could not support the anti-terrorism bill. I could not support it because I listened to a lot of folks and I looked at my own experiences.

One of the people who really made very much of an impression on me in his speech, which I made reference to, was the member for Edmonton—Strathcona who, at that point in time, was a member of the Canadian Alliance. He said:

> I would like to quote from an editorial entitled, “Terrorism and Freedom” from the November 17 edition of the *Economist*:
>
> Infringements of civil rights, if genuinely required, should be open to scrutiny, and considered a painful sacrifice, or a purely tactical retreat, not as the mere brushing aside of irritating legal technicalities. Those who criticize such measures should be given a careful hearing, even if their views must sometimes be overridden. After all, one of the chief aims of most terrorists, including Osama bin Laden and his ilk, is to undermine the long-established, hard-won freedoms of liberal societies. In a democracy, one of the chief aims of those in office should be to preserve them.

The member goes on further to state:

> I am a Muslim, the targeted group of this particular anti-terrorist legislation and investigation.

He goes on to give a very emotional speech as to what we must watch out for.

I have my own background. I have experienced lack of freedom, living in a totalitarian society. I must say that I have a great deal of concern when I notice in Canada now that we have both the former commissioner of the RCMP and the present Chief of the Defence Staff becoming political.

Susan Delacourt, the Ottawa bureau chief of the *Toronto Star*, made a profound statement the other day when she said, “Men with guns getting political”.

The two clauses on which we are sunsetting, preventive arrest and investigative hearings, have not been used. However, a person in this House has already been a victim of a drive-by smear as his name was linked to those investigative hearings that are supposed to be secret. Even though we never used the legislation, we saw the drive-by smear happen right in the House.

I really must ask my colleagues in the House a question. Let us think back to 9/11 and those terrible times. In spite of all the actions that we have taken: the American invasion of Iraq; us going into Afghanistan; the naming of the axis of evil by the President of the United States, Iraq, North Korea, Iran and Syria; the building of Guantanamo north; and the holding of people without charge, have they made our world a safer place?

● (1600)

I think that is a critical question to ask because we are heading down a path that threatens every civil liberty and human right that we have.

We all know what happened at the Maher Arar inquiry. We all know that officials involved in those hearings have undertaken a systematic campaign to smear Mr. Arar.

Who is Mr. Arar? He is a Canadian citizen with the highest profile case of anyone who has fallen victim to the fight against terror. When we see what happened to him and how our security officials conspired with the American security folks to send him off to be tortured in Syria and when he came back and we knew he was innocent, those very same officials continued to smear his name.

Mr. Arar is still on the no fly list in the United States. I think that is relevant. This man was completely exonerated and the Government of Canada belatedly apologized to him but he is still on the no fly list in the United States of America. That speaks to the kind of impact Canada has with the United States.

One of the biggest things that bothers me about the investigative hearings is that on Friday we heard that the security certificate process is unconstitutional. The security certificate process is the biggest assault on anyone's civil liberties in this country. Canadians should not become too comfortable and believe that it does not apply to them.

Let us take a look at it. In 1977, the security certificate was put in for non-residents. Under a security certificate, people can be held without knowing the charge against them. They can be held, have trials where they cannot attend, have the decision made by one judge and the only person that person can listen to is the police and the prosecutor. Then we have places to lock them up indefinitely.

The 1977 security certificate was only happening to those people with no status in the country. In 2001 we extended that to immigrants with status in the country. All of a sudden they fell under this draconian piece of legislation.

In 2002, an attempt was made, lest Canadians feel too comfortable that it did not apply to citizens, to put the security certificate into the proposed citizenship act.

Why is this so incredibly dangerous? It is very simple. Any information that is given for a security certificate is never tested. All there needs to be is an investigative hearing, go on a fishing expedition and someone else from the security service takes it into a security certificate hearing and, bingo, untested evidence, a rumour, third source removed, can be responsible for locking people up indefinitely.

I am saying that if a security certificate is combined with the investigative hearing there is a real possibility of disaster, which is why the Supreme Court struck down the security certificate. Unfortunately, it will not strike down the security certificate for at least one year to give Parliament time to fix it, if it is fixable.

I reiterate that our collective safety depends on no one community in our country being stigmatized. I think this is important. We know that racial profiling does not work. Every minority group in our country has some bad people and Canada is a country of minorities.

We have legislation under the Criminal Code that can deal with it. What we must ensure is that we do not let our freedoms, rights and civil liberties become a victim of terror.

● (1605)

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Mr. Speaker, I listened intently to the hon. member. I am very concerned that a member of this House would make statements basically saying that the very people who are employed by this country, the police, members of CSIS, people who protect our borders, and give of themselves day in and day out, conspired with another country in the Arar case.

We looked at the Arar case when the subcommittee was giving its input into the Anti-terrorism Act. The current government accepted all 23 recommendations. That member's government under the previous prime minister actually commissioned the Arar report. What country on the face of this earth gives its citizens more protection than this Dominion of Canada?

Yes, occasionally things do happen, but there was no conspiracy. If there were, there would have been criminal charges underway in this country.

To take a few little facts and to make them out to be that everything is wrong is totally inaccurate. I do not believe for one minute that there was a conspiracy. I would ask my colleague to please guide us to where in the Arar report it says there was a conspiracy by people of this country with people of another country as—

The Acting Speaker (Mr. Andrew Scheer): The hon. member for Kitchener—Waterloo.

Hon. Andrew Telegdi: Mr. Speaker, the answer is very simple. Maybe the hon. member could rise and tell us who has systematically tried to smear Mr. Arar. Maybe the hon. member could let us know who it was. It certainly was not his defence attorneys.

Looking at investigative hearings, whatever happened to having some charges laid against the people who were responsible for destroying evidence on Air-India? Who has been held accountable? The member on the opposite side said 329 people died. Yes, 329 people did die, but what happened to the bungled investigation by CSIS and the RCMP? What did those officials say? Who is accountable? Nobody is accountable.

Accountability always has to be the foundation of any level of security because the people we give power to have to be accountable and at least transparent to an oversight committee of Parliament.

Mr. Tom Wappel (Scarborough Southwest, Lib.): Mr. Speaker, my friend and I are in the same party and he was telling us that when the Anti-terrorism Act was brought before the House by the previous Liberal government he voted against it. I voted for it. We have a divergence of views.

However, we can have a divergence of views on an issue like this. That is what the House is all about. I think it is very important that we have a divergence of views on the basis of fact and not on the basis of opinion or innuendo.

I am wondering if the hon. member would reconsider his statement that the Supreme Court struck down security certificates as being inaccurate. It is my understanding and my reading of the decision that the Supreme Court struck down as unconstitutional the method whereby security certificates are judged to be reasonable or unreasonable, and gave the government one year to come up with a more compliant methodology to ensure that the certificate is deemed reasonable or unreasonable with the accused having proper access to the appropriate evidence against them so that they can answer that evidence. I wonder if the hon. member would reconsider his words.

● (1610)

Hon. Andrew Telegdi: Mr. Speaker, lawyers will argue about decisions rendered by the Supreme Court. One thing I do know is that it is still in effect for one year. I do know that if individuals miss a security certificate hearing where there is absolutely no representation for these people whose liberty is at stake, and who do not know about the charges against them, or who is giving evidence against them, that there is no testing of evidence whatsoever. Like I said, combine that with an investigative hearing and it is like a neutron bomb against civil liberties and human rights.

Statutory Order

Hon. Jim Karygiannis (Scarborough—Agincourt, Lib.): Mr. Speaker, I want to thank my colleague, the member for Kitchener—Waterloo, for allowing me to share his time.

The legislation with the sunset clauses that we are discussing today came into being right after 9/11. There was a need for reaction. We were getting pressure from all sides. The government of the United States was certainly pointing a finger at Canada and saying the terrorists had come from Canada. Later on it came out that this was not the case. Plane after plane of individuals flying to North America had come to seek warmth in Canada. Planes were landing on our tarmacs. I do not even remember the President of the United States, Mr. Bush, thanking Canada for what we did for our cousins to the south.

However, times have changed. Yes, terrorism is here. Osama bin Laden is said to still be alive. Things are a mess in many parts of the world, be it in the Horn of Africa, the Middle East, Iraq or Afghanistan. However, the need to have investigative tactics and to take people's civil liberties away, especially from our citizens, is something that I personally never favoured and find very hard to support, and I will tell members why.

I was born in a country where there were two extremes: the right and the left. People who were fighting for freedom against the Nazis during World War II, after the freedom fight was over, were branded as being communists and were labelled pretty close to being terrorists. Some of those individuals and part of that legacy remains with my family.

I remember hearing from my family members how they were incarcerated on islands. One of the techniques that was used to interrogate people was to put a man in a flour sack, put a cat in the same sack, and then dump the sack into the sea. The cat would panick and begin to scratch the individual. This would just demoralize the individual that was put into the water with the cat. Tactics such as those are still used in some countries.

We have seen what happened to Mr. Arar when we gave wrong information to the folks in the United States and he was sent to Syria, and certainly we apologized for it.

But there is still the situation today, although it is not as bad, of the three detainees, at what a lot of people and myself have called Guantanamo North. These are the three detainees that were detained under security certificates issued by the Liberal Party, and they certainly continue today.

However, whether those certificates are right or wrong or these people are tourists or not is not the question that I want to address. The question that I want to address is the way they are treated at Guantanamo North, Millhaven, or whatever we want to call it.

These individuals have had all their rights, their right to appeal, their right to speak, and their right to ask for privileges, taken away from them. They do not have a means of redress. If people come to a disagreement, they have an ombudsman they can go to.

At Correctional Service Canada we have what is called the Correctional Investigator. Although this individual is part of Correctional Service Canada, with a memorandum of understanding with Citizenship and Immigration and with CBSA, we still do not know who is looking after the detainees. The Correctional Investigator has absolutely no way of dealing with what they need. They had 20 issues that they wanted to deal with and all 20 issues were struck down. The citizenship and immigration committee members went to see them. As a matter of fact I, myself, went to see them three times. These individuals are on a hunger strike in order to address their needs and their complaints.

There must be a protocol in place, should we tomorrow have more detainees, on how we deal with them. Certainly, the current minister of CBSA is not willing to listen to this committee's requests, nor suggestions from members from both sides of the House. The Conservative Party wants to extend the clauses in the legislation that would be sunsetting.

● (1615)

I remember when the minister was the leader of the opposition, when it was the Alliance. I remember him taking a brush and painting all the Tamils in Canada, and came close to calling them terrorists in relationship to the LTTE.

Mr. Ken Epp: Come on, that is not true.

Hon. Jim Karygiannis: For the members across who are making some noise, I had an exchange with the minister, and it certainly can be read in *Hansard*. I questioned him on how he was willing to use a paintbrush and call the whole Tamil community terrorists, how children were being affected who were going to school and being asked by their schoolmates if they were terrorists. It sort of went in one ear and out the other of the former leader of the opposition.

Now he is the Minister of Public Safety and certainly the government has listed the LTTE, but it has done absolutely nothing to reassure Tamil Canadians in my community of Scarborough that they are not being targeted. It has done absolutely nothing to reassure Canadians who could have been under scrutiny, be it people from Lebanon who associate themselves with Hezbollah, or all kinds of people who are Canadians first and foremost. These organizations are the ones we are looking at and the government has done absolutely nothing.

Yes indeed, this issue will be an election issue. Let us not fool anybody. Let us not for 30 seconds forget that the Conservative Party has deep roots in the reform party, and the roots of the reform party are very simple: pit one Canadian against another Canadian. One is Caucasian, one is African—

Mr. Ken Epp: Quit lying in the House. That is not true.

Hon. Jim Karygiannis: Did we forget what the government did with the Lebanese? No, we did not. Did we forget how members of the Conservative Party pitted one Canadian against the other Canadian? Did we forget when members of the Conservative Party said, "Those people who are Canadians may be Canadians by convenience and we should leave them behind". Let me reassure the member opposite that a Canadian is a Canadian is a Canadian.

Mr. Ken Epp: Come on, cut it out.

Hon. Jim Karygiannis: Which part of that do you not understand? Which part of that do you want to debate?

The Acting Speaker (Mr. Andrew Scheer): Order, please. I would remind the hon. member to address his remarks through the Chair.

There is an awful lot of disorder going on in the House right now and I would like to invite hon. members to adopt a more friendlier tone for the rest of the member's remarks, sot that he can try to wrap up without too much more heckling for the next couple of minutes.

Hon. Jim Karygiannis: Mr. Speaker, I want to tell my colleagues in the Conservative Party, who sometimes seem not to have anything between their ears, that Canada is made up of four pillars.

It is made up of the two founding people, the French and the English. It is made up of the aboriginals, and it is made up of another pillar that holds the whole table together. It holds the whole house together, and these are the immigrants, the people who have recently come to Canada in the last 30, 40 and 50 years.

Every group that comes somehow gets paintbrushed and tainted. Do we forget the incarceration of the Ukrainians? Do we forget the incarceration of the Japanese and the Italians? Do we forget, recently, the incarceration and the way that we are dealing with the Arab community? Certainly not. However, the Conservative Party does not seem to understand, so let me leave them some words of wisdom.

There are four words that certainly the Conservative Party does not want to listen to and this is why I have been heckled by members opposite. Those four words are very simple.

Respect one's neighbour as an equal. Respect the guy down the street as a Canadian. Accept individuals as part of this great country. Celebrate our diversities and embrace our common future, and when we put those four words together, respect, accept, celebrate and embrace, and take the first letters of those words, it spells race.

One of the things that we on this side of the House never forgot is that we are all part of the human race, and this is why this legislation has to be sunsetted. Unfortunately, that side of the House, the Conservative Party, is supporting legislation that is very draconian. It comes down to the fundamental issue of wanting to support its reform agenda by pitting one Canadian against another Canadian.

● (1620)

Mr. James Lunney (Nanaimo—Alberni, CPC): Mr. Speaker, I am surprised to hear the hon. member refer to the three individuals being detained in Millhaven under security certificates and suggesting that their rights have been taken away.

I remind the member that a judge was satisfied there was a reason to detain these individuals. I remind the member that these people are free to go back to their countries of origin. Canada will even pay for their flights. I remind the member that although they are in the midst of a hunger strike, they are provided with food, shelter and medical attention everyday. They have chosen not to take advantage of it at the present time.

Since the hon. member has visited these three individuals already, he would know that they are certainly not suffering because of anything we are doing to them at the present time.

When the member says that we are brushing an entire community, what is the member doing when he uses hyperbole to describe a Canadian institution or relate it to Guantanamo Bay? What is he trying to do by making such an allegation about a Canadian institution?

Hon. Jim Karygiannis: Mr. Speaker, the three detainees are not given any privileges and/or rights. The institution was built in April of 2006 and the individuals were moved in 2006. If they have a complaint, there is nowhere to address it. There is no ombudsman to address these complaints.

The committee unanimously agreed. Unfortunately some Conservative members were not present the second time the committee visited and passed a motion that a correctional investigative ombudsman be appointed. If the hon. member has not bothered to read the report, I suggest he talk to his colleagues who sit in that committee.

Mr. Mike Wallace (Burlington, CPC): Mr. Speaker, my colleague had some very interesting comments. I do not agree with 99.999% of what he had to say.

Whether the roots of the Conservatives, and mine are with the Progressive Conservative Party, are in the Reform, Alliance or Progressive Conservative, one sure thing is this party stands up for the protection and security of all Canadians. We will do what has to done to ensure that terrorism does not wield its ugly head again in our country.

We want to extend the two clauses in the legislation, legislation that was brought in by the Liberals, and the Liberals should be in support of that. It is an absolute ridiculous statement to say that the Conservatives are not in favour of that protection. That is why we are here. That is why I am here. Where we come from has nothing to do with it. It is what we want to do in the future for our country.

The other comment the member made, which I thought was very interesting, was that a Canadian was a Canadian and what did we did to the Lebanese. He should check the website of his new member for Halton. The new member for Halton in the newspaper, on his website and in his blog talked about whether we should spend all our taxpayer money bringing back part time Canadians. It is a Liberal member who stated that, not our guy. He needs to have a little discussion with the new member of his party.

Does he not believe that terrorism is still as much of a problem today as it was on 9/11 and previous to that? With the changes in technology and in the world, is terrorism not as much an issue as it was ? Should we not do everything possible as a Canadian government to protect Canadian citizens from further terrorist acts?

● (1625)

Hon. Jim Karygiannis: Mr. Speaker, I am not sure if my colleague said he was from the Conservative, Reform or Alliance Party, CRAP. I was really confused.

However, terrorism is still among us. I stated in my opening speech that we needed to fight terrorism wherever we can. However, we have to do away with draconian measures.

Statutory Order

Mr. Blaine Calkins (Wetaskiwin, CPC): Mr. Speaker, when this issue was last debated, a number of negative comments were made with regard to the fact that the motion did not address the House of Commons subcommittee's recommendations contained in its October 2006 report. I will take this opportunity to explain, particularly for the benefit of the members of that subcommittee who have worked so hard on this issue, the government's intentions when tabling the motion.

First, it is important to mention that the government fully endorses and has supported at every opportunity the reviews being undertaken by the House and the Senate committees. The subcommittee's report of last October on the sunset provisions, which was adopted by the Standing Committee on Public Safety and National Security, was an important first step in the review process. However, allow me to clarify exactly what the majority recommended in that report.

The majority made six technical recommendations regarding the drafting of the legislation, but there were three key recommendations: first, that the sunset provisions be extended to December 31, 2011; second, that there be further parliamentary review before any additional extensions beyond the first extension; and third, that the investigative hearing provision be amended to make it available only when a peace officer has reason to believe there is imminent peril that a terrorist offence will be committed.

What must be understood is that given the time constraints established by the Anti-terrorism Act, it has become necessary to proceed with the debate on the joint resolution on the sunset provisions before the parliamentary committees have concluded their reviews of the Anti-terrorism Act. To be sure, it is not the ideal situation, but the government has had to introduce the resolution without having received and without being able to respond to the final reports of the parliamentary committees currently reviewing the act.

Not to advance the motion would allow the provisions to expire by default. This is why we are proposing a three year extension as opposed to the five years as recommended by the House of Commons committee. There is a compromise here. Three years is enough. It will give the government the necessary time to receive and review the final reports of both committees and to design an appropriate response.

Do not get me wrong. I do not fault the House or the Senate committee for the delays that have been encountered with respect to the review of the Anti-terrorism Act. The legislation provides that the review was to begin within three years after the act received royal assent. As royal assent came in December 2001, the review started in December 2004. That was in the 38th Parliament whereby both committees undertook extensive and thorough studies of the act and its operations together with reviewing other related issues.

The Senate special committee held almost 50 meetings over the 2005 spring and fall sessions and heard from a variety of witnesses, including not only a number of ministers and government officials, but also from a wide variety of academics, non-governmental organizations, including many from different ethnocultural groups and civil liberties groups.

For its part, the House committee held almost 30 meetings over generally the same period of time and, as was the case with the Senate committee, heard from a variety of witnesses. The last witnesses heard were the former minister of justice and the former minister of public safety and emergency preparedness. At that point, in November 2005, both committees had retired to write their reports. Then the reviews were interrupted by the fall of the government in November 2005. Dissolution of Parliament meant the halt of the Anti-terrorism Act reviews.

● (1630)

Following the election of January 2006 and the installation of the new government, the reviews were recommenced. However, a lot of time was lost. The Senate committee was not re-established until May 2006 and the House of Commons subcommittee did not get going again until June. As a result of the summer break, the committee's work was almost immediately put on hold again, this time until late September 2006. At that time, the reports of both committees were anticipated to be tabled by December 2006. Both committees, however, recognized the difficulty with this. The House of Commons subcommittee has now moved its final deadline to the end of this month. The Senate committee has pushed its deadline to March 31.

The Anti-terrorism Act envisaged a certain timeline. The legislation would receive royal assent. Three years later, parliamentary reviews would be undertaken. The review in committees would report within a year and the government would then have a full year to respond to the committees before facing the sunsetting of the powers we are discussing today. For reasons beyond the control of the committees, this timeline has been abandoned.

As mentioned, the government is now in the position where it has no input from the Senate committee and only the recent recommendations from the House of Commons subcommittee pertaining to this issue.

I appreciate the fact that the House of Commons subcommittee tabled an interim report in October 2006, understanding full well how tight the timeline was and I appreciate their diligence and hard work. However, the government continues to await the final reports of both committees.

Because of delays in the parliamentary review of the Anti-terrorism Act, the committee had asked their respective Houses for more time to report. The government also needs more time.

In asking members of the House to support the extension of these provisions, the government is simply saying that it does not want these powers to expire while it is considering the House of Commons subcommittee's recommendations and awaiting its final report, hopefully soon, and the Senate's suggestions and final report.

Voting to extend the provisions is not a vote for the status quo. It is a temporary extension that will allow for the proper governmental analysis and the preparation of an appropriate government response and subsequent parliamentary debate. I want to make it abundantly clear that this motion is worded so as to comply with the statutory provision for renewing these provisions found in the legislation.

Some in the chamber have been asking why the motion simply extends the current powers. Why does it not take into account recommendations that have already been made? The answer lies in the wording of section 83.32 of the Criminal Code. That statutory provision only allows for a resolution to extend the application of the investigative hearing and the recognizance with conditions clauses. It does not allow for a resolution to be passed that changes these provisions in any way.

The only flexibility allowed by section 83.32 of the Criminal Code is that the period of extension may not exceed five years. Thus the resolution may provide for a period of extension which is less than five years. This is the case today, for the period of extension that the government seeks is for three years only, not for the full five year maximum.

Those who argue that the government is somehow disrespecting the subcommittee's intentions by proposing a three year extension must realize our limited options at this late stage. They should also consider that the effect of voting against the extension is to strike down and completely countermand what the committee recommended. The subcommittee recommended that the provisions continue in their effect, but with alterations. Voting against the motion means that the powers will disappear completely.

Some have suggested that these powers were meant to expire all along. This is simply false. There is no best before date on this legislation. If that were true, then there would have been no procedure built into the act that would provide for the possible renewal of these provisions. We all know that the act did provide such a procedure.

● (1635)

It is likely that one would have expected, as indicated earlier, that the act contemplated that the parliamentary review would have been completed, and that the parliamentary debate surrounding a motion to extend the sunsetted provisions would have been fully informed by the parliamentary recommendations and the government's response to them. We have seen that things have not quite turned out as planned.

While the House of Commons subcommittee has issued an interim report, we have not heard from the Senate yet nor had the final report from the House committee, and the government has not had the opportunity to provide its response to a completed parliamentary review of the act. To approve the motion to extend these provisions another three years would allow the original intent of Parliament to be realized. To defeat this motion, however, would be to defeat Parliament's original intent.

What we do know is that these powers have not been abused and that Canadians would be able to benefit from having these provisions in place by having these provisions renewed for another three years. I cannot, however, say that allowing them to sunset will not have serious consequences.

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): Mr. Speaker, my friend's comments were reasoned and they were, after some emotion in the chamber, welcome.

I do want to pick his brains somewhat on what I consider to be the crux of the issue. When most of us were handling red hot copies of the decision on Friday around 9 or 10 o'clock we saw that there are provisions in other acts that deal with the war on terror Canadian style, which is much more deliberative cooperation between the judiciary, the investigative and the legislative branches.

There is a growth in terror legislation and how it is being interpreted. We have talked a lot about the 2004 *Vancouver Sun* case on section 83.28 vis-à-vis investigative hearings. We are up in the air with respect to preventive arrests. We saw on Friday that legislation was attacked successfully in part.

I can tell from my colleague's speech that this debate is very important to him. Does my colleague concede that we need, in addition to this debate, to take a holistic approach to anti-terrorism legislation in this country as the Senate report says?

Mr. Blaine Calkins: Mr. Speaker, I have been hearing some good questions and some good debate, but the reality is when the rubber hits the road, there is one party in the House that actually means what it says and does what it says it is going to do with respect to providing security to the citizens of this country. Some pretty hefty words have been bandied about here today, and I do not want to drag the conversation down in any way.

When it comes to arming our border guards, the reality is that there is one party in the House that actually thinks our border officers have the capability to defend our borders. We are providing them with the capability to do their jobs even better.

To answer his question indirectly, I would put it back to the member. With respect to a holistic approach, or an approach that encompasses not just the clauses in the Anti-terrorism Act that are about to expire, but all other aspects of government responsibility for providing security, whether it is through airport security, whether it is gathering intelligence by CSIS, or whatever the case might be, the important thing is that we have mechanisms in place to prevent terrorist acts. For example, law enforcement officers should have the ability to intervene through a court order in the presence of a judge and stop or prevent a terrorist act from occurring. Is that not really important? That is what is at stake.

We are no safer today than we were five years ago when the bill was originally drafted and presented to the House. It was a Liberal government then and it is a Conservative government now. Members from all parties recognized the serious threat of terrorism and its impact on society. It happened in the United States, but we have had acts of terrorism in the past. There is the Air-India inquiry. The allegation is that failing to let these clauses continue will actually jeopardize this inquiry and jeopardize finding out who was accountable and what problems occurred in protecting the security of our citizens. We can only learn information from that inquiry.

The hon. member, if I remember correctly, is trained in the field of law. He knows this legislation has held up. These clauses that are about to sunset have held up to the scrutiny of the Supreme Court of Canada.

I would ask the hon. member to support the extension of the Anti-terrorism Act clauses and do the right thing for all Canadians when the opportunity presents itself.

● (1640)

Mr. Tom Wappel (Scarborough Southwest, Lib.): Mr. Speaker, I am a member of the subcommittee that has been considering this legislation for over two years. I listened very carefully to my hon. friend's chronology. I want to say that for the most part of his chronology I agree with it completely. I think he has set it out correctly. I think he has set out the conundrum that we have found ourselves in, where the clock has continued to run, notwithstanding the fact that there have been intervening events, such as a general election, which prevented the subcommittee from in fact concluding its work. I wonder if the hon. member would agree with a couple of factual corrections.

In more than one occasion in his speech he mentioned that we have not yet heard from the Senate. In fact, the Senate issued its final report last week, I am sure he would agree.

I am also sure the member knows that the subcommittee concluded its work on the main portion of the Anti-terrorism Act last week and referred its report to the main committee. The House gave an extension of time on Friday to the main committee requiring it to deliver its final verdict on the Anti-terrorism Act by March 27. The reason for that is, as the hon. member said, time just keeps on going and yet there is not enough time for us to deal with this given the nature of the time limits within the legislation.

Would the hon. member agree that his recitation of the chronology would be more accurate if he agreed with what I just said?

Mr. Blaine Calkins: Mr. Speaker, my colleague has asked a very good question. I do apologize. As a matter of fact, the Senate report has been released. I apologize if my speech did not get that completely accurate.

Regardless of the chronology of what report was released when and what the subcommittee did or did not do, the reality is that even if I have 95% of it right, which I think the hon. member would agree, the recommendations have been that we extend the sunset clauses for up to five years.

The government's position is that we would like to extend them for three years. We believe that would give enough time for the committees to finish their work appropriately and to report back to the House. This is very important work. As a matter of fact, I cannot think of more important work before the House than the legislation that looks after the safety and security of our citizens here in Canada.

I thank my colleague for pointing out a small error in my speech. I hope I have satisfied him with my answer. I appreciate the member's pointing that out to make sure that the record is correct. I certainly am looking forward to seeing how the hon. member votes on this motion.

● (1645)

The Acting Speaker (Mr. Andrew Scheer): It is my duty pursuant to Standing Order 38 to inform the House that the questions to be raised tonight at the time of adjournment are as follows: the hon. member for Pickering—Scarborough East, Foreign Affairs; the hon. member for Gatineau, Government Appointments; the hon. member for Acadie—Bathurst, Employment Insurance.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Mr. Speaker, I am proud to stand in the House to speak in support of the resolution to extend the Anti-terrorism Act sunset clauses.

I would like to respond to what we have heard from some other hon. members during the course of this debate. For me, the most important point is that the threat of terrorism has not gone away since we last debated the Anti-terrorism Act.

In 2001 there was sufficient concern in the House about the potentially damaging effects of investigative hearings and recognizance powers that we would return to them after five years and see if they had been misused and if they were still justified.

Let us consider then where we are today. Have the powers been abused or caused any great harm to our system of tolerance, democracy and the rule of law? Quite the contrary, in the past five years recognizance powers have not been used at all.

In the one case where an investigative agency sought to use an investigative hearing, the result was litigation all the way to the Supreme Court which held that the power to conduct hearings and the related legislative scheme not only meets charter requirements, it exceeds them in at least one aspect.

The court did not just uphold the provisions; it told us how best to use them in practice. Its judgment has provided very helpful direction on how cases should be conducted in the future to ensure conformity with the charter and the appropriate balance of security, investigation, human rights and transparency issues.

I suggest that the record of the previous five years speaks for itself. What it says very clearly in my view is that the powers are not a threat to our human rights and civil liberties. The most, and worst, opponents of the powers can say is that they might be abused somehow, someday. That is precisely what they said in December 2001 and the result was the five year deferral we see today.

Why should our decision today be any different? They are no more a threat now than they were in 2001. If anything, the record should reassure those who have concerns that they will be used, if at all, only when absolutely necessary and only then with restraint. If abuses ever were to occur, we have in place the same judicial and other safeguards in the future that we have had in the past, reinforced by developments since 2001. Those protections will become even stronger with the passage of time.

Minimum impairment of human rights is one of the principles under which the charter is applied and by which any use of these powers has been and will be tested by the courts. We should be reassured by this. It is also a very practical requirement and one reason the powers are only used as a last resort.

It is hard to use these powers. Investigators will not use investigative hearings if lesser means will work, because they are difficult and complex to arrange and they make it impossible to use anything the subject says as evidence if that person later turns out to be involved as a terrorist.

Recognizance orders have always been limited to scenarios such as domestic violence where we know that a crime is likely and we believe it necessary as a society to intervene before the crime is committed to prevent harm to the victims. These are also scenarios where the conventional powers of the criminal law, especially deterrence and the threat of punishment have proven not to be effective.

Law enforcement agencies use these powers when they must, but will always find it easier to investigate and prosecute past crimes rather than to predict and prevent future ones. Unfortunately, some crimes are sufficiently horrific that we have a moral obligation to Canadians and to anyone else who may be victimized to do everything in our power to prevent them.

If the threat posed to Canadians by the investigative and recognizance powers has not increased in the past five years, what of the threat of terrorism itself? In 2001 we adopted the powers with the sunset clause in the hope that in 2006, looking at terrorism with more experience and a greater perspective, we might conclude that they are not necessary because the threat of terrorism has gone away. Can anyone in the House make such a claim? I certainly cannot.

● (1650)

I want to review what we have learned since the act took effect at the end of 2001. There have been horrific attacks on innocent civilians in Colombia, India, Indonesia, Iraq, Israel, Pakistan, Peru, the Philippines, the Russian Federation, Saudi Arabia, Spain, Tunisia, Turkey and the United Kingdom. Canada and Canadians have been publicly identified by leaders of al-Qaeda as targets of future terrorist attacks.

Our engagement in Afghanistan has cost the lives of 44 Canadian soldiers, including a very brave young man from my riding of Sarnia—Lambton, Private William Cushley, who fought alongside his comrades of the 1st Battalion of the Royal Canadian Regiment. Their great work to free millions from the oppression of these terrorists has unquestionably brought us to the attention of international terrorists.

An even more disturbing trend has been attacks on those involved in development and reconstruction. Peacekeepers, humanitarian workers, UN staff members and one of Canada's own diplomats have been murdered, people whose mission was nothing more than to improve the lives of the world's poor and marginalized and address the social conditions that breed hatred. This is work to which Canadians have always been committed and from which we cannot and will not be deterred.

There have also been a number of cases in which the vigilance of officials, using the legal powers provided to them by governments, have detected and foiled plots. These include plots that would unquestionably have killed and maimed Canadians.

I cannot, in view of the evidence, suggest that the threat of terrorism has gone away. It clearly has not. If anything, we stand today at greater risk than we did when these powers were first enacted. We have stood by our principles abroad in the global fight against terrorism and we have much to be proud of but there are costs.

Having fought terrorism abroad, we must also fight it at home, both for our own sake and because we made this commitment as a member of the international community. Our most fundamental principle in fighting terrorism is that we must do it in ways that respect the rule of law and which accord with our values as Canadians. We have not seen these values eroded in the past five years. We have seen them strengthened as our courts have upheld the legislation and as other states have used it as an example.

The power to conduct investigative hearings and to obtain and impose recognizance conditions is an important part of Canada's anti-terrorism legislation. I wish I could say that they were not but I do not think that I or any member of the House can reasonably conclude that Canada is not exposed to the threat or risk of terrorism or that we will never need powers such as these if and when such a threat materializes.

Others have said that they are not needed or justified because we have not been attacked or that we have rarely or never used these powers. My house has never yet caught fire and I hope it never will but I still expect the fire department to come if it does and to have the tools to put out the fire when they get there. Just as I expect my city to protect me from fire, Canadians expect the government to do all it can to protect them from terrorism.

I do not think we in this country can say that we live in such fireproof houses that we can start selling off our fire trucks just yet. There is no doubt that these are strong measures. I do not see the fact that they are seldom used as evidence that they are not needed. I see it as evidence that our law enforcement officials are exercising restraint in not using them unless absolutely necessary.

Our first commitment must be to the safety and security of Canadians but we also have other obligations. As an ally and as member state of the United Nations, we also have obligations to prevent and suppress international terrorism.

● (1655)

There are many such obligations. For example, in resolution 1373 of the UN Security Council, which was adopted in the wake of the September 2001 attacks against the United States, we are directed not only to refrain from supporting terrorism but “to take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other states”.

Statutory Order

This is binding on Canada as a party to the charter of the United Nations and we are regularly called upon to report to the Security Council's counter-terrorism committee on what we have done to implement the requirement. Can we truly say that we have done all we can to detect pending terrorist attacks and warn our friends, neighbours and allies if we allow these power to lapse?

We are also party to treaties against terrorism, including the 1997 and 1999 conventions for the suppression of terrorist bombing and terrorist financing. Both of those require us to criminalize specific terrorist activities, as we have done, but they also call on us to provide all other states or parties with the widest measures of legal assistance in relation to their own criminal investigation. They also oblige us to investigate offences in Canada and to alert other interested states.

The treaties do not specifically require us to impose recognizance or conduct investigative hearings but we are obliged to have effective powers to prevent and suppress terrorism and to assist other states. There is no question that our capacity to meet these obligations will be weakened if these powers are allowed to lapse.

That in turn has other implications. Canada has taken a very strong position against international terrorism. We have supported strong and effective measures in international law and we have engaged all of our military development and reconstruction capacity in an effort to ameliorate and redress the conditions in Afghanistan, which spawned the worst acts of terrorism the world has ever seen, in the hope that they are also the worst the world will ever see.

The world allowed Afghanistan to become a failed state which paved the way for extremist groups like al-Qaeda to create a home base in which to launch their war of terror. Canada reacted by going to Afghanistan to meet the needs of this failed state. Canada also reacted at home for the need to strengthen our own laws. When there is need, Canada has responded. If we find ourselves in need, we expect our allies to respond in kind.

What will other states make of this weakening of resolve? How will they react if we allow these provisions to lapse? Canada has not just taken a strong position. We have also taken a balanced and nuanced one. We understand that, as a threat to human rights and the rule of law, terrorism must also and always be fought from within the frameworks of human rights and the rule of law.

While others may have succumbed to the temptation to take direct action, Canada has not and we should all be proud of this. Our own Supreme Court said as much when it upheld the power to conduct investigative hearings under the charter. It said:

> —the challenge for a democratic state's answer to terrorism calls for a balancing of what is required for an effective response to terrorism in a way that appropriately recognizes the fundamental values of the rule of law. In a democracy, not every response is available to meet the challenge of terrorism. At first blush, this may appear to be a disadvantage, but in reality, it is not. A response to terrorism within the rule of law preserves and enhances the cherished liberties that are essential to democracy.

The court did not just find that the power in issue met this test but that it exceeded it, especially in the protection against self-incrimination that was embedded in the legislation. It also set out conditions for the use of the provisions and ground rules for media access and transparency that ensure continuing conformity with the charter and fundamental Canadian values and safeguard human rights while ensuring the effectiveness of anti-terrorism measures.

● (1700)

One of the justices who wrote that opinion saw first-hand what can occur when the rule of law breaks down. Not long before that judgment, Madam Justice Louise Arbour was prosecuting offenders before the International Criminal Tribunal for Yugoslavia. Not long after that, she was appointed to one of the most important positions in the United Nations, that of high commissioner for human rights. In that capacity, she has continued to strongly advocate the need to fight terrorism from within the framework of the rule of law and she has cited this legislation in a Supreme Court decision on it as an example of how this can be done.

In my view, we have a duty to Canadians to be vigilant and that includes an obligation to protect and defend human rights. It also includes an obligation to protect and defend human security. We have pursued the goals of human security in the international community. Our obligation is to do no less at home here in Canada. Human security includes the security of Canadians. We have sought ways to protect ourselves and, in these measures, we have found a path that is effective and balanced.

The Supreme Court has said that it is demonstrably justified in a free and democratic society, and I agree. As long as the threat of international terrorism remains, so will our obligation to counter that threat and to protect Canadians.

We enacted these provisions on that basis in 2001. No member of this House can say that the threat has gone away. The threat to our basic rights and values does not lie in these investigative and preventive powers. It lies with those who would kill and maim Canadians in an attempt to shake our faith in those values.

That is why I will vote to extend these powers and why I urge all hon. members of this House to do the same.

Hon. John McKay (Scarborough—Guildwood, Lib.): Mr. Speaker, I am pleased for the opportunity to speak to this issue. I wrote this speech a week and a half ago when the debate was first before the House and I needed an opportunity to speak.

As they say in politics, a week is a long time. We have had an extraordinary set of events over the course of that week. We heard the decision of the Supreme Court last Friday, a 9-0 decision, which is certainly a significant decision. We also had the attack on a member of Parliament by thePrime Minister of Canada in the House.

I know it came as a shock to the government members that the Liberal Party was prepared to embrace all of Bill C-36, not just the parts we wanted to tiptoe around. Unlike the Conservative Party, we voted for the entire bill. I sat on the justice committee five years ago when that bill was being considered. I was quite skeptical of those sections, the impugned sections that we are talking about today, and I was not very shy about saying so, both inside and outside of caucus.

In my view, on the evidence that was presented to us in the months following September 11, the evidence simply did not warrant the inclusion of these provisions in Bill C-36. There was quite an animated discussion both inside and outside of caucus on this and, indeed, on the Hill as well.

Hansard has me saying this on October 17, 2001, about a month after September 11:

> Watching television last night I was struck by the eagerness of some Canadians to trade their rights and freedoms for security. It was both surprising and disheartening to me to hear caller after caller be prepared to give the government and parliament a blank cheque. It was also disheartening to hear Canadians make wild and outrageous links between immigrants, refugees and security. When people are afraid they say things that they would never otherwise say. They think things that they would never otherwise think, and they do things that they would never otherwise do.
>
> It will be a test of our nation that has a reputation for stability and tolerance to deal with these fears. Otherwise the terrorists win. They win because neighbours turn on neighbours. Instead of reaching out we turn inward. We walk away from our rights for which previous generations have fought and died. The challenge is not to let terrorism win and to break this cycle of victimization where victims in turn victimize. I am hopeful that the justice committee will carefully scrutinize the bill.

We did in fact scrutinize the bill. Some of us argued long and hard that these sections were flawed and had the potential, and I emphasize potential, for abuse and would be used in ways, if they were to be used at all, that we would not otherwise have anticipated. Quite a number of caucus members spoke against these provisions and the prime minister and minister of justice of the day agreed to put a term limit on these sections of the bill.

After third reading, a reporter put a microphone underneath my nose and asked me how I could have voted for Bill C-36. I said it was very difficult. Again I quote myself from *Hansard:*

> None of us will be enthusiastically voting tonight. Possibly after the work of the committee we are somewhat less unhappy, but no one would introduce this kind of bill unless the circumstances justify it.
>
> There are three conditions which erode civil rights: unanimity of purpose, just cause and great uncertainty. We have unanimity of purpose. Canadians want something done. We have a just cause in the fight against terrorism. We have great uncertainty. The population is quite nervous. We have eroded civil liberties, but will our Faustian bargain give us greater security?

● (1705)

We now have five years of experience under our collective belts and with one notable exception, the provisions have never been used. The Air-India inquiry is the notable exception, but at the committee, in caucus and on the floor of the House, I cannot recall any member, any minister or any official ever saying that this could have a retrospective application. Therefore, in some respects, the Air-India inquiry comes to me as a surprise.

It was sold to us on the basis that it would have only a prospective application; that is, the police, or the RCMP or CSIS would have reason to believe that something bad was about to happen. Then they would use the provisions, which we are talking about, to prevent that bad thing from happening.

Using the section for an inquiry like Air-India was certainly something that did not cross my mind and possibly did not cross the minds of many of those who voted in favour of Bill C-36.

No legislation is proposed in an isolated environment. Laws are proclaimed and laws are withdrawn on the basis of experience. What is our experience thus far?

On the security side of the ledger, clearly we are much better prepared than ever. We have had arrests and incidents which have thus far been contained by good intelligence and good police work. On the funding side, we have built up the capability of our intelligence, police, security and military services over the past five years with very significant resources. I dare say that those budgets have possibly grown the most of any budget passed in the House in the last five years.

On the human rights side of the equation, however, the record is somewhat less clear and not nearly as sterling. We just had a Supreme Court of Canada decision, which was a unanimous decision, that detention certificates were unconstitutional. Taking away the liberty of the citizen and others without trial, without access to the evidence and without counsel is an anathema in a free and democratic society. I thought the court's comments were balanced, reasoned, fair and respectful to Parliament and the government's foremost obligation to protect its citizens.

Mr. Arar could have used some of that protection. I cannot recall a case of any Canadian citizen in all of our history where the rights of a citizen have been so abused. Supplying dubious intelligence, cooperating in the extraordinary rendition by a foreign country, knowing that he would be tortured or having reasonable apprehension that he might be tortured is about as bad as it gets. The result is the resignation of the RCMP commissioner, an apology from the Prime Minister and compensation in excess of $10 million.

Apparently, Justice O'Connor's inquiry is even having effects in European nations, where European nations are reconsidering their willingness to allow airplanes for the CIA to land on European soil in order to complete these renditions to other countries. In those countries there has been a great deal of soul-searching going on as to what laws and what cooperation they will offer in the future. Unfortunately, soul-searching does not appear to be the strong suit of the Prime Minister or the government.

● (1710)

What was the Prime Minister thinking about when he attacked the member for Mississauga—Brampton South? Did he really think that a scurrilous attack on a fellow member, who happens to be a Sikh, would somehow enhance the debate between security and rights? Did he really think that this was going to be a contribution to the two major tasks of government: the right of citizens to expect that their government provide security and the right of all citizens to live freely and face their accusers in an open trial with all the evidence? What was he thinking about?

Does he really believe that baseless allegations contribute to an atmosphere of reasoned debate or is this feeding some other agenda, that thePrime Minister really will do anything, absolutely anything, to get his majority? Does this not play into his pandering to fear in Canadians, much like I read out in my quote from *Hansard* of five years ago, playing to the fears in the population?

The respective merits of whether to sunset or not sunset are irrelevant to the tactics narrative, tough on crime, tough on terrorism. The reality is that security, citizen's rights, reasoned debate and just plain common decency give way to the tactics narrative in pursuit of a majority. Destroy a live, who cares? Destroy a family, who cares? Destroy a nation, who cares? “I have got my majority”.

The Prime Minister, and I do not know whether it is advertently or inadvertently, gave a classic display of the abuses that those of us who sat on the committee five years ago were most worried about. He took a newspaper article and tied it to a member's family and the Liberal position on these clauses.

Surely, it was fundamental to ask questions like these, after all he is the senior political officer in our country. How did the newspapers secure a secret list of potential witnesses? If someone handed him an article just before question period, is that not a fundamental question? It seems fundamental to me. How did that newspaper receive that secret list? Would it not be perfectly ordinary for any prime minister to ask, who would leak such a thing? Why would they leak such a thing? What is the motive?

If for no other reason but simply to protect his own government, would he not ask, “Could my government have been involved in such a leak?” Would he not ask that kind of a question? Is that not a straightforward question to ask before he would engage in a long term smear, knowing full well that these sections on sunsetting or not sunsetting were going to be implicated in some way?

If he is not worried about his own government and he wants to get in his tactical narratives, et cetera, surely to goodness he would have the victims of the Air-India inquiry in mind. These people have been seeking a form of justice for literally years now. Would this not be a fundamental question to ask? “Is my attack on the hon. member going to compromise the integrity of that inquiry?” Is that not a fundamental question?

I do not even know whether he does not care. I think he will do absolutely anything to get a majority and he really does not care how he gets there.

Are witness lists not to be held in the strictest confidence? What little association I have had with inquiries is that they are guarded like Fort Knox, so how does one get those kinds of witness lists?

Using his bully pulpit as the Prime Minister of Canada, the biggest bully pulpit there is in the country, using his bully pulpit to undermine the integrity of the commission of inquiry, what was he thinking about?

● (1715)

Finally, there are the victims of Air-India. As I say, these people have sought justice for years. Surely to goodness a scurrilous and baseless allegation such as this will only lead to the undermining of the quality of that inquiry.

As I look back on my time here and my time on the justice committee, I feel some justification for my skepticism. I do not think that we can deal with terrorism lightly. I do not think we can just join hands, sing *Kumbaya* and hope that terrorism will somehow or another go away. Terrorism is real. There are indeed those who wish to do us harm. Some even live among us. And threat assessment is not an exact science.

However, as legislators we must only create laws that are proportionate to the reality of the threat. In my view, these provisions are an overreach, disproportionate to the threat, and cannot be justified in a free and democratic state.

Part of Justice O'Connor's report dealt with the policy review of the RCMP's national security activities. He said at page 22:

> The national security landscape in Canada is constantly evolving to keep abreast of threats to our national security. It is vital that review and accountability mechanisms keep pace with operational changes. A review in five years' time should assist in this respect.

We have now had five years with Bill C-36. The evidence of the need for these sections was sketchy at the time. The government of that day felt sufficient discomfort to build in an exit ramp. No evidence in these five years has come forward to justify the retention of these sections. This continues to be a significant intrusion into the rights of all Canadians. Therefore, it is my view that these provisions should sunset.

Mr. Speaker, I put it to you that actually the government had been offered a couple of other alternatives. I see the hon. member for Scarborough Southwest sitting down there, and I know that he and his colleagues have worked diligently on this particular section of Bill C-36. I am somewhat disappointed not to see the government coming forward with legislation that reflects the hard work of that committee. I am also disappointed that the government has not come forward with legislation that reflects the work of the Senate.

I have heard arguments in the House that the election intervened and things of that nature. What I have read of the reports is that there are certain decisions that could be taken, that could have been presented by the government, and which would have addressed a number of the significant human rights concerns that have been raised over the course of this period of time, while still addressing the security concerns, those twin responsibilities of government.

I know that our leader has offered cooperation to the government in the event that the government could present comprehensive legislation such as this, but, for whatever reason, the government has chosen a straight up, straight down vote. Unfortunately, I therefore find myself in a position where my skepticism over this period of time has been justified, and my view is that these impugned sections should be allowed to sunset.

● (1720)

Mr. James Lunney (Nanaimo—Alberni, CPC): Mr. Speaker, I have a couple of questions for the hon. member.

First of all, he stated that the Supreme Court ruled that the security certificates are unconstitutional. I believe the hon. member knows full well that the Supreme Court ruled that some aspects of the application process are problematic, and the court provided some guidance, and a year, to Parliament to implement such provisions. So I wonder why the hon. member would make such a statement when he knows that in fact this is not the case. In fact, when the changes are made and the government does respond, I hope the member will support those changes.

Second, I heard the member refer to a scurrilous attack on a member of this House. I presume he is referring to an attack that did not happen. We saw that members on the Liberal side were in a frenzy the other day when there was a reference to an article in a newspaper, but I did not hear any of these members taking exception to the journalist who wrote the article or to the newspaper which published the article that linked a member of this House to the matter before the House right now, and as far as the Air-India inquiry is concerned, and to the provisions we are discussing today. Now I hear the member alleging that somehow the government might be responsible for the newspaper article itself. I wonder where he gets that from.

The fact is that the provisions of the Anti-terrorism Act that we are discussing today are necessary to sorting out and getting to the bottom of the Air-India inquiry. It was the worst terrorist incident in the history of this country, with 329 Canadians dead, and I think the question of a bungled investigation is part of what Canadians would like an answer to. I wonder why the member and his party are not supporting those provisions so that we can go ahead and get to bottom of it.

Finally, he stated just recently that these provisions are not justifiable in a free and democratic country. He knows full well that the Supreme Court itself ruled that the investigative hearings are justifiable. Is the member disagreeing with the Supreme Court?

● (1725)

Hon. John McKay: Mr. Speaker, had the scurrilous allegations against the member for Mississauga—Brampton South been simply left as a *Vancouver Sun* article, it would have just simply meant absolutely nothing to anybody here; I mean, *Vancouver Sun*, really.

What happened is that the Prime Minister brought it up. The Prime Minister brings it up and he incorporates the article by reference onto the floor of the House. It would not have meant anything had *The Vancouver Sun* just simply been *The Vancouver Sun*, and who pays much attention, but no, the Prime Minister of Canada brought it forward and gave it the full force of the authority that he has here.

It strikes one as extraordinary that he incorporates by reference an article he has not investigated, which I presume is true, and he therefore does not know whether the basic facts are true. He uses that in a partisan way to achieve an end and, in the process, raises the whole question of the validity of the Air-India inquiry. He jeopardizes the entire inquiry for partisan advantage. What could he possibly have been thinking when he did that? I just do not understand. What seems to me to be the truth is that the Prime Minister just does not understand the dignity of his office and the responsibility of his office.

As to whether it was pre-orchestrated on this side, not one of us anticipated that the Prime Minister would raise this in a question period.

Mr. Tom Wappel (Scarborough Southwest, Lib.): Mr. Speaker, I have a comment and then a question for my hon. colleague.

My comment pertains to something my hon. colleague mentioned. In looking at the act with respect to recognizance with conditions, section 83.3, otherwise known as preventative arrest, that section deals with “reasonable grounds” to believe “that a terrorist activity will be carried out” or “to prevent the carrying out of the terrorist activity”. So indeed, that is in fact forward looking.

On the other hand, for investigative hearings the act states, “A judge to whom an application is made under subsection (2) may make an order for the gathering of information” if he or she believes “there are reasonable grounds to believe that...a terrorism offence has been committed”. That is the past. Then it goes on to also talk about future terrorist offences.

It is clearly within the purview of the investigative hearing that it can be used for the prospective, for the future, and this is one of the reasons that the subcommittee in its report, which it presented to the main committee and which the main committee adopted, recommended that the investigative hearing provision be amended so that it may deal only with the future. Because clearly it can deal with the past, and the committees were of the view that once an offence has been committed there are sufficient investigative tools in the arsenal of the police that they do not need investigative hearings.

My question for the hon. member pertains to his historical recollection. The hon. member and I are in neighbouring ridings. I recall very specifically his passionate concern about these two sections. In fact, I remember us having public hearings in Scarborough with affected communities, where we talked about these very issues and about the perception that certain communities were being targeted. In his speech, the hon. member said there was a lot of worry that these sections might be used in such a way as to abuse citizens' rights. I want to know if that is in fact the main reason he recalls that—

The Acting Speaker (Mr. Andrew Scheer): The hon. member for Scarborough—Guildwood.

Hon. John McKay: Mr. Speaker, I appreciate the hon. member identifying the distinction between prospective and retrospective. I am glad to see that the committee report picked up on that very point.

Certainly in the environment of the time we did not talk about retrospective application of investigative hearings. Possibly we should have, but we did not. I do not recollect any debate either in the House or in committee about that very point.

I also agree with my colleague with respect to those communities that felt they might be affected and aggrieved by these particular sections. I have no concrete evidence that this in fact has happened. Nevertheless, it is a significant and worrisome intrusion on people's civil liberties and there is some justification in some communities to feel that they are targets of this particular legislation. I wish that were not so, but I am afraid it is.

● (1730)

Mr. Ken Epp (Edmonton—Sherwood Park, CPC): Mr. Speaker, I have great respect for the member. I appreciate his good, calm way of presenting his arguments today. I contrast that sharply with a member who spoke previously and who made all sorts of scurrilous and untrue accusations against me and my colleagues.

I wonder, when the member talks about this attack on one of their members, presumably by our Prime Minister, whether perhaps he would be ready to admit that there is some evidence, and there have been some occasions, where the Liberal government at the time did in fact use its position in order to protect some of its own, and perhaps that was the reason.

We on this side I think are very puzzled at the flip-flop of the Liberal Party on this particular issue. In a way, I regret that it has become so highly emotional and so politicized. I really wish that we would be able to pass the legislation to prevent the sunsetting at this time and that we could carry on with the finest tradition of protecting our citizens.

Those are my comments. Perhaps the member has a response.

Hon. John McKay: Mr. Speaker, scurrilous seems to be the word of the day and hopefully the hon. member will help us with the definition.

I agree with him that it has become emotional and politicized. I regret that very much. These are very serious issues and I regret very much that the Prime Minister chose to take that route. I regret that he chose to attack the hon. member and therefore put into play the validity of the investigative section of Bill C-36 and to raise the very fears that my hon. colleague from Scarborough Southwest and I were talking about just a moment ago, that these kinds of hearings can be used, frankly, as fishing expeditions and in the process, people's reputations and lives are compromised.

I find that very regrettable on the part of the Prime Minister.

Mr. Tom Wappel (Scarborough Southwest, Lib.): Mr. Speaker, I will be splitting my time with the hon. member for Mount Royal.

In the brief 10 minutes that I have to speak on this very important topic, I want to say what my interest in the subject matter is.

In December 2004 I was appointed as one of three representatives of the Liberal Party to review the Anti-terrorism Act. We worked long and hard from December 2004 until approximately October 2005. When we were about to begin drafting our report, it became obvious that an election was looming and we were unable to complete that report.

In the new Parliament, the subcommittee was reconstituted under the aegis of the public safety and national security committee. I was again appointed by my party as one of the Liberal representatives on the subcommittee, the other one being the hon. member for Etobicoke North. We worked from the time the subcommittee was constituted literally until last Tuesday to complete our final report which was then sent to the public safety and national security committee for its full review. That committee will review it and report no later than March 27. A tremendous amount of work has gone on in that time.

I want to point out to people who might be watching what we are debating today. We are debating a statutory order and it is very specific. It is very specific because it is proscribed by the language of section 83.32 of the Criminal Code. There is no wiggle room. We either extend these sections or we do not. That is what the section says and that is what the statutory order has to follow. Unfortunately, that is a major problem.

Both Houses of Parliament have been studying this legislation and have heard from a tremendous number of witnesses as to what is or is not good or bad about it and what should or should not be tweaked. Unfortunately, the Senate only reported last Thursday and as I said, the House of Commons Standing Committee on Public Safety and National Security will not even be able to report until more or less the end of this month, long past the time these sections will sunset unless they are extended.

These sections talk of two things. The first is investigative hearings. Under this provision, a peace officer, with the prior consent of the attorney general, can apply to a superior court or a provincial court judge for an order for the gathering of information. If it is granted, the order compels a person to attend a hearing before a judge, answer questions, and bring along anything in his or her possession.

The second deals with recognizance with conditions which is otherwise known as preventive arrest. With the prior consent of the attorney general, a peace officer, believing that a terrorist act will be carried out and suspecting that the imposition of a recognizance with conditions or the arrest of a person is required to prevent it, may lay an information before a provincial court judge. That judge may order that person to appear before him or her. A peace officer may arrest, without warrant, the person who is the object of the information, if such apprehension is necessary to prevent the commission of a terrorist activity.

This is what we are talking about. Both of these provisions are known to Canadian law. There are equivalents to investigative hearings which are investigatory and not intended to determine criminal liability within the context of the law related to public inquiries, competition, income tax, and mutual legal assistance in criminal law matters.

As well, there are provisions similar to recognizance with conditions that do not necessarily adversely affect rights and freedoms within the criminal law related to peace bonds issued to deal with anticipated violent offences, sexual offences, and criminal organization offences.

Both legislative measures are consistent with and grow out of provisions well known to Canadian law. Both provisions have sufficient protections to ensure that rights and freedoms are protected.

In relation to both investigative hearings and recognizance with conditions, there has to be prior consent of the attorney general. Judicial authorization is required, and a judge presides over the proceedings themselves among other protections set out in the Criminal Code.

● (1735)

The mere fact that a legislative measure has not been used, and these have not been used, does not mean that it is no longer required.

The committee which reported to this House believes they should be retained within the arsenal of tools that should continue to be available to counter terrorist activities. It also believes, however, that legislative amendments are required to this part of the code to restrict and clarify some elements of this part of the anti-terrorist law adopted by Parliament. The committee advised Parliament of six or seven specific amendments that it suggests.

This is Liberal legislation. I voted for it. On March 22, 2005, Anne McLellan, the then minister of public safety and emergency preparedness, appeared before our subcommittee. On March 23, 2005 the then minister of justice appeared before our subcommittee. In both cases they indicated that there was nothing wrong with these provisions and they urged the committee to recommend that they be continued.

In the new Parliament on November 16, 2005, the then minister of justice and the then minister of public safety Anne McLellan, appeared and advised us again that we should extend these provisions. On June 21, 2006 the minister of justice and the minister of public safety of the current Conservative government appeared and said the same thing. In fact, one would have thought they were reading the same speech prepared by the same bureaucrats notwithstanding that they were different governments.

This is the evidence that we heard. Given that, we have four arguments, as I see it, not to extend. Some would argue that these provisions are contrary to the charter. I simply dismiss that argument. It is simply not a valid argument. The provisions have been found to be constitutional. In fact that is what the ministers of justice told us. We have been told that they are not used. If these are sunsetted, then they are gone.

My recollection of history is that the sunsetting clauses were put in because there was great fear that these sections might be abused. Not only have they not been abused, they have not even been used, but that does not mean that they might not be used in the future. As one of my colleagues said in caucus last week, just because he has not had an accident and deployed his airbags does not mean that he is going to take the airbags out of his car. I could not agree with him more.

Some would say that the provisions are not needed any more. I would ask on what basis does someone make that statement? All of the people who have access to top secret information in this country, law enforcement officers, the ministers of the Crown of both the Liberal and Conservative governments, top bureaucrats dealing with CSIS and CSE and all of those organizations, urged us not to sunset these clauses. They are the people with the knowledge that we do not have. They are the people who have top secret clearance and get to see things that we do not.

I ask those who say that these provisions are no longer needed, what is the evidence upon which they base that argument, especially in the face of our committee specifically hearing time and again from people with the highest clearance possible that in order to protect this country, these clauses should not be allowed to sunset.

I do not say they are perfect and that is why our committee issued an interim report urging the government to consider certain amendments. These sections are going to sunset. If they sunset, they cannot be fixed. Yes, we can bring back legislation later on; to try to bring them back in a fixed form is entirely possible, but it is very difficult for me to comprehend why we would be told by those who have information to which we can only possibly guess that these sections should not sunsetted. It is difficult for me to understand why we would allow them to sunset.

It is a very difficult area. Someone else in my caucus said that this is an issue where reasonable people can reasonably disagree on an issue. I agree with that, but I have to look at the people who have the knowledge. They are the people who have top secret information and they have told us that these sections are required to protect our country.

What else can I say in contributing to the debate other than those observations.

● (1740)

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Mr. Speaker, first of all, I would like to point out that I sat on the same committee as the hon. member for Scarborough Southwest. He has worked exceptionally hard, which must be recognized. The other committee members also recognize his hard work. At long last, there was a committee that managed to work beyond party politics, and that tried to find the best possible balance between respecting rights and the effectiveness of measures taken.

However, that is precisely one area on which we could not agree. I will nevertheless ask my hon. colleague the following.

Is it not surprising that, not only were these measures not used, but that no one could give us an example of a case in which they could have been used? No one was able to explain to us how these measures could have prevented terrorist acts that have already been committed.

In my opinion, when new legislation is proposed, as this was in 2005, the burden of proof lies with those who are proposing new measures that go against the Charter, for example, or at least against current judicial rules. It is up to them to demonstrate that those measures can in fact be useful.

As I was saying earlier, this legislation is so poorly written and so complicated that no one has the knowledge or the time to study it and pass judgment. In fact, the debate is precisely on a matter of trust, as the hon. member for Scarborough Southwest pointed out.

Statutory Order

Do we trust those who are saying they need it or do we trust those who are defending individual rights, such as the university professors who have studied this and who are saying it is dangerous? Again, I believe the onus should be on those who are proposing to maintain an exceptional measure in our law.

● (1745)

[*English*]

Mr. Tom Wappel: Mr. Speaker, the hon. member, who was a member of the original committee in December 2004, has been on the committee throughout that time. In my opinion, he has contributed invaluable work, not only for the positive suggestions that he has made but for asking questions just as he did. If we do not have questions like that, then we do not advance the debate, dig deeper or burrow down and find out the answers.

Contrary to what he says, one of the examples that was given of the potential use of investigative hearings was in the context of the Air-India debate. I am not talking about what has transpired in the last couple of weeks. I am talking about long ago when the RCMP was still investigating. We were told that it was contemplated but that for a variety of reasons it was decided it would not be used. That would be a example of the kind of technique that would have been put in place at that time and a concrete example of what it could have been used for.

However, the answer we have been given is along the lines of what my colleague from Scarborough—Guildwood was talking about, and that is to try to prevent something from occurring as opposed to doing something about something that has occurred. The whole idea is to have a range of tools that the police can use in a situation where there are reasonable grounds to believe that something has happened but not enough perhaps to get a warrant or enough to pull someone off the street.

One of the arguments that was advanced by the previous Liberal minister of public safety was that just because it has not been used, who is to say that it has not been effective. Perhaps simply because it is on the books it has been effective.

Hon. Irwin Cotler (Mount Royal, Lib.): Mr. Speaker, on October 15, 2001, in the immediate aftermath of 9/11, the Liberal government at the time introduced Bill C-36. The then minister of justice and attorney general, Anne McLellan spoke in support of that legislation, including the two provisions that were not then but are now the subject of sunsetting clauses.

I rose in the House at the time and expressed the view that I had 10 civil libertarian areas of concern with the proposed legislation and which included the two provisions at issue, on which I elaborated subsequently in speeches and in an article thereafter in the *14 National Journal of Constitutional Law* entitled, “Terrorism, Security and Rights: the Dilemma of Democracy”.

In discussions with the minister and government at the time, I made certain recommendations regarding these areas of concern. While I remain still concerned about certain provisions of the bill, such as the definition of terrorism itself, an aspect of which was recently invalidated by the courts, citing, as it happens, my article at the time, I ended up supporting the bill because the government amended the proposed legislation in many of these area of concern, though I still maintained certain reservations about it as set forth in the article.

Among the amendments I proposed and which the government accepted was that these two provisions at issue be sunsetted after three years, which has now stretched into five, and pending parliamentary review of these provisions.

I am of the view today that these provisions do have provision for executive oversight, as in the requirement for consent of the attorney general, for parliamentary oversight, as in the requirement for annual reports from both the federal and provincial ministers concerned at Parliament and the provincial legislatures, and a judicial oversight to judicial review. The Supreme Court, as has been mentioned before in the House in the matter of investigative hearings, has held these provisions to be constitutional.

Indeed, the sunset provisions may be said to comply with the charter and are not otherwise unknown in Canadian law. For example, preventive arrest is effectively the invocation of a peace bond process set forth in section 810 of the Criminal Code, which has been used to protect against criminal violence, such as domestic violence, sexual violence and organized crime, and extends it now to suspected terrorist activities.

Similarly, the investigative hearings are not unknown in Canadian law. We can find it under the Coroners Act, the Inquiries Act, in section 545 of the Criminal Code and I can go on. All that is also set forth at length in my article respecting those two provisions at the time.

It is not surprising then that five years later reasonable people can and do reasonably agree on the import and impact of these provisions. We can take the view to agree or disagree. We can take the view, as many in my party do, that since the provisions were not used, they are therefore not needed. Or, we can take the position, as I have, that since they have not been used this demonstrates that they have not been abused and that they in fact may be needed.

That is why, while I initially proposed that these clauses be sunsetted subject to parliamentary review, following the experience of the last five years, as I have just summarized, and my own experience as minister of justice and attorney general, I now favour their extension. However, as I have said, this is a position on which reasonable people can and do reasonably disagree.

I regret, therefore, that the government is proposing the extension without taking the views of these parliamentary committees into account in the House and the Senate. I regret that reference was made to a prospective investigative hearing impugning thereby the reputation of a member of the House and undermining thereby the integrity and the independence of that very inquiry itself, and seeking to link it to a debate on the sunsetting of these provisions.

Indeed, even if we support the extension of these provisions, as I do with certain safeguards and after parliamentary review, this prejudicial invocation was inappropriate, irrelevant to this debate and wrong. I regret the references made by ministers of the crown that our party is "soft on terrorism". That is to politicize the debate, which should be addressed on the merits, and convert a debate on which reasonable people can and do reasonably disagree into one of bumper sticker slogans and smears.

● (1750)

Accordingly, for those reasons I cannot support the government's motion. It has been proposed without the benefit of parliamentary review on appropriate safeguards and it has been advanced in a politicized and prejudicial fashion.

At the same time, I would support the extension of these provisions with appropriate safeguards after parliamentary review at the appropriate time. My position for now and for those who will now follow is that of a principled abstention.

Since the court's decisions regarding the definition of the Anti-terrorism Act need to be revisited; since the Security of Information Act has also had provisions quashed; since the Supreme Court of Canada has now unanimously invalidated the provisions of the Immigration and Refugee Protection Act that deny the named person on a security certificate the right to due process, the right to a fair hearing, the right to know the information against him or her and be able to answer and rebut the charges; since the Supreme Court has suspended the impugned provisions for a year; since the question of deportation to a country where there is a substantial risk of torture is otherwise before the court; since, elsewhere and during the period that I was minister of justice, the whole question of the security certificate regime puts us in a Hobson's choice of having to either deport to a country where there is a substantial risk of torture on the one hand, which I said as minister that I would never support, or prolong detention on the other, aspects of which have now been invalidated by the court; and since the security certificate regime scheme needs to be revisited because of this Hobson's choice; therefore, given the need for a comprehensive look at the entirety of our anti-terrorism law and policy, which includes not only Bill C-36 but the Security of Information Act, the Immigration and Refugee Protection Act, the provisions in the Canada Evidence Act and a whole holistic approach to anti-terrorism law and policy review, I cannot support the government's motion at this time.

However, I trust that we can have a principled discussion and debate with respect to the whole question of anti-terrorism law and policy that does not end up being a politicized and prejudicial debate, but one in which we can arrive at an all party agreement, both as a matter of principle and as a matter of policy.

● (1755)

Mr. Ken Epp (Edmonton—Sherwood Park, CPC): Mr. Speaker, I have a very short question for the member.

He used the word principled on a number of occasions. I think that we all agree in this place that when one acts on principle, one acts unselfishly and to the best of his or her ability for the benefit of others in our society, especially those of us who are working in this place.

The member, earlier in his speech, said that he believed these provisions should be retained. Now he is saying that on principle he will be abstaining. To me, that is sort of an internal contradiction. I would like him to explain that, please.

Hon. Irwin Cotler: Mr. Speaker, as I said, I initially proposed that these provisions be sunsetted and subject to parliamentary review. I will quote from that article, which I did not wish to do in my opening remarks. It states:

> It would appear, therefore, that an important oversight mechanism to determine both a justification for, and efficacy of, this novel procedure—

—i.e. preventive arrests and investigative hearings—

> —is to subject it to a full sunset clause, thereby allowing for reassessment—and re-enactment where it has proven itself—after some three years time; as well, the federal Attorney General...and their provincial counterparts—are required to report annually on these enforcement mechanisms. The Committee on Justice and Human Rights should exercise its oversight capacity respecting these annual reports and make appropriate recommendations where necessary.

I wrote that close to five years ago. I still maintain that exact same position. The only change is that with the experience of the last five years, I am now prepared to support an extension, pending parliamentary review and pending the safeguards. I am exactly where I was initially. I proposed that they be sunsetted subject to parliamentary review and appropriate safeguards. I say now that I would support them pursuant to parliamentary review and appropriate safeguards.

My position remains the same as it was then. I believe it is a principled expression as set forth in the article and as I have tried to demonstrate today.

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Mr. Speaker, we know about the previous speaker's past. The hon. member for Mount Royal and I were very idealistic in our youth. We associated with people who fought against injustice. Some of the people I associated with may have chosen to embrace not a peaceful solution, but a violent solution. When it comes to obtaining security information, relationships between people can be reasonable grounds to think that we may have been their accomplices once, when nothing could be further from the truth. This could happen to our children.

If one of children were suspected of this and was compelled to testify before a judge, he would probably agree to sign the recognizance in question. What would happen to his travel opportunities, now that he is labelled by a legal ruling for signing a recognizance under antiterrorist legislation? Could he travel by plane to the United States? Could he cross many borders? Will this help or hinder him when he looks for a job? Perhaps his talents would allow him, as was the case for the previous speaker and me, to succeed in private practice. You can see how dangerous this can be. Compared to the real risk that a government would abuse this, let us look at the benefits of these measures. No one can say—

● (1800)

The Acting Speaker (Mr. Andrew Scheer): The hon. member for Mount Royal has the floor.

Statutory Order

Hon. Irwin Cotler (Mount Royal, Lib.): Mr. Speaker, as the member said, we were all working towards a common goal, which I would define as the pursuit of justice.

Regarding the relationship between protecting security and protecting human rights, I think the relationship must be based on the principle of protecting human security. There are two approaches to this. The first is to see terrorist attacks—particularly those committed by international terrorists—as attacks on the security of our democracy and on our individual and collective rights to life, security and protection of freedom. However, the application of the Anti-terrorism Act and of anti-terrorism policy must still work with the rule of law, with the Canadian Charter of Rights and Freedoms, and with the principles of human rights.

[*English*]

Mr. Bill Siksay (Burnaby—Douglas, NDP): Mr. Speaker, I am pleased to have the opportunity to speak in this debate on the sunsetting of two of the most serious provisions of the anti-terrorism legislation passed in this place a number of years ago after the events of September 11.

The two provisions we are discussing are I think two of the most far-reaching provisions of that anti-terrorism legislation. They call for investigative hearings of material witnesses in terror cases, and also there is the question of preventive arrest without bail for 72 hours. These were two of the most controversial and perhaps most dangerous provisions of the Anti-terrorism Act.

I think it was because of this that parliamentarians of the day, often spurred by representatives of the New Democratic Party, added the sunset provision. In particular, I want to pay tribute to the MP for Elmwood—Transcona, who was key in that debate. Because of the concern about those provisions in particular and how they upset due process and challenged civil liberties in Canada, the provision for a sunset after five years was added. Now we are up against the timing of that sunsetting of these two provisions.

I am pleased that in this corner of the House we remain consistent on these issues. We opposed these provisions at the time they were debated in this House and included in the Anti-terrorism Act and we continue to oppose them today. We see them as fundamentally problematic and cannot support their continuation, even for a shorter period of time.

As I begin, I want to remind members of the House and those who might be watching of the atmosphere that surrounded legislatures in the west after the events of September 11 in New York City and in Washington, D.C. For me, one of the key interventions in that debate was that of representative Barbara Lee, the only American federal politician to vote against the emergency measures introduced in Congress after September 11.

I think it was a very brave stance that representative Lee took at that time. It was very brave to stand in a vote that was 420 to 1 in the House of Representatives. A similar vote in the Senate was 98 to 0. She put herself on the line to say there was another way, to say that draconian measures, and in the case of the United States military action, were not the appropriate response, that they were not the only response to the situation that had presented itself, to the tragedy and the terrible loss of life that happened in the United States.

In her speech on the resolutions before Congress at the time, she quoted a member of the clergy. This has been attributed to her on many occasions, but I think she was actually quoting a clergyperson who said "as we act, let us not become the evil we deplore". I think that characterizes the atmosphere and the difficulty that all legislators faced after those tragic events on September 11.

How do we keep in perspective the situation that presented itself there? How do we keep in perspective the fundamental values of our society when we are up against the evil of a terrorist act such as we witnessed on that day? I think we have to very careful that we do not let terrorism win by compromising our fundamental values. I fear that in the case of these two particular amendments that are sunsetting shortly, hopefully, that was in some sense what was happening even in this House.

The anti-terrorism legislation and these two particular clauses were I think very difficult in terms of protecting civil liberties in Canada, in terms of respecting the charter. I know that some of them have been tested in the courts, but I think I can still hold the opinion that they are a fundamental affront to civil liberties and the basic principles of fundamental justice in Canada.

● (1805)

I know that in particular communities there has been particular concern about the effect of that legislation and of these clauses, and I want to quote what I believe is another important moment in the discussion around these kinds of measures. I will quote from an address by Dr. Tyseer Aboulnasr from the University of Ottawa, who spoke several weeks ago on here the Hill at an event to mark the contributions of Monia Mazigh and Maher Arar.

Let me quote what she said at that time. I think it is very important and apropos to the current discussion. She stated:

> Friends, let us never forget that nations are not judged by the laws they write up and lock up in libraries, nations are judged by how they act at times when their dedication to these laws [is] truly tested. Every country that has chosen to sacrifice the liberties of its citizens and hold them in shackles has done that out of belief that this is necessary for its security. We, Canadians, know better. We know that security without liberty is simply imprisonment. Nothing is more secure than a maximum security prison. We deserve better. We cannot let Canada turn into a maximum security prison by imprisoning one Canadian without the presumption of innocence till proven guilty and without the full opportunity to defend themselves.

That is the end of the quote, but I think it is a very crucial addition to the discussion we are having today.

Do we have ultimate respect for the system we have put in place, for the fundamentals of that system, for the kind of justice that is meted out in Canada, or do we believe we need to suspend those rules in the face of those who would seek to terrorize Canada? I fundamentally believe that we do not need to go down that road and that we can have ultimate respect and faith in the system we have put in place without special measures like the two clauses we are discussing today.

I am glad we have the opportunity to discuss these clauses. They were particularly problematic clauses of the anti-terrorism legislation. I am glad there was consent to include this sunset, but again, I think that shows how deeply parliamentarians were concerned about these two particular provisions and why there was agreement to have this sunset clause included in the anti-terrorism legislation.

Whenever we move to undo civil liberties and the key processes of our justice system, I think we must have, at minimum, that protection. Whereas I do not believe these clauses were necessary and certainly in this corner of the House we argued against them at the time, I am relieved that we have the opportunity to review them in this way today here in the House.

There is a significant question about whether these kinds of clauses are even necessary. I believe they are already covered by the existing Criminal Code of Canada and the Criminal Code amendments made at the time of the Anti-terrorism Act.

I want to quote from a report by the member for Windsor—Tecumseh, the NDP justice and public safety critic, who addressed the issue about the need for these measures. He stated:

> There is no act of terrorism that is not already a criminal offence punishable by the most stringent penalties under the Criminal Code. This is obviously the case for premeditated, cold-blooded murders; however, it is also true of the destruction of major infrastructures.
>
> Moreover, when judges exercise their discretion during sentencing, they will consider the terrorists' motive as an aggravating factor. They will find that the potential for rehabilitation is very low, that the risk of recidivism is very high and that deterrence and denunciation are grounds for stiffer sentencing. This is what they have always done in the past and there is no reason to think they will do differently in the future.

My colleague from Windsor—Tecumseh points out very clearly that none of the offences related to terrorism are dealt with lightly by the existing criminal law in Canada. The Criminal Code would treat any matter related to terrorism very severely. There is no doubt about that in our Criminal Code.

I do not think anyone in this place can imagine that anyone in the justice system would look upon those kinds of crimes lightly or that anyone in drafting our Criminal Code would suggest that there would be any light penalty for those kinds of actions. That is already part of our Criminal Code. I do not think that we specifically need these particular provisions.

● (1810)

I fear that when we make for exceptional circumstances, for the suspension of our basic process and basic civil liberties in Canada, we often get to the point where we use those kinds of laws. We may think that we are above doing that, but our own history has shown that we are not above using those kinds of measures at a time of panic and trouble. One of the best examples was the internment of Japanese during the second world war. Hundreds of thousands of people were removed from their homes and sent to the interior of Canada without probably good reason. In fact, we had to apologize appropriately for that and pay compensation for the internments. That was a very sad part of our history, a time when very draconian measures were taken, I believe without cause and inappropriately so, against Canadian citizens.

I worry that when this kind of measure is on the books in Canada, that despite our best intentions, our intentions of respecting civil liberties and due process, that at some point we may opt to exercise those and suspend those liberties inappropriately.

I also look to the experience of the War Measures Act in the early 1970s. Hundreds of people in Quebec were rounded up and detained, never to be charged. We know the extent of what happened at that time in Quebec was limited to a small group of people who could have been charged effectively under provisions of the existing Criminal Code. Yet hundreds of other people were caught up in a moment of panic and concern about what was happening in the country at the time.

A piece of legislation was used that I am sure most Canadians never thought would have to be used. Most Canadians were concerned about the use of that kind of legislation. I am glad the CCF and New Democrats spoke strongly against the imposition of those kinds of measures at the time. Again, it seems that we have attempted to be consistent in our concerns about the suspension of civil liberties and the use of those kinds of draconian measures.

It is crucial to remember that we cannot say we will never use those kinds of measures, that we need them as fail-safe measures. Our own history has shown that too often we have been prepared to sacrifice civil liberties for no appropriately good cause in the end.

I think it is clear that the current Criminal Code has similar provisions to the two clauses we are talking about now. The clause regarding preventive arrest is dealt with in a number of places in our law, particularly in section 495 of the Criminal Code, which states that a peace officer may arrest without warrant a person who on reasonable grounds he believes is about to commit an indictable offence. The provision says that the arrested person must then be brought before a judge who may impose the same conditions as those that could be imposed under the Anti-terrorism Act. The judge may even refuse bail if he believes the person's release might jeopardize public safety.

The current Criminal Code has this kind of provision around preventive arrest, but it does so without suspending civil liberties and due process and remains a part of the tested and honoured traditions of our justice system.

The other clause we are discussing is around investigative hearings. Some people say that section 810 of the Criminal Code also deals with this. This section states:

> An information may be laid before a justice by or on behalf of any person who fears on reasonable grounds that another person will cause personal injury to him or her or to his or her spouse or common-law partner or child or will damage his or her property.

The other person is then summoned, and not arrested, before a judge who can then order the person to enter into a recognizance to keep the peace and be of good behaviour for any period that does not exceed 12 months, and comply with such other reasonable conditions prescribed in their recognizance. The judge cannot commit that person to a prison term unless the person refuses to sign the recognizance. That is another provision.

● (1815)

In our current Criminal Code such provisions already exist within the given circumstances of the existing law and process. On that basis, I really have even further trouble supporting the extension of these two clauses.

Last Friday, the Supreme Court handed down an important decision that goes to some of the same issues. It was decision on the security certificates. In the unanimous decision the court made it clear that there was a serious problem with the security certificate provisions of the Immigration and Refugee Protection Act in the way they suspended the accused's right to know the evidence against him or her and to test that evidence in court. The court suspended the provisions for a year to give Parliament the opportunity to take action to fix this serious problem. This drives home the problems that exist when these kinds of special measures to deal with perceived problems of terrorism or perhaps organized crime are introduced.

The question of secret evidence goes as a fundamental departure from due process in our justice system. I was pleased to hear that the court recognized this very clearly in its ruling.

The other fundamental problem with the security certificate intention is that deportation to face torture or death can also be contemplated. There is no excuse for ever deporting someone to face torture or death. Canada would be violating many of its international commitments if we ever took that kind of action.

The security certificate process is fundamentally flawed in many ways. This is driven home as well by the fact that three people are presently being held at the Kingston Immigration Holding Center on security certificates. They are participating in a hunger strike. This hunger strike has gone on for 83 days, a very serious length of time. It is about the conditions of detention at Kingston. It is about the lack of an appropriate grievance procedure. It is about the inability to do appropriate religious practice. It is about the inability to have private family visits. This hunger strike is about many important issues relating to the conditions of detention in that place. I am concerned for the condition of the men being held there.

Some of these men have existing health problems that make a hunger strike even more dangerous to their health. Hunger strikes that last over 49 days are considered a risk for permanent damage to one's health or even death. At 83 days, these hunger strikes have gone on well beyond that point. Still there has been no action by the government to find an end to the strikes, or to find a resolution to some of the issues that have been raised.

The Standing Committee on Citizenship and Immigration and ultimately the House have put forward a reasonable solution to the government. We have been calling on the government to appoint the correctional investigator to act as the ombudsperson in this case and to find a solution in exactly the same way he does for anyone incarcerated in a federal penitentiary. Given the majority vote in the House and given the fact that it provides an appropriate way out of this terrible dilemma for the government, I urge it to move on this without any further delay. I fear someone will die on the government's watch if action is not taken.

Indefinite detention without charge or conviction has no place in Canada. Some have suggested that the use of a special advocate would overcome that. It has been proven in the UK that special advocates cannot abide by the process because it is such a fundamental departure from due process and the principles of fundamental justice, and many of them have resigned.

My concerns about these clauses are very significant indeed.

● (1820)

Mr. Ken Epp (Edmonton—Sherwood Park, CPC): Mr. Speaker, I appreciate the thoughtful presentation of hon. member. I disagree with his conclusion, but I appreciate the solemnity of the presentation.

It seems to me that there are some times when civil rights, as we are talking about these days, kind of collide with the larger rights. To me, the ultimate right is to be able to walk on the streets and roads of our country, to have safety in my home, to not fear that I will be murdered, attacked, robbed, et cetera, which comes under that wide system of justice.

These days we are rather consumed with the wholesale murder of many people through terrorist acts. I know there is a balance to be reached. I love my freedom, but there are some freedoms which I suppose I would be willing to give up in order to enhance my personal safety and the safety of my family, my friends and in fact all Canadians.

Perhaps the balance in this debate has been skewed somewhat where the rights and freedoms of individuals, though they are to be protected and defended, are perhaps taken to the point where we put ourselves as a society and a country at risk for terrorism attacks.

Could the member comment on that?

Mr. Bill Siksay: Mr. Speaker, as I pointed out in my speech, I believe any of the actions that might be part of terrorist activity are already covered very effectively in the Criminal Code. We know any activity related to terrorism or even plotting those kinds of activities is illegal and subject to severe punishment. There is no deficiency that would merit suspending basic civil rights, due process and interfering with the way our justice system operates to protect us from the possibility of terrorist activity.

We need to provide our police and intelligence agencies with the resources they need to do the job we require of them, to investigate issues around terrorism or organized crime for that matter. We need to ensure they have the resources they need to do those jobs appropriately and effectively. I do not think they need these extra provisions outside of what is already in the Criminal Code, outside of what is available in their usual process around investigation and toward laying charges.

We need to ensure that our police and intelligence agencies are cooperating. We know in the most difficult example of terrorism to face Canada, the Air-India bombing, there was a real problem in the investigation of this terrible tragedy where so many Canadians and others died.

We know the RCMP and CSIS had difficulty working together. Because of that there were very serious problems with the investigation and ultimately with the case that was presented against people who were ultimately charged after a considerable period. We know too that our police and intelligence agencies did not have the ability to do the kind of investigations they needed to do. For instance, they did not have the language capacity to do the important work.

This is not a matter of having all the new bells and whistles and the fancy technology of the intelligence system, the kind of James Bond and science fiction of intelligence work. It is a matter of having people on the ground, people who have very basic abilities such as language and to find the appropriate connections and basic investigative work to ensure the safety of Canadians in these circumstances.

This has been missing in the past. It has been so clearly proven to have been missing in the past in our approach to dealing with terrorism in Canada.

The clauses we are debating today have never been used. That should say something about how crucial they have been in protecting Canadians from acts of terrorism. Even in the circumstances where people have been alleged to be participating in some kind of terrorist activity, the provisions were not used. The Criminal Code was used in those circumstances.

Therefore, I am not prepared to say that we should compromise civil liberties to protect ourselves from terrorism. I believe our criminal justice system already has the ability to do that and it should be engaged fully. We should ensure that our police and security intelligence agencies have the ability to do the job that needs to be done around these kinds of issues.

● (1825)

[*Translation*]

Hon. Mauril Bélanger (Ottawa—Vanier, Lib.): Mr. Speaker, I would like to use the remaining three or four minutes to make some comments, rather than ask a question, since this member has already been asked several questions. I understand that I must leave time for my colleague to respond.

Five years ago, the day after the terrorist attacks, I was in this House and I participated in the debate on the bill. At that time, some members showed an obvious desire to create sunset clauses. We decided then that it would be necessary to demonstrate a need to use them. We were going through a rather tough, difficult and unique time. Law enforcement officials and government agencies answered the government's call to put forth measures that could be helpful.

Among the multitude of measures, some were problematic; however, as legislators, we were not sure. Both chambers agreed to provide for a five-year period to establish that these clauses were necessary. We can definitely say that they have not proven to be necessary; on the contrary, they were never used. At present, government supporters are saying that we have flip-flopped and changed our minds, but that is not at all the case. We are being consistent. We were the ones who saw the need to introduce sunset clauses. In no way do I accept this attempt to make tomorrow night's vote a partisan game.

We have also learned from our mistakes, because that is what we all must do, I would hope. In the past few years, we realized what had to be done. We also strengthened our rule of law and our police forces and we invested billions of dollars in security. These clauses do not really seem to be necessary. I would like to know if my colleague agrees with me, given that the need for these two sunset clauses being debated today has not been proven. To be consistent, we must vote against extending these clauses today or tomorrow.

[*English*]

Mr. Bill Siksay: Mr. Speaker, I suspect I only have a few brief seconds to respond.

I appreciate that this was not done lightly by Parliament after the events of September 11. I know that many members worked long and hard on this and listened carefully to many opinions.

I am glad that at the time at the very minimum, parliamentarians chose to include the sunset of these two particular clauses.

I would like to remind all members of Parliament that one of those opinions in this place was that these measures went too far. Certainly the NDP put forward that position, that these kinds of measures were ultimately unnecessary.

I think our experience has proven that is true. They have never been used. There was one attempt but ultimately, it was not used. I think we now know that the Criminal Code of Canada deals with these kinds of situations effectively. I think that is the way we need to go. We need to make sure that the Criminal Code in that process is effective.

● (1830)

The Acting Speaker (Mr. Royal Galipeau): It being 6:30 p.m., pursuant to order made on Thursday, February 22, 2007, all questions necessary to dispose of the motion now before the House are deemed put and the recorded division deemed requested and deferred until Tuesday, February 27, 2007 at 5:30 p.m.

ADJOURNMENT PROCEEDINGS

A motion to adjourn the House under Standing Order 38 deemed to have been moved.

[*English*]

FOREIGN AFFAIRS

Hon. Dan McTeague (Pickering—Scarborough East, Lib.): Mr. Speaker, I want a response to my question of February 19. When responding to my question on the wrongful imprisonment of Ms. Brenda Martin, the Minister of Foreign Affairs said that his department “waived the embassy's standard fee that was normally applied in cases like this”. What was the minister talking about? I have absolutely no idea what the minister was referring to. Obviously he did not understand my question. It had nothing to do with fees being charged or waived. Quite frankly, I also do not think many Canadians in Ms. Martin's predicament would be impressed to hear the minister's largesse in waiving departmental service fees, especially if their lives were indeed at risk.

Canada has access, as I demonstrated that day, to the affidavit. It is important that the government get it and that it be deposited with the Mexicans. It really is quite simple. It just needs a bit of leadership.

The Mexican court appears to be playing Ms. Martin for a patsy. The Canadian government can protest to the Mexican government when justice is being denied. This is not interference. It is very much within the right of Canada to do so.

What is equally disturbing about her imprisonment is that the Mexican deputy police chief was released in less than a week last year, a person who had a role in the fraud scheme, while the chef to the mastermind who is cleared of any involvement by a death bed affidavit, still remains in a Mexican prison one year later.

Brenda Martin's mother is also not very impressed with the lack of contact and information she received from the Minister of Foreign Affairs and from officials. Quite to the contrary to the minister's reply that day to my question when he alluded to being in contact with members of the Martin family, Ms. Martin's mother appears to suggest that was not the case. So, is the mother wrong or is the minister?

Is it too much to ask the minister to get the appropriate affidavit to the Mexican authorities and get Brenda Martin out of prison now, or does the minister want to get paid for something first? Brenda is down to 100 pounds. She is physically ill and is mentally distraught. Does the minister intend to help this woman before she ends up dead?

There are a number of other cases that we should be bringing to bear this evening. There are other Canadians this evening who are in dire need. Mr. el-Attar in Egypt has been accused of spying for Israel. He said he has been subjected to torture. There is the ongoing case of Mr. Celil. We now learn from reports from the Uygur community that the Canadian government suggested that if they want some help in the Celil case, get a lawyer, pay $12,000 and that will help the situation.

With all the photo ops with the Mexican leadership, Canada's foreign affairs minister is no further along in bringing justice to those responsible for the murder of Nancy and Domenic Ianiero. Two women in Thunder Bay live in fear by Canada's inability to convince Mexicans that they were not the ones who killed the Ianieros.

Last week the Minister of Foreign Affairs and the Minister of Public Safety had a golden opportunity to meet with their counterparts, the ministers responsible from Mexico. They could have easily raised the several issues with Mexico. There are obviously many to discuss. I want to point out these are not the only cases that could have been raised.

An affidavit to the Mexican authorities last Thursday could have possibly seen the release of Ms. Martin here and now. It could have also gone a long way in dealing with some of the other issues. Mr. Peter Kimber has been detained in Mexico for over two years in a civil matter. The question is, is it a miscarriage of justice? There are questions now about an unknown minor who is in Texas. We should be looking at these cases as well.

The government is not standing up for Canadians. Conservatives seem to be standing up for their own rhetoric.

● (1835)

Hon. Helena Guergis (Secretary of State (Foreign Affairs and International Trade) (Sport), CPC): Mr. Speaker, I would like to thank the hon. member for Pickering—Scarborough East for raising this case.

As the member knows full well, when Canadian citizens find themselves detained or imprisoned abroad, the Government of Canada has a responsibility to ensure that they are treated fairly and afforded due process. While the member opposite attempts to get his face on television at every possible chance to extol his supposed knowledge, the officials at the Department of Foreign Affairs and International Trade use every opportunity available to them to assist their fellow Canadians who find themselves in distress.

Ms. Martin's case has been accorded the same high level of importance and professionalism that we give to all consular cases. Her situation is well known to our consular staff in Mexico and they have provided her with consular assistance from the moment her case was brought to their attention in February 2006.

Consular staff in Ottawa, Mexico and Guadalajara have been and continue to be very active on this case. Our officials have visited her in prison on several occasions. They have maintained regular contact with her family, facilitated the transfer of funds and liaised with Mexican officials in regard to her case.

As the member also knows, when a Canadian is arrested outside of Canada, he or she is subject to the laws and regulations of the host country. The Government of Canada cannot influence the judicial process of a sovereign nation, just as we would not allow another country to attempt to influence our judiciary. We must always work within the judicial system of the country in question and find a means to assist Canadians.

As the hon. member knows, despite his blustering and media based motives, Canada cannot get directly involved in legal matters concerning Canadians arrested or detained abroad. The hon. member does not have to take my word for it. He could listen to his parliamentary neighbour, the Liberal member for Scarborough—Agincourt, who said on February 12, 2007 in the *Toronto Star*:

> Foreign Affairs and its consular affairs bureau have no authority to investigate crimes in another country, just as foreign police have no authority in cases under domestic investigation in Canada.

However, we can confirm that Ms. Martin has legal counsel who will represent her case within the Mexican legal system.

If the hon. member for Pickering—Scarborough East has in his possession legal and authenticated documents that could help Ms. Martin as he suggested in his question, I would urge him not to play politics with Ms. Martin's life. He should not delay the dispatch of these important documents to play political games in this House. Rather he should deliver them to the consular affairs bureau of the Department of Foreign Affairs and International Trade so that they may be sent to Ms. Martin's legal counsel in Mexico, or perhaps he could even give them to me. I cannot for the life of me understand why he would hold on to them for so long.

That being said, he should be aware that the documents may not be accepted by the Mexican legal system if they are not deemed to have been obtained through proper legal and administrative channels.

Over the last many weeks the member and others in his caucus have played fast and loose with the lives of Canadians who are subject to foreign legal systems. Despite his political game playing, this government takes its consular matters very seriously. When Canadians need help and the hon. member's first response is to go on television, Canadians should watch out. They can rest assured that while he is talking the talk, it is our officials who are walking the walk.

While the member wishes to play politics, I wish to assure the House that the Department of Foreign Affairs affords Ms. Martin's case its highest priority. We will do everything possible within our power to assist in her situation.

While the party opposite has a track record of 13 years of silence and inaction, this government already has a reputation for getting things done.

Hon. Dan McTeague: Mr. Speaker, I am glad the hon. member who is now a minister had an opportunity to read her points, because frankly that party has never done anything for a Canadian abroad. I will put my reputation against any member of that party in terms of getting Canadians out of harm's way.

I will take the hon. member's advice and provide her, if she wishes, with the affidavit that she is looking for to expedite the case of Brenda Martin. I also want to allow the member an opportunity to understand that it is incumbent upon her in her new role to ensure that when Canadians need to access their Canadian government in times of distress that the minister does not take off for a vacation for four of five days, and then comes back and says that he has been in touch with the department, as we saw in Lebanon, or fails Canadians consistently as the government has done with respect to Mr. Celil, when the Prime Minister himself refused to raise it when he was in St. Petersburg.

The Liberal Party and this member have a track record. The Conservatives may not like it. They may think this is a question that should not be dealt with in the media, but the facts speak for themselves.

● (1840)

Hon. Helena Guergis: Mr. Speaker, I will remind the hon. member that we are in regular contact with Ms. Martin and are offering her consular assistance.

I am happy to take the documents from him, as I have said tonight. I am not sure again why he has held on to them for so long. If it is such an important case to him, I do not know why he would hold on to those documents for so long, and I am happy to assist.

Just to comment on the case of Mr. Celil, as he did, I need to point out that the World Uyghur Congress has applauded the Prime Minister for the work that he has done with respect to standing up for Mr. Celil's human rights. The World Uyghur Congress has called upon the Liberals and all the opposition members in the House to follow the Prime Minister's lead with respect to Mr. Celil.

I suggest the hon. member stop playing politics with such important issues and with the lives of so many Canadians.

[*Translation*]

GOVERNMENT APPOINTMENTS

Mr. Richard Nadeau (Gatineau, BQ): Mr. Speaker, I rise to speak today about a question that was asked in this House about government appointments.

For years, the Conservatives criticized the Liberals' partisan appointments. Now that they are in power, the Conservatives are proving to be Liberal clones, constantly appointing friends of the party to government positions.

The recent appointment of Raminder Gill to the citizenship court is a good example. This Conservative candidate, who was defeated in 2006 in Mississauga-Streetsville, is leaving the way clear for the most recent Liberal defector to the Conservatives.

On March 23, 2006, the Prime Minister said this, “Political appointments and cronyism had eroded staff morale and damaged the public’s perception of the institution, which many suspected had become corrupt and a haven for patronage...Our new public appointments commission will...ensure that qualified people are appointed based on a fair process—”

Yet on February 12, 2007, we learned that 16 of the 33 judicial selection committee members appointed by the current government are affiliated in some way with the Conservative Party. For example, two of the appointees are Mark Bettens, a firefighter from Nova Scotia who is a twice-defeated Conservative candidate, and Johanne Desjardins, a graphic artist who used to work for a former Conservative minister.

There have been plenty more examples since April 2006. Jim Gouk, a former Conservative member, was appointed to the NAV Canada board of directors. Gwyn Morgan, a former Conservative backer, was appointed to the new Public Appointments Commission. Neil Leblanc, a former Nova Scotia Conservative minister, was named Consul General in Boston. Brian Richard Bell, a Conservative organizer in New Brunswick, was appointed to the New Brunswick Court of Queen's Bench. Kerry-Lynne Findlay, the Canadian Alliance candidate for Vancouver Quadra in 2000, was appointed to the Canadian Human Rights Tribunal. Jacques Léger, a former interim president of the Progressive Conservative Party, was given a judgeship in the Superior Court of Quebec. Hermel Vienneau, Bernard Lord's former chief of staff, was named vice-president of the Atlantic Canada Opportunities Agency. Barbara Hagerman, the wife of a Prince Edward Island Conservative backroom adviser, was named Lieutenant Governor. Alexander Sosna, a Conservative candidate in 1984, and Steven Glithero, a former Conservative Party president in Cambridge, were appointed to the Superior Court of Ontario. Howard Bruce, an Alliance candidate in 2000 and the Conservative candidate for Portneuf in 2004 and 2006, was appointed to the Transportation Appeal Tribunal of Canada. Eugene Rossiter, the former president of the Progressive Conservative Island Fund, was appointed to the Tax Court of Canada. Tung Chan, a registered CPC agent in Richmond, was appointed to the Asia Pacific Foundation of Canada. Loyola Sullivan, the Newfoundland co-president of the Prime Minister's leadership bid, was named Canada's ambassador for fisheries conservation.

Then there are Kirk Sisson, a former member of the Red Deer Conservative riding association, and John David Bruce McDonald, once the chief financial officer of the Alberta Reform Party, who were appointed to the Alberta Court of Queen's Bench.

I will continue later.

● (1845)

[*English*]

Mr. Ed Komarnicki (Parliamentary Secretary to the Minister of Citizenship and Immigration, CPC): Mr. Speaker, we are talking about the process regarding the appointments of citizenship judges.

The process suggested for screening citizenship judges was originally created three years ago and intended to be a temporary one only until a new appointment process could be developed.

It was a system where one person was responsible for the entire process, where one person screened the applications, and where one person graded all the tests. This one person himself was an appointee of the former Liberal government. The question is: Where is the accountability? Surely this is not an approach providing for openness and transparency.

As I stated, that process was established in 2004 as a temporary one. To reflect our new government's commitments under the Federal Accountability Act, we are reviewing the appointment process entirely for all boards and all tribunals in the Department of Citizenship and Immigration.

This review, when completed, would create a more open and transparent system for appointments as there is currently no legislated policy in place for the appointment of citizenship judges.

The hon. Minister of Citizenship and Immigration has made it clear that she is committed to establishing a new appointment process. She has asked the senior citizenship judge, Judge Michel Simard, to provide his input in the development of a new process that is more open and transparent.

While the process is taking place, interim appointments need to be made and need to continue to be made. It is quite clear that this government is committed to transparency and accountability, unlike the previous Liberal government.

Certainly, it is interesting to see the members of the Bloc attempting to give advice on ethics and accountability in government. If they believe so strongly in government ethics and accountability, maybe they can tell us why they opposed our plan to create a public appointments commission and why they stonewalled and opposed the Federal Accountability Act.

There is no question, and we find it interesting, that while the Liberals were in power they thought only Liberals were the most qualified for appointments. Now they are out of power and they continue to feel the only qualified people are Liberals.

Contrary to the Liberal Party, we believe that government appointments should not be limited to members or supporters of a particular political party but, rather, should be made on the basis of their qualifications and abilities.

With regard to the qualifications of citizenship judge appointments that have been made, as was mentioned in the committee on citizenship and immigration, the Liberal member for Scarborough—Agincourt said:

> —certainly the résumés are great. Your remarks were fantastic and I do appreciate the fact that some of you, or all of you, are qualified. Some of you are even overqualified.

When asked if our citizenship judge appointees were qualified to do this job, senior citizenship Judge Simard said, “Yes, they are. They have been trained, and they passed the training successfully”. We want to ensure that those who occupy the positions are not only qualified and competent but are great additions to the system.

I can tell members from listening to the hearings at committee, all of the appointees have a significant contribution that they can make, they are well attached to what is happening in the immigration scene, and they are certainly welcome additions to the commission.

[*Translation*]

Mr. Richard Nadeau: Mr. Speaker, I will continue the list I started earlier: Kevin Gaudet was an organizer for the current Prime Minister; Marni Elizabeth Larkin is a former Conservative candidate; Stanley Stanford Schumacher is a former Conservative MP; Keith William Donald Poulson is the former campaign director for the current Conservative member for Winnipeg South; and Margot Ballagh has close connections to the Conservative organization in Ontario. They were all appointed to the Canada Pension Plan Review Tribunal.

In light of all these Conservative appointments since April 2006, there is not a shadow of doubt that they are not keeping their word and that they are disregarding the Accountability Act. The right wing ideology they apply in the judicial appointment process is further evidence of that. And what are we to make of appointing a senator as a minister, who was not even elected? This happened at the beginning of this government.

● (1850)

[*English*]

Mr. Ed Komarnicki: Mr. Speaker, I can say again that until a new process is determined for appointing new judges, the minster and the cabinet have full authority to appoint citizenship judges. We must fill current vacancies in boards and agencies or they will not be able to function.

The bottom line is that all appointees are qualified and competent people. They are well able and well-equipped to do their job, as confirmed by senior citizenship Judge Simard, and as shown in evidence in the committee that I am a part of.

We have heard these members. They were examined extensively in these recent appointments. It was obvious that they would do an admirable job, that they are all excellent additions to the commission and are well qualified. The system works well. They can relate to the immigration process and in combination with their extensive qualifications, they are all an invaluable addition to the commission.

EMPLOYMENT INSURANCE

Mr. Yvon Godin (Acadie—Bathurst, NDP): Mr. Speaker, on February 21 I raised a question in the House about Clearwater of Glace Bay, Nova Scotia, where hundreds of workers were locked out in June 2006. After the lockout the company closed its doors, probably because it was seasonal work, and decided not to reopen. I feel the law is very clear: if a company closes its doors, there is no lockout.

The workers decided to go to the appeal board and the appeal board agreed with the 100 workers that were locked out before the company decided to close its doors. It is not as if the company reopened and said the workers were still locked out. It said it was not reopening.

The workers won the case at the arbitration level and the government has decided to appeal that decision. I ask: How much blood does it want from the workers? The decision is very dangerous if any company in our country can say it is closing its doors after a lockout. Maybe that is what the Conservative government wants. If companies were to close their doors after a lockout, the workers would not get any money from the strike fund or employment insurance. Let us punish them twice. It is a very bad precedent that could be set.

The appeal board said no, the company closed it doors. If it did not reopen it meant that there was no longer a lockout. It is like being on strike and the company going on record to say that it will not reopen, will be closing it doors and the strike is over. That is my interpretation of it.

I have been a union representative for many years. In all the conflicts with employers, after they made a decision to close their doors, the strike was over because there was nothing left. That means that the workers now have to search for jobs and employment insurance is there to help them as they search. The company decided there was no conflict any more because it closed its doors.

That is why I put the question to the Minister of Human Resources and Social Development. He said that 83% of people get employment insurance when they lose their jobs and there is an independent process. The workers went through the independent process and the independent process agreed with the workers that if the company closed its doors, as it did, that was the fact. If the workers were still locked out, I would not be here raising the question. The company said it was not reopening. The minute it said that, it meant there were no further negotiations. The negotiation process stopped. That is the difference.

The minister said that he could not get involved. The minister cannot ask the appeal board or the arbitrator to render a decision one way, but certainly the department or the minister could say the government would not appeal it.

That was my question. Would the minister agree to tell his department that it will not appeal the decision? That is not against the law. It is fully within the law. Everyday we tell the minister that the workers have won and ask him to give them the benefit of the doubt because the workers are responsible for their children and wives, and the families suffer. I would like to hear the parliamentary secretary's response.

● (1855)

Mrs. Lynne Yelich (Parliamentary Secretary to the Minister of Human Resources and Social Development, CPC): Mr. Speaker, I thank the hon. member for Acadie—Bathurst for raising this issue both last week and now. Listening to the member speak I must congratulate him for spelling out his concerns so rationally and so very easy to understand.

Unfortunately, he will not like what I have to tell him. An independent, arm's length process is reviewing this matter and we cannot take it any further. I cannot express how disappointed I am for these people.

As the government, like the member, we are very concerned when workers face a disruption to their employment. We are also concerned about the status of the Clearwater employees from Glace Bay. We are also concerned about respecting the independence of the arm's length process.

Our respect for the administrative justice process is robust and we are sincere. We believe and Canadians believe it is important that processes like these continue without political interference. I am sure the member understands that.

We cannot have political interference and we must share that belief. I assume that the member does as well. It therefore follows that we must allow this process to take its course and it would be inappropriate to comment on the particulars of this matter further.

What I can say though is that our government sympathizes with the workers who find themselves in these sorts of situations.

Canadian workers support the Conservative Party and they support us as the government. They know we share their priority on developing and maintaining a strong economy. They support us because they know we want to support them with a strong employment insurance program.

We believe it is a tragedy when anyone loses their job. Far from letting Canadian workers down, the government has rewarded workers with a record number of jobs. Just last month we created 89,000 jobs. We have lowered the GST. We have encouraged apprenticeships. We have delivered support to families through the universal child care benefit for their children and tax relief and benefits for their parents.

We have also been working to support Canadian workers with a range of benefits that are available for those who qualify. We are succeeding. Eighty-three per cent of those who face job disruptions through closures are able to receive benefits.

What I can also say is that the employment insurance legislation, which applies to all cases, currently stipulates that no benefits can be paid in situations where a claimant loses employment or is unable to resume employment because of a work stoppage attributable to a labour dispute.

There are situations where there is a difference in interpretation on how to apply these provisions of the legislation. These differences of interpretation are not resolved at the minister's desk. These are not political disputes. These disputes on how to interpret the law are sent to an objective body, an arm's length panel of referees.

The process for dealing with these disputes also allows parties to appeal—

The Acting Speaker (Mr. Royal Galipeau): The hon. member for Acadie—Bathurst.

Mr. Yvon Godin: Mr. Speaker, the Parliamentary Secretary to the Minister of Human Resources and Social Development started off well when she sympathized with me and I appreciate that.

However, I want it to be clear that I am not asking the minister to interfere in the decision. I am asking the minister not to re-appeal. He is dissenting. As a politician who represents the people, I have the right to say to the minister that a decision has now been taken and could he not re-appeal it.

There is a difference in trying to influence the decision. She said that the appeal process was independent. The appeal process made a decision that the workers were right. There is no longer a dispute about whether it is a lock-out or a strike. The company has decided not to reopen.

With all fairness and from the bottom of my heart I ask the government, if it is serious about wanting to help the workers, which has nothing to do with economic development or anything like that, there are 100 people at Clearwater in Glace Bay working for a company that has said it is not reopening—

● (1900)

The Acting Speaker (Mr. Royal Galipeau): The hon. parliamentary secretary to the minister.

Mrs. Lynne Yelich: Mr. Speaker, I thank the member for again bringing this situation to the attention of the House so we can explain to the people that there is a process dealing with these disputes. This process, which is now underway, allows parties to appeal the initial decisions to an umpire.

I think the member will be happy to know that the minister has contacted the department and he has, at the very least, instructed the department to do everything it can to expedite the process by filing the appeal to the umpire. Recognizing the situation faced by the Clearwater employees, the minister has asked the department to expedite this process.

On the minister's behalf, I assure the member that we are doing everything within the minister's purview.

The Acting Speaker (Mr. Royal Galipeau): The motion to adjourn the House is now deemed to have been adopted.

[*Translation*]

Accordingly the House stands adjourned until tomorrow at 10 a. m. pursuant to Standing Order 24(1).

(The House adjourned at 7:02 p.m.)

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