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OFFICIAL REPORT
(HANSARD)

Monday, March 7, 2011

—

Speaker: The Honourable Peter Milliken

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HOUSE OF COMMONS

Monday, March 7, 2011

The House met at 11 a.m.

Prayers

PRIVATE MEMBERS' BUSINESS

• (1100)

[*English*]

CANADA POST CORPORATION ACT

The House resumed from December 9 consideration of the motion that Bill C-509, An Act to amend the Canada Post Corporation Act (library materials), be read the third time and passed.

Mr. Brad Trost (Saskatoon—Humboldt, CPC): Mr. Speaker, I am pleased to speak today about the importance of literacy for Canada and Canadians. In particular, in speaking to Bill C-509, introduced by my colleague, the member for Brandon—Souris, I am particularly pleased, as the son of a librarian, to be supporting this bill.

I am pleased today to highlight some of the government's ongoing investments in and support of this vital skill and to speak about the important role that the library book rate plays in supporting literacy.

Improving the literacy and essential skills of Canadians is a key part of the government's commitment to building a highly skilled, adaptable and competitive work force. The ability to read is just one aspect of the essential skills today's workers need in a competitive marketplace. Others include document use, numeracy, writing, oral communication, working with others, continuous learning, thinking and computer skills. These are skills that many of us in our daily lives take for granted.

Recognizing how important and fundamental these skills are, the Government of Canada invested \$38 million in 2010-11 in the Office of Literacy and Essential Skills. This office serves as a national centre of expertise in literacy and essential skills that complements the work of the provinces and territories in adult learning. It works to ensure that Canadians have the skills they require to participate fully in the labour market and their communities. It does this by developing and sustaining networks of pan-Canadian coalitions and bringing together the key organizations and partners that play a role in literacy and essential skills across Canada.

The office plans, develops, tests and disseminates new ideas, tools, and strategies for effective interventions in literacy and essential skills, and supports organizations and institutions in bettering literacy and other essential skills in their activities and policies. Through the work of the Office of Literacy and Essential Skills, the government provides core funding to literacy coalitions across Canada. It also supports a number of innovative projects that work with businesses to design and test new approaches for addressing the essential skills challenges of workers.

In our global economy, a highly skilled population is a key asset for any nation and is fundamental to economic growth. Globalization and new technologies have propelled us in this knowledge-based economy. Reflecting this, the occupational composition of Canada has shifted toward occupations that require higher levels of education and skill. A knowledge-based economy requires workers who can adapt quickly to changing skills and requirements. Literacy is fundamental to this adaptability. Without literacy, it is difficult to keep up with the rapid evolution of working environments, let alone the increased computerization often required. In order to preserve Canada's competitiveness in today's global economy, it is essential to invest in workers who will be ready and able to keep up with these changes.

There is little doubt that essential skills like literacy contribute not only to the national economy but also to people's personal, economic, and social wellbeing. These essential skills are key to someone's ability to realize their economic and social potential and are the foundation upon which they acquire additional knowledge and skills throughout their lives. Positively associated with good health, employment stability and remuneration, literacy enables people to participate in their communities, to make wise community decisions and to construct social networks.

However, these skills also have to be understood and appreciated for their large social implications in the 21st century. Essential skills, especially literacy, are linked to civic participation, community building and the development of social institutions. Without these skills, there is an increased risk that certain groups could be excluded from these kinds of social and civic activities.

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A lot of work remains to be done to improve literacy in Canada. About 9 million individuals or 42% of working-aged Canadians currently score below the minimum literacy level required to function well in a knowledge-based economy. There is evidence of a significant gap in literacy rates between rural and urban Canadians. The gap is found in our schools, with remote students not performing as well on average as their urban counterparts, a trend that persists into adulthood. Similarly, the literacy performance of aboriginal populations is lower than that of the total Canadian population, especially in remote areas.

● (1105)

Canadians without access to information and communications technologies, who do not use computers to access information via CD-ROMs, CDs, DVDs and the Internet, also tend to have lower literacy levels than the rest of the population. Not only are they faced with a digital divide but also a literacy gap.

The key to adults' literacy proficiency and the development of literacy in their children seems to be reading at home. It increases a person's proficiency through engagement in literacy activities, such as reading books, magazines, manuals or newspapers. Libraries play a fundamental role in providing Canadians with access to a wide range of reading materials and literacy activities. With the help of Canada Post's library book rate, libraries are able to dramatically increase rural and remote library users' access to a consolidated Canadian collection of around 465 million items.

In recognition of the important role of libraries in literacy, Library and Archives Canada recently partnered with TD to support Canada's literature and literacy as part of its commitment to foster reading and literacy programs in communities throughout the country. Through this partnership, Library and Archives Canada is involved in a number of programs, like the TD summer reading club, the TD Canadian children's literature awards and, to support higher learning, the TD Canada Trust scholarships for community leadership, as well as other scholarships, bursaries and in-school programs.

These programs help children and students improve their reading skills and develop a greater interest in reading. In particular, the summer reading club increases the number of books that participating children read and teaches them to use the library to open up cultural, community and social horizons. Last summer, half a million Canadian children participated in this club, with over 27,000 events held at 1,995 libraries nationwide. Through the initiative of the summer reading club, participating children read almost 2.4 million books last summer.

Efforts to create future readers and learners and to engage current readers and help all Canadians build and maintain their skills are vital to our economic development and growth. Libraries and literacy programs are fundamental to our future for this very reason.

The library book rate, which my colleague's legislation supports, has played an important role in the sharing of these books across the country, especially with rural and remote locations. The support it has provided to libraries and their communities cannot be overstated.

It is for these reasons that I support this legislation. The library book rate will help with literacy. It is not the only or sole solution but a very small piece. However, it is a piece that helps librarians serve

their communities and teachers to access new resources and helps remote students to access the entire world, not just the world on the Internet but also the world still on the printed page, and the world on CDs and DVDs. It is something that is good for our economy. It provides equality of citizenship all across the country and, more importantly, it provides access to the world in remote places all across the country.

I urge all hon. members to support this legislation for the literacy support it provides, as well as its support for remote regions and our current and next generations that are striving to build a better Canada.

● (1110)

Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.): Mr. Speaker, I am pleased to have the opportunity to speak on Bill C-509 introduced by our colleague from Brandon—Souris. I want to commend him for his initiative and diligence. I know how long he has been working on this. He is a good member of Parliament and works hard. Although I have not had the pleasure of seeing him chair committees, I have heard from others that he is a wonderful chair of the committee, being very fair and reasonable. Therefore I particularly want to commend him on Bill C-509, as well as my colleague from Mississauga—Streetsville, who has been supportive and worked hard on this file.

This bill, as people know, is about the book rate. Bill C-509 is an act to amend the Canada Post Corporation Act (library materials). It has had various incarnations before. The history of this bill is well known to people in the House, having been documented in debate on the bill's previous incarnations. The book rate has existed for a long time, since 1939. There are 2,000 libraries using the rate. In 1997, the rules were changed so that the book rate would not to be funded by the Government of Canada, the result I think of the WTO, but instead by Canada Post.

This bill has the support of a number of people, including a person who is very important to me, someone who has been my constituency assistant since I was elected in 2004. I snatched her away from the Dartmouth library. She is very passionate about books, literacy and the work of libraries. She told me that if I did not support this bill, she would not be my employee. For that reason, for Peggy and many others, I am pleased to support this bill. I want to let the House know that Peggy Landes has worked for me these six and a half years and will be leaving me at the end of this month to go on to better pursuits with her husband, but her work will continue in my office.

The Canadian Library Association, in a toolkit it prepared, indicated three reasons the book rate is very important. I want to read those into the record. The library book rate:

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Ensures equitable access to documents located in libraries across the country and made available to all Canadians;

Supports the intellectual needs of remote northern and rural communities; and

It is the principle underpinning the concept that the collections of all libraries are a national asset accessible to all Canadians and as such supports education and lifelong learning as well as helping to maintain Canada's global competitiveness and productivity

There is an issue with productivity in this country. There are demographic pressures coming down the street and staring us in the face right now. We are going to need more productive employees in this country and more people with post-secondary education. Frankly, we do not have high enough literacy rates, even though we have a very educated population. We need to do everything we can to ensure that people are educated to the extent of their abilities, not only for their benefit but also of the country as a whole. More and more Canadians are going to need post-secondary credentials. If they do not get them, the problem in Canada of jobs without people and people without jobs will continue and likely get worse, because people have not been matched with those jobs.

I want to support this bill from the point of view not only of rural communities but also of people with disabilities, a group that I spend a lot of time with. There are many Canadians with disabilities who do not have access to some of the benefits that many other people do. They use libraries to a high degree and we need to ensure that continues to be the case.

When we look at ways of improving and building Canada, recognizing where we are in the world and understanding how to go forward, we come across things like libraries, museums and other cultural institutions. In my own community of Dartmouth—Cole Harbour, there is the new Dartmouth library. I say it is new though it was built in about 1988. However, it is a fabulous improvement over the old library and has become part of the regeneration of the downtown Dartmouth area, and has served a very significant purpose. Moreover, in the spring of last year, the Woodlawn Public Library opened up.

Libraries like these can be fabulous gathering places not just for adults but also for children in particular and, in many cases, for seniors. These people come together not only to enjoy the library but also the benefits it provides in terms of being a community gathering spot for people to exchange ideas and to catch up.

I want to mention museums. There is the Dartmouth Heritage Museum, which is really only a shell of what it could be. As a young guy, I grew up in the great community of Dartmouth. I was one of seven children and my father was a doctor. He used to leave us at the old Dartmouth museum and go across the bridge to deliver a baby, and would come back two, three or four hours later and we would still be there looking at the models in the museum.

• (1115)

It is a shame that the old Dartmouth museum is now mostly housed in a warehouse in Burnside. We need funding for the new Dartmouth museum and I will fight for it. As well, the Cole Harbour Heritage Farm that recognizes the heritage of the great farming community of Cole Harbour and people like Melvin Harris and many others who have helped to build that community.

In terms of culture, Dartmouth is the home of hockey. If the member for Kings—Hants or other members from areas like Windsor, Nova Scotia, Kingston, Ontario or even Montreal, Quebec were here they would dispute that. However, I encourage them to have a look at the book, *Hockey's Home: Halifax—Dartmouth* by Martin Jones which clearly documents that hockey started on the lakes in Dartmouth.

I mention all these things because we cannot go wrong when we fund and continue to support those cultural institutions like libraries, museums and interpretation centres. I think of the Shubenacadie Canal that runs through Dartmouth and all the way through Nova Scotia. It is now going through a capital campaign. These are the things that government needs to be involved in.

I also want to address literacy. I have spoken many times on this issue in the House of Commons. For a nation as wealthy as it is, Canada has very high illiteracy rates. We have had cuts to literacy over the past few years, notably the first year of the present government. It cut literacy to the tune of \$17.7 million. It disempowered local literacy organizations.

One of the saddest meetings I have had as an MP was not with somebody in my own constituency but from a neighbouring constituency who came to see me. He said that he did not have a lot of education but that he had a job and was able to take care of his wife and kids. In fact, he was offered a promotion but the problem with the promotion was that he was afraid he would be forced to take the literacy test. He thought it might not only kill his promotion but might put his current job in jeopardy.

Those are the Canadians we need to be helping. It is the Canadians who not only do not have the skills but those who do not have enough and those who need to upgrade their skills. Literacy, being a key component, is a key reason I commend my colleague from Brandon—Souris for bringing this bill forward.

Disadvantaged Canadians, whether they are people with disabilities or low income families that cannot afford to buy new books, these are people who benefit from the book rate. I want to commend librarians from coast to coast to coast. I think of the librarians I knew when I was growing up in the schools and in the Dartmouth Library. They are very patient people who do not ask for very much except for those things that through their efforts will benefit other Canadians. I think we really need to encourage that.

In Nova Scotia, one of the great pioneers of children's literacy is Dr. Richard Goldbloom, a pediatrician and Order of Canada recipient. He is one of the most significant and dedicated pediatric surgeons in this country. He started a program at the IWK-Grace Health Centre. When kids were born, the parents, regardless of income, all received a package of books to take home so that these parents could read to their children on a regular basis. All families received this package of books and, for some families, it made a huge difference. We need to encourage literacy from the earliest days.

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Some people might suggest that we do not need early learning and child care in this country, perhaps believing that children do not start to learn until they are six years old. We know they start to learn as soon as they are born or even before that and literacy is important. I think that keeping the book rate ties into that issue very well.

I want to read a letter from the Canadian Library Association that all MPs received. It was dated last May and speaks to the fact that once again it is pleased to offer its support to my colleague's bill. It reads:

[CLA and] the entire library community remains concerned about the sustainability of the Library Book Rate, which contributes to the public policy goals of literacy, lifelong learning, inclusion, and vibrant communities.

I thank people like Heather Neish who sent a letter to me from my constituency encouraging this to continue. I thank all the people who have worked in libraries in my own community of Cole Harbour, Dartmouth and all across Canada, and people like Peggy Landes who brought words, not just markings on a page but words that bring meaning to life for Canadians.

I again commend my colleague from Brandon—Souris for this most important bill. I am sure all members in the House will support it.

• (1120)

Ms. Chris Charlton (Hamilton Mountain, NDP): Mr. Speaker, I am delighted to stand in the House today to again speak in support of Bill C-509, An Act to amend the Canada Post Corporation Act (library materials). I commend the member for Brandon—Souris for bringing this important issue forward.

It is important to begin by reiterating what the book rate is and the important objectives that it serves.

Since 1939, libraries in Canada have been able to exchange books at a reduced postage rate, the so-called “book rate”. It allows libraries in our country, particularly smaller branches often in rural Canada, to access the much larger collections of urban centres at manageable costs. It also provides all Canadians with access to specialized local collections held in particular branches.

The bill before us today seeks to ensure that continues to be the case and, in so doing, that public libraries across the country continue to thrive and grow.

With apologies to Jane Austen, it is a truth universally acknowledged that a reader in possession of a curious and lively mind must be in want of a library. Public libraries are the lifeblood of Canadian communities and nowhere is this more true than in the many thousands of smaller and remote communities that dot our country. Libraries mean all Canadians, regardless of geography, language, income or ability, have access to novels and magazines, information services, textbooks, CDs, DVDs, Wi-Fi and computers, and often, as well, to local cultural treasures and specialized collections.

However, more than this, public libraries are meeting places. This is where toddlers and their exhausted parents gather to enjoy a story or a puppet show together; where teenagers come for movies and music and, occasionally, even to study; where workers explore career or travel options; and where seniors attend a seminar or find that perfect book to help them build their granddaughter's tree fort. Libraries promote social inclusion, literacy, skills development and

lifelong learning. Libraries are a safe haven. Somerset Maugham said, “To acquire the habit of reading is to construct for yourself a refuge from almost all the miseries of life”.

In my hometown of Hamilton, we are blessed with an incredible library system. The Hamilton Public Library offers an extraordinary range of books, programs and services. With its 24 branches, two bookmobiles and virtual branch system, here is just a taste of what the Hamilton Public Library has to offer our community: resume writing workshops, pottery painting classes, storytime for newcomer families, youth advisory group meetings and reading and homework clubs for teens across the city. It also houses the Leonardo Sciascia collection, the collected works of the famous Sicilian novelist, essayist, short story writer, non-fiction writer and dramatist.

The Hamilton Public Library, like thousands of others across the country, is more than just bricks and mortar and books. A library is the sum of the wealth of knowledge that every patron brings to it. A library is a classroom, a playground, a neighbourhood and a sanctuary.

I want to take this opportunity to thank everyone at the Hamilton Public Library, the staff, the volunteers, the board and the patrons for making our library a centre for all that is good in our community.

If the House will indulge me for just a moment, I will share author Philip Pullman's eloquent telling of his own love of books and libraries. He said:

But what a gift to give a child, this chance to discover that you can love a book and the characters in it, you can become their friend and share their adventures in your own imagination.

And the secrecy of it! The blessed privacy! No-one else can get in the way, no-one else can invade it, no-one else even knows what's going on in that wonderful space that opens up between the reader and the book. That open democratic space full of thrills, full of excitement and fear, full of astonishment, where your own emotions and ideas are given back to you clarified, magnified, purified, valued. You're a citizen of that great democratic space that opens up between you and the book. And the body that gave it to you is the public library. Can I possibly convey the magnitude of that gift?

Public libraries are, indeed, a central thread in our very social fabric but, as with so many aspects of our lives, libraries, too, are facing a rapidly changing landscape. We live in the world of the Internet, Kindle and other e-books. Technological change has brought a huge transformation to the library system that I spent so much time in, both as a kid and as a student.

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That change has been embraced by our public libraries and they have risen to the challenge of innovation. That is why it is so important that the bill before us today broadens the definition of library materials to ensure that audiovisual materials, such as cassettes, CD-ROMs and DVDs, are also eligible for the book rate, which currently applies only to books.

● (1125)

However, it is not just about adapting to new technological formats. In the knowledge-based 21st century economy, it is essential that libraries continue to provide access to their immense collections.

In the information age, it is critical that libraries are able to provide a breadth and depth of research and reading material to meet the needs of a richly varied demographic, speaking a multitude of languages. And, because each of Canada's libraries, obviously, cannot house the enormously varied inventory that Canadians need to access, public libraries must be able to share their inventories.

Canada's library collections are a national asset and, thanks in part to the library book rate, they are accessible to all Canadians through a resource-sharing network among branches. Inter-library loans ensure equitable access to a composite Canadian library collection of some 465 million items available to all Canadians through their local libraries.

As the Canadian Library Association explains:

The Library Book Rate provides special postal rates for libraries to ship books to other libraries and to readers, allowing libraries to loan more books and encourage more reading. The Library Book Rate is especially important to Canada's rural and remote libraries by helping Canadians borrow books regardless of where they live. Special rates for shipping library books have been in place since 1939 but are subject to regular review. Without the special Library Book Rate, libraries would pay over \$10 for the same service they receive for \$0.81 today.

That kind of increase in expenses for individual libraries would clearly be disastrous. As legislators, we must act to ensure that never happens. That is why this bill is so important.

As members in the House will know, the book rate expired in 2006. Since that time, Canada Post has continued to offer the book rate but without a formal agreement with the federal government. With the amendments introduced at committee, this bill would ensure the book rate is protected by legislation and that, in turn, will allow libraries the financial certainty they need to plan for the future.

I was particularly pleased to see an amendment made to the bill in committee that would require Canada Post to seek approval of the House of Commons before there is any increase in the rate. As members will recall, this was the one issue that I was deeply concerned about when I took part in the debate at second reading.

As it was originally drafted, it was the Governor in Council, which is really the cabinet, that had to approve requests for a rate hike. Such decisions are made behind closed doors and without the benefit of any public input. It was important to me that local institutions as important as our public libraries had the benefit of participating in the decisions that will ultimately affect them. By returning the decision-making power to the House of Commons, such participation is not only possible, it will be actively sought out. I commend the member from Brandon—Souris for agreeing to that important change.

A further amendment to the bill would ensure that the definition of library materials will be reviewed at least every 10 years to keep the legislation as current as possible. With the fast-changing technological advancements that we are seeing, this amendment is as welcome as it is necessary.

Access to learning and information is fundamental to society and to a knowledge-based economy. For that reason, it is critical that all Canadians, regardless of where they live, must have access to a broad selection of books and media.

Public libraries are the great social equalizers and promote essential public policy we can all agree on: literacy, knowledge, learning and community. It was Benjamin Franklin who said, "An investment in knowledge always pays the best interest".

In closing, I have one final quote from everyone's favourite author, Dr. Seuss, who said, "The more that you read, the more things you will know. The more that you learn, the more places you'll go".

● (1130)

Mr. Merv Tweed (Brandon—Souris, CPC): Mr. Speaker, I thank my colleagues in the House for the generous support they have offered to me on the bill.

The impetus behind the bill was to ensure that libraries knew the cost of moving books and other library materials back and forth. Although they had an agreement with Canada Post, there were times when it was suggested, or it may have been presumed, that the rates would rise dramatically. As was explained in the last speech, that would impact libraries, particularly rural libraries, in a very significant way.

The bill intends to protect the rate and expand it to include today's technology. I was pleased with the review of the bill in committee. There were some changes made that I thought were very welcome. As parliamentarians, this is an issue that impacts all of us and I think it is important that we all play a role in it.

I have received generous support across Canada. Hundreds, if not thousands, of names have come in on petitions in support. They were not from one specific region of Canada, but from all across Canada, which tells me that libraries are important.

As someone who grew up in a small rural community in Manitoba, I understand the value of having access to the larger centres. Not everybody has the ability to move things in and out of these larger centres, but they can do so with the mail.

If people are watching today, I would encourage them to contact their library and find out about the book rate. They do not have to travel great distances. They can have library books and materials delivered right to their doorstep if they are unable to access their local library.

Government Orders

It will move into the other place very soon. I am hopeful that people studying it will see the positives and the benefits to all Canadians, and that we will bring it back to the House. With certain situations prevailing, I would like to see this happen as soon as possible, so I will encourage my friends in the other place to do the same.

With that, I thank hon. members for the opportunity. I too want to thank the people who work in the library system. They do a tremendous job and a great service to Canadians. This is just one way of showing a little support for them. It also enables Canadians to have better access to reading. What more could I say?

The Acting Speaker (Mr. Barry Devolin): The question is on the motion. Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

Some hon. members: No.

The Acting Speaker (Mr. Barry Devolin): All those in favour of the motion will please say yea.

Some hon. members: Yea.

The Acting Speaker (Mr. Barry Devolin): All those opposed will please say nay.

Some hon. members: Nay.

The Acting Speaker (Mr. Barry Devolin): In my opinion the yeas have it.

And five or more members having risen:

The Acting Speaker (Mr. Barry Devolin): Pursuant to Standing Order 98, the recorded division stands deferred until Wednesday, March 9, 2011, immediately before the time provided for private members' business.

SUSPENSION OF SITTING

The Acting Speaker (Mr. Barry Devolin): The House will now suspend sitting until noon.

(The sitting of the House was suspended at 11:33 a.m.)

SITTING RESUMED

(The House resumed at 12 p.m.)

GOVERNMENT ORDERS

• (1200)

[English]

CITIZEN'S ARREST AND SELF-DEFENCE ACT

The House resumed from March 4 consideration of the motion that Bill C-60, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons), be read the second time and referred to a committee.

The Acting Speaker (Mr. Barry Devolin): When this matter was last before the House, the hon. member for Skeena—Bulkley Valley had seven minutes remaining in the comments and questions period.

The hon. member for Vancouver Kingsway on questions and comments.

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Speaker, this legislation arises out of a bill that was proposed by my colleague from Trinity—Spadina, who took early and decisive action to put a very worthwhile idea before the House. My colleague has suggested that shopkeepers and small business people not be criminally charged if they are attempting to defend their property after the commission of a crime.

The Criminal Code currently permits a citizen to make an arrest during the commission of a crime, but there seems to be a gap in the law whereby if a person takes that step within a reasonable time after the commission of the offence, he or she could be charged, as Mr. Chen was in Toronto.

I would like to ask my hon. colleague what his position is with respect to amending our law to allow shopkeepers to conduct a citizen's arrest within a reasonable time after the commission of an offence, provided that person does not break the law or is otherwise overzealous or aggressive in doing so.

Mr. Nathan Cullen: Mr. Speaker, I know my colleague from Vancouver Kingsway has issues in his riding about what we sometimes call petty crime, or theft under \$5,000.

As my colleague correctly said, the idea raised in this bill originates with the member for Trinity—Spadina who has worked long on the issue of how to treat a citizen's arrest. This bill applies not just to shopkeepers and small business owners but to homeowners as well. New Democrats put forward this idea to a government that spends the vast majority of its time talking about crime issues.

There is a gap in the law. What happens when a citizen makes an arrest outside the immediate event itself? If an hour or several hours have gone by, the law changes. It does not allow for the same citizen's arrest.

Sometimes when a crime is committed the store owner or the homeowner sees the person who committed the crime but no police are available. It is important for people to understand that if police are available or there are reasonable grounds to expect a police officer to be available to make the arrest, that is the preferred course. Police officers are paid and trained to do that type of work. It is a dangerous thing to make a citizen's arrest. It is provocative. It can be very intense. It can also be quite physically dangerous for both parties involved. It is not ideal.

We are suggesting that if the government wants to make this change, we will allow the bill to be split and fast-track this part immediately through Parliament. We have not heard from the other parties yet as to whether or not they are interested in doing this, but it is critical. The part that we want to fast-track is the piece that we all agree on. It does not need further study. We are suggesting that if a citizen's arrest is not made in the process of the crime being committed but sometime after that, it would still be permissible for a citizen to make an arrest without fear of being charged with assault or confinement or whatnot.

We again plead with the government that if it wants to get something done, this is an opportunity to do it.

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Mr. Dennis Bevington (Western Arctic, NDP): Mr. Speaker, I too am concerned about the lack of response on this particular issue in terms of splitting the bill and moving it forward in a decent fashion that would permit some serious reflection.

The government pushes crime bills forward willy-nilly without thinking about them and without careful reflection on the views of experts in the field. Are we offering this compromise so that some of the important work can get done and so we can carefully scrutinize at committee the work the government has proposed?

• (1205)

Mr. Nathan Cullen: Mr. Speaker, people should understand that there are three main parts to this bill. We are suggesting fast-tracking the third part through the process because there is little debate around it. The experts agree this is something we could do, which would be to allow more time to elapse between the crime being committed and the citizen's arrest being made. The first two parts of the bill are in need of study. That is what is likely to happen with this bill.

I have not heard too many of the opposition members speak, but the bill is likely to get through second reading. However, with the way laws work and the process we have in Parliament, that is going to take some time. The government is thereby jeopardizing its own bill, which was based on the work by the member for Trinity—Spadina. Within the next couple of weeks we will be facing a federal budget, which hangs in the balance. We do not know if it will pass or not. We do not know if there will be an election in a few weeks.

If the government is sincere about doing something about this issue, New Democrats have offered it a path forward. If it does not do that, then it is the government's choice.

However, the government says it wants to make some change happen for average ordinary Canadians. Canadians read the morning newspaper and ask why Mr. Chen in Toronto, or some other shopkeeper, was charged with wrongful confinement, kidnapping essentially, for having wrestled to the ground a fellow who came back a second time to steal more from Mr. Chen's shop. If the government really wants to make that change happen, let us do something about it. It is an error in the law and we can correct that error.

The other two parts of the bill need study. We would be happy to study those parts and bring in witnesses.

My hon. colleague from Western Arctic is right. The government is loath to bring forward evidence. On other crime bills, we ask for two things. We ask the government to show us any research to show it is going to be effective, because that is important, and we also ask what it is going to cost. Those questions are seen as reasonable ones to Canadians: is it going to work and what is the bill going to cost?

The government does not do that when it comes to crime bills. When we bring forward issues around repairing the social safety net or improving environmental regulations in this country, all the Conservatives want to know is what it will cost, but when it comes to crime, they seem to forget that mantra. They do not seem to care. We find that offensive to the intelligence of Canadians.

Those are two simple questions on any bill: is it going to work and what is it going to cost?

On crime, those guys have their blinkers on. It is ideology over any kind of intellect. That has to change for the government to gain any kind of support from other parties.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Speaker, it is a pleasure today to add my comments on Bill C-60, a bill that I believe does have considerable support in the chamber. It is only a question of time before the bill passes second reading. I suspect there will be a number of speakers and we look forward to that happening.

However, as much as there is principle and thought behind putting the bill together as something that receives considerable support, there is a need for us to review the bill and be very diligent in having discussions with some of the stakeholders in regard to the bill at committee stage. There is a great deal of concern in terms of some of the details, but the principle is something that is very good. I understand why the idea of extending the amount of time it takes in order to make an arrest has come about, in particular in reference to an incident that occurred in Toronto in 2010.

I want to pick up on the point that was just talked about by my New Democratic colleague. That is the issue of why it is we have the bill before us today. My understanding is the government wants to come across as being tough on crime and this is going to be one of those tough on crime bills that the government is no doubt going to talk about whenever the next election occurs. It is appropriate to raise the issue of the timing of this particular bill. The idea of extending the amount of time is not new. It has now been talked about for virtually a year as the New Democrats and the Liberal Party each have a bill to address the issue in part. The Liberal Party has been talking about it for a long time now. I believe it was in June 2010 when the member for Eglinton—Lawrence brought forward a bill that in part addressed this issue.

It is interesting in terms of the government's response to private member's bills. It wants to try to give the impression to the public that it is bringing in legislation that is going to have an impact on the issue of crime. At the same time, when opposition parties, in particular when the Liberal Party brings forward a bill that would go a long way toward providing assurances and improve our system so that victims and their concerns are addressed, the government sits back and does nothing. Instead of adopting a good idea from the Liberal Party, the government chooses to sit back, do nothing and wait until it feels it is time to bring forward the same type of legislation. One could question the government's motives in terms of why it has decided to wait so long in responding to what was a very sensitive issue. It is something that is not just sensitive to the city of Toronto.

In my constituency, an incident occurred in 2010 where there was no citizen's arrest per se, but it spoke volumes in terms of police availability. The incident happened right beside my constituency office, where there is a small retail store. A couple of youths, both under age 14, and one of them might have been only eight or nine years old, walked into the store. The clerk was asked if there was ice cream. She went to the front of the store into the freezer where she was jumped from behind by the child. The child had, I believe, scissors and stabbed her in the neck. Because of the screaming that followed, the children were scared and fled the store. The clerk had to go to the hospital to get stitches.

Government Orders

•(1210)

At the end of the day, in the discussions that I have since had with the clerk, there is a sense of frustration with some of the crimes that take place and the need to take action. There were some individuals not too far from the scene who were not too sure as to exactly what they could have done. There is a general lack of knowledge with regard to citizen's arrest.

Only a number of days later there was a young individual on the top of the roof of my building threatening to stab or kill someone with scissors, a violent act. The landlord was quite concerned and did not know what he could do in terms of a citizen's arrest. The youth left the building and made a run for it. We knew who the child was and could ultimately make an identification.

We need to have confidence that the police are going to be there for us when we need them. It is an issue of resources. In many situations we find that individuals, shop owners, or concerned citizens find themselves in a position where they are able to take some form of action in the form of a citizen's arrest. If done appropriately, it is a wonderful thing.

At times, a citizen's arrest can be very dangerous. We have to make sure there is proper legislation to support it and yet not necessarily encourage individuals to be overly abusive physically with someone who is stealing a chocolate bar or something of that nature. There has to be a common sense component to it. That is why I say sending the bill to committee would be a good thing. I look forward to that happening.

I found it interesting when I read some of the quotes from Mr. Chen and what had taken place in Toronto. It reinforces a couple of the points that I want to emphasize.

In a report by the CBC, flower store owner Hamid Kheiry stated with regard to the availability of police that even if he calls, nothing happens. This is the prevailing opinion the public has. It is one of the reasons there is a great deal of frustration and people look at ways to be more directly involved. As we all know, the police cannot be everywhere. There is a role for citizens to play with regard to issues of this nature.

In terms of the courts, in his remarks, Justice Ramez Khawly, who presided over this case, stated there was, in part, perceived police inaction. The last thing I would want to imply is that this problem exists today because of our police forces. Our police are most capable and do a phenomenal job with the resources they have.

In the federal byelection in Winnipeg North a great emphasis was put on the issue of crime. The Conservative government said it wanted to address the issue head on. The biggest commitment the Conservatives made with regard to the issue of policing that could have an impact on legislation such as this was to increase the number of police officers.

•(1215)

This has been a hotly debated issue in Winnipeg. It resurfaced the other day in a debate at city council. It was reported in the *Winnipeg Free Press*. Let there be no doubt, police resources are of critical importance in dealing with issues of this nature. I am suggesting that

the case in Toronto is not an exception. I believe there are a good number of citizen's arrests carried out across Canada.

For every citizen's arrest, I truly believe there are many more incidents of frustration. That frustration is because there is a sense that there is no consequence to some of the actions being taken in stores and homes across Canada. As a whole, people want to ensure there is a consequence to these actions.

I believe that if the public were canvassed we would find there is a great deal of support in terms of providing additional resources to our police agencies. I suspect the Conservatives are aware of that. That is the reason they made a commitment for 2,500 more police officers across Canada.

In looking at the *Winnipeg Free Press* print edition of February 26, there are three specific parts I would like to emphasize. It reads as follows:

Winnipeg officials want to know what happened to their portion of \$14 million in federal money to hire 15 more police officers for city streets.

The money was made available in 2008 under the...government's \$400 million Police Officers Recruitment Fund, intended to put 2,500 more police officers on the street nationally over the five years.

It states further:

Three years later, city officials say they haven't received the money to hire the additional officers.

I do believe that the legislation we have before us and the type of actions we see from the government speak of two different things. One, the government recognizes the value of trying to be perceived as being tough on crime, so it wants to bring forward legislation. Two, the government wants to be able to recognize the value of having additional police resources, so it talks a great deal about that. The government has suggested it has brought forward the necessary funds.

I would question the government on those two issues.

I started off my comments by talking about the government not recognizing the Liberal Party's bill on the issue of citizen's arrest. A member from the New Democratic Party also brought forward a bill, but it became an issue of timing.

The Conservative government ignored those bills and did nothing, in favour of waiting until the timing was right for it to bring in its own bill. It did not care in terms of the other bills being proposed. The government wanted to take the credit. That is what it was about. It wants the credit for trying to look as if it is tough on the crime front.

On the second issue of policing, the government recognized the value in the public wanting to ensure there are adequate police resources in our communities. It said it was going to provide more policing. Then there is the question in terms of the follow-through on it. Why is it that years after the government made that commitment, the city of Winnipeg has not seen those additional police officers on the street?

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●(1220)

Money can be transferred over, but, at the end of the day, if those police officers are not materializing, a promise has been broken. When the government says that it is tough on crime, we can review not only this legislation, but other legislation that the government has failed on in this measure. It has not delivered, in a timely fashion, on many pieces of legislation that have been put forward, even from the opposition benches.

Sometimes the government throws in other complications to legislation to try to prevent or slow down legislation from ultimately passing. For example, if the government really wanted to get legislation such as Bill C-60 passed quickly, then to what degree did the government work with the official opposition, the Liberal Party, the New Democrats and to a certain degree the Bloc Party to address Mr. Chen's story, which is duplicated by many other shopkeepers across the country? How can we pass the legislation in a more timely fashion?

The Liberal Party was prepared to take action on this issue before the summer break in July 2010. It could have been done prior to the summer of 2010 if the government had the same interest it claims to have today in wanting to pass Bill C-60. However, it did not meet the government's agenda, which is not necessarily in the best interest of the public. Ultimately, that is what I would argue.

Associated with this bill is the issue of policing. It is referenced in the courts in terms of the shopkeepers and the perception of the public has a whole. The government said that it recognized that and would make a commitment, but it failed to follow through on that commitment.

A very high percentage of the population in Winnipeg North is overwhelmingly concerned about the issue of crime and safety, more so than most constituencies across Canada. Members will excuse me if I am sensitive on the issue of having more police on our streets and in our community police offices. Winnipeg North has seen community policing and police in community police offices go down. Over the same period of time that the Conservatives have been in office, community policing has gone down in service stations.

The Conservatives have done nothing to support those community police offices. The federal government does have a role to play. Through community police offices, we are able to better educate the population in regards to prevention.

There is a wonderful website that I went to when I had some public safety meetings a few weeks ago. It is about crime and safety in Winnipeg North. There is one at St. John's High School and one at Northwood Community Club on how to prevent crime from taking place. Individuals I had a chance to chat with talked about the issue of citizen arrests and how that could occur. Community policing and education play a role in making our communities safer.

As much as it is great to see the bill today, I look forward to it going to committee. I think Canadians as a whole would support the principle of extending the amount of time for arrest.

●(1225)

Mr. Bob Dechert (Parliamentary Secretary to the Minister of Justice, CPC): Mr. Speaker, I thank the hon. member for his declaration of support for what is very good and necessary legislation. I listened intently to his speech and that of the member of the NDP who spoke about the timing of the bill.

I met with members of the shop corners community immediately following the incident Mr. Chen was involved in before the hon. member was a member of the House. They told me that not only were they concerned about the timing of arrest, but what they were allowed to do in order to protect their property and themselves if they were threatened with personal physical harm.

Typically, the two opposition bills mentioned this morning said nothing about what people could do to defend their property or their person, because those bills were politically motivated. They were brought in simply to score a quick, cheap, political hit, but did not address the whole issue of citizen's arrest, property defence and defence of a person.

Perhaps the member could comment on that.

Mr. Kevin Lamoureux: Mr. Speaker, we can tell a lot about what the Conservatives hope to really achieve by the way in which they will consult with people. For example, did the minister responsible for the bill have discussions with critics? To what degree were the Conservatives open to having feedback prior to the introduction of the bill? The ultimate goal should be to try to address the issue at hand to the very best of our ability.

We could have passed the bill about the amount of time it would take for a citizen to make an arrest. This is the primary concern, from my understanding, that Mr. Chen and many other Canadians had. That portion of the bill could have passed in June of 2010. Even if it were before committee at that time, we could have reviewed it and maybe looked at ways to improve the bill back then.

There are some good parts in the bill of which we are very supportive. We want to see it go to committee and we are open to other possible amendments, reviewing and giving due diligence to other aspects of the bill itself.

●(1230)

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Speaker, I notice my hon. colleague mentioned promises that were made by the government a few elections ago about providing 2,500 more police officers across the country.

I was visited by representatives of police boards across Canada in my office last week. They told me that they knew for a fact that those 2,500 officer positions had not been created for a few reasons. One was the federal government had not given long-term funding commitments that would enable them to provide those positions. Also, the money was transferred to provinces without being tied to the creation of those positions. Therefore, some provinces put portions of that money into general revenue.

Government Orders

Considering that part of the bill is motivated by the fact that police are just not able to respond quickly enough to shop owners or people who find themselves perhaps being the victims of a crime, could my hon. colleague comment on the connection between having enough police officers in our communities and the need to have citizens be able to make their own arrests in the absence of quick, prompt responses by police officers?

Mr. Kevin Lamoureux: Mr. Speaker, I am a very strong advocate for community policing. For the city of Winnipeg, that promise would have meant 15 additional police officers for the city. Quite frankly, we could have used every one of those police officers in the field as community police officers.

The value of having community police officers going into the different businesses, explaining how citizen's arrests are made, among many other things, has phenomenal values.

Ultimately, the point I was trying to get at, when I made reference to it, was the fact that the government made a promise. It promised to put more police officers on the street. It has failed to follow through on that promise. The city of Winnipeg has still not hired one of those 15 police officers.

The issue is the Conservatives have brought forth the bill and have made this commitment, but they need to follow through with it. They need to turn what they talk about into reality. For Winnipeg North, crime and safety is number one. We need those police officers on the street. We need to have bills like this in some form passed.

Mr. Jeff Watson (Essex, CPC): Mr. Speaker, I have listened intently to the comments of the member opposite, particularly his assertion about the timing of this bill and his reference to the member for Eglinton—Lawrence on how this could have been handled sooner.

The reality is the member for Eglinton—Lawrence had a choice as well. The order of precedence allows him to move his bill forward quickly. He chose another bill and allowed his particular version of the bill with respect to self-defence to languish, where it would never be debated in Parliament. If the Liberals were truly tough on crime, that bill would have been on the order of precedence.

I remind the member opposite that the member for Eglinton—Lawrence's other bill, the one that he actually thought was a priority, has already been through committee. Would he like to comment on whether he spoke with the member for Eglinton—Lawrence about making this a priority instead of pretending it was a priority?

Mr. Kevin Lamoureux: Mr. Speaker, one of the nice things about the chamber is the ability to get unanimous consent. If in fact the chamber and the Conservatives at any point in time saw the value of that bill and wanted to pick up on the issue, they would have been able to approach the Liberal Party, and vice-versa, the Liberal Party could have approached other members. It is up to the chamber to look for unanimous consent to bring forward a good idea.

At the end of the day, what I know is it would have been wonderful to have seen that bill passed. If the government knew it would bring in legislation of this nature, why would it not approach the Liberal Party and say that it liked the bill, that it would like to see some amendments to it, but it would work with the bill so it could be brought forward to the House? With the unanimous support of the

House, it could have been debated back in June, passed and some Conservative amendments could have been made to it. Members of the Liberal Party are very open-minded in having good ideas brought forward, passed and turned into law.

• (1235)

Mr. Bob Dechert (Parliamentary Secretary to the Minister of Justice, CPC): Mr. Speaker, I am pleased to speak today on Bill C-60, An Act to amend the Criminal Code, which addresses the issues of citizen's arrest, defence of property and defence of persons.

I would like to begin by addressing the reforms to the law of self-defence and defence of property. Defences arise when a person is alleged to have committed a criminal offence. The availability of a defence means that, although a person did commit an act that would otherwise be a crime, he or she should not be convicted for it because of some other circumstance amounting to a defence at law. If a person is defending themselves from an attack or defending their property from being stolen, they might need to behave in a way that would normally attract criminal responsibility, such as an assault against the person threatening them. The defences are the law's way of balancing the generally applicable offences with exceptional circumstances that can validate the commission of crimes.

In the McIntosh case in 1995, the Supreme Court of Canada issued a very stark assessment of the law of self-defence. Here is what former Chief Justice Antonio Lamer had to say:

I would observe that ss. 34 and 35 of the Criminal Code are highly technical, excessively detailed provisions deserving of much criticism. These provisions overlap, and are internally inconsistent in certain respects.... It is to be expected that trial judges may encounter difficulties in explaining the provisions to a jury, and that jurors may find them confusing.

Chief Justice Lamer went on to say:

I am of the view that any interpretation which attempts to make sense of the provisions will have some undesirable or illogical results. It is clear that legislative action is required to clarify the Criminal Code's self-defence regime.

Confusing law is not just a matter of passing concern; when laws are difficult to understand, there are real consequences. People will not be able to read the law and understand the rules that govern their conduct; and police will have a difficult time assessing whether a person has a valid defence for the conduct and may end up laying charges just to be on the safe side, in the hope that the court will sort out the confusion.

I have spoken with dozens of police officers who have told me that this is exactly what they do. I believe that this is probably what happened in the case of Mr. Chen. The police were faced with a series of confusing provisions in the Criminal Code. Their duty is to uphold the law, and so their duty is to lay a charge and seek the court's determination. That is what they did in this case.

That is why these types of cases and these provisions in the Criminal Code really require very close scrutiny, and that is what Bill C-60 is intended to do.

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Prosecutors and defence counsel will spend considerable time making arguments about the meaning and the scope of the law; courts will have tremendous difficulty explaining the law to juries; juries will be asked to apply laws that even lawyers and judges do not fully understand; and even if the jury comes to the right conclusion, there are likely to be grounds for the losing party to appeal, causing delay in the final resolution of the outcome for the person charged, and the cost to the justice system will be significant and unnecessary.

We are right to be concerned about confusing laws. It is Parliament's duty to ensure that the law is accessible and clear to all Canadians. The time has come to do so in regard to these provisions.

When we looked at these provisions, we realized that there were nine provisions in the Criminal Code that were very confusing and, in some ways, contradictory. And when we looked further into it, we realized that these provisions of the Criminal Code had not actually been substantially revised since 1960. Thus it was the right time to do so.

The case of Mr. Chen was certainly a catalyst for change and gave rise to an opportunity for us to examine these provisions. However, when we actually sat down and spoke to shop owners, and here I hope that the member for Winnipeg North who spoke previously had an opportunity to do so in his city, we came to the conclusion that there was a lot more that needed to be fixed than just the timing of the citizen's arrest provision.

Prior to and after the Supreme Court of Canada's pronouncements in the McIntosh case, there were numerous attempts to reform the law.

First, the former Law Reform Commission of Canada proposed in 1987 a re-codified general part of the Criminal Code, the part that contains many general rules, such as the defences and rules surrounding participation in crime. This report included a reformed law of self-defence and defence of property.

The Canadian Bar Association also produced a report in 1992 for a reformed general part of the code and proposed a slightly different, but vastly simpler, defence of the person and defence of property.

● (1240)

Around the same time, the Department of Justice issued a white paper that was a draft of a new general part of the Criminal Code. It included yet another version of a simplified defence for self-defence and defence of person.

Again in 1998, the Department of Justice consulted with Canadians on various ways in which the defences could be simplified and clarified. However, law reform never came until now.

Bill C-60 presents the first legislative response in many decades to the confusing law on self-defence and defence of property. In a nutshell, the legislation seeks to simplify both defences in order to provide clear guidance to Canadians about what they can do in an emergency situation where they are forced by a threat to themselves or their property.

Simpler laws will provide better guidance to police officers who are called to the scene of a crime, who will, as a result, be better able to make appropriate decisions about whether charges are warranted or not. Simpler laws will also allow courts to instruct juries in a sensible manner. This will reduce successful appeals and retrials, saving the justice system unnecessary time and expense.

The proposed new law of self-defence will boil down to a few simple considerations: did the person reasonably perceive that they or another person was being threatened with force, or were they actually being assaulted; did they respond for the purpose of protecting themselves or the other person from that force; did they act reasonably in the circumstances?

These are the key components that permit a person to do what would otherwise be criminal, whether it be using force against force, or doing something else such as breaking into a property to escape an attacker. These components are very similar to those that are currently part of the law of self-defence, but the defence in Bill C-60 provides a single, simple, general rule. The law on the books today, by contrast, is based on the same basic principles but is written in a very complicated and overly detailed way.

Why does the law need to be more complicated than these three principles? The answer is that it does not. One new feature of the defence of persons is the addition of a non-exhaustive list of factors to help guide the judge or jury in determining whether the conduct was reasonable in the circumstances.

Our government believes this additional feature will be welcomed by the courts, which will be called upon to interpret the law and instruct juries on a more simple defence. The factors on the list are well known in the case law dealing with self-defence, because they often arise in all kinds of different cases.

The list will include the nature of the force that was threatened and the proportionality of the response to it, whether there were weapons present and whether the parties had a pre-existing relationship, including in particular whether there were previous incidents of violence.

This last factor will be particularly important in cases where a battered spouse uses force. As the Supreme Court has noted in the landmark case of *Lavallee*, it is sometimes difficult for a jury to understand how a battered spouse might stay in a relationship or how they might come to understand the patterns of violence of their partner.

The list of factors to consider will help ground the jury's consideration of the facts by clearly identifying this factor, among others, as relevant to its assessment of reasonableness.

The current defence of property scheme has the same flaws as those of self-defence. There are too many overlapping provisions that set out specific situations and they are far too complicated to know which to apply and in what circumstances.

Government Orders

The reform proposed in Bill C-60 would dramatically simplify the law by setting out one single general rule for the defence. The same level of protection that is currently provided by five separate defences would be captured in one simplified defence. In the simplest of terms, a person will be able to do what is reasonable in the circumstances to protect property in their possession from being taken, destroyed or trespassed upon.

Bill C-60 expands the time in which a property owner can arrest a person who is committing an offence in relation to their property. This change will bring flexibility to the power of citizen's arrest, which will complement the other reforms in the bill by helping Canadians to protect their interests when the situation calls for urgent action.

I think all members can agree that clear and simple defences and a citizen's arrest law that provides flexibility for variations in the circumstances will allow all Canadians to take necessary and reasonable steps when the circumstances leave them with no other reasonable options.

• (1245)

I urge all members to support this important legislation.

If time allows, I would like to distinguish for all of the members present today the difference between Bill C-60 and the two private members' bills.

As I mentioned in my remarks, the government's bill is broader in scope. It clarifies and simplifies the law of self-defence and defence of property, and would expand the provisions governing citizen's arrest. The two private members' bills deal only with citizen's arrest.

With respect to the reforms to the citizen's arrest provisions, the government's bill would expand the time period for a citizen to make an arrest, but in a carefully and articulated way so as not to invite citizens to make such arrests where it is instead feasible and advisable for the police to do so.

Bill C-565, the NDP bill, proposes to allow a person to make a citizen's arrest of another person whom, on reasonable grounds, he or she believes has committed an offence and where the arrest occurs within a reasonable time following commission of the offence.

Bill C-547, the Liberal private member's bill proposed by the member for Eglinton—Lawrence, proposes amendments similar to Bill C-565 but without the reasonable time requirement.

Perhaps the member for Winnipeg Centre may want to read his colleague's bill. He mentioned something about reasonable time for a citizen's arrest, but that is not even included in that bill.

These two private members' bills would allow for a citizen's arrest based on reasonable grounds that an offence has been committed. However, there is no time limit within which this belief must be formed and the time could extend to weeks or months later.

The government's proposal, requiring that the arrester find someone committing an offence and make the arrest within a reasonable time only when it is not feasible in the circumstances for a peace officer to make the arrest, is more limited and more responsible. It does not equate the citizen's arrest power with that of the police.

Mrs. Cathy McLeod (Parliamentary Secretary to the Minister of National Revenue, CPC): Mr. Speaker, I would like to thank my colleague for articulating this important piece of legislation and detailing its different aspects.

The member talked about the difference between the two private members' pieces of legislation and our legislation. I would like him to articulate clearly the important changes in Bill C-60 that were not in those pieces of legislation.

Mr. Bob Dechert: Mr. Speaker, as we heard today, the opposition has proposed two bills that are very limited in scope, without taking the time to look into what is really behind all of the circumstances in these types of cases.

When shopowners are confronted by a shoplifter, as Mr. Chen was, they look at what they need to do both to defend their property and, potentially, defend themselves or staff or customers.

All of these provisions are wrapped up together. We cannot simply make a change to the time of a citizen's arrest without examining what people have the right to do to defend themselves or their property. However, that is typical of the opposition when it finally gets engaged in a criminal justice matter. Most of the time the opposition is against criminal justice legislation, and most of the time those members side with the offender not the victim.

In this case the government took the time to look at all of the related provisions and to make the necessary amendments that will clarify the law for all Canadians for decades to come.

Mr. Alex Atamanenko (British Columbia Southern Interior, NDP): Mr. Speaker, I was going to thank the hon. member for his speech until he came out with a real cheap shot in saying that we do not believe in justice bills. That is blatantly untrue, and the member should realize that. It is time for those guys over there to work with us to come up with some good legislation, which is what we should be doing here in the House.

I would like to ask the hon. member if he recognizes that my colleague from Trinity—Spadina, with her private member's bill, and the tabler of the Liberal Party's private member's bill, have actually laid the groundwork for this piece of legislation? In other words, would he give them some credit for the fact this issue is being debated?

I wonder if he could outline what he considers to be a reasonable time. It is my understanding that the difference between this bill and what currently exists is that this bill would allow a shopkeeper some leeway, a couple of hours or a day, to apprehend a person, whereas that is not possible now. I would like some clarification on that.

Much of the time we have problems like this owes to inadequate policing. I wonder if my colleague recognizes the fact that we need the federal government to step up to the plate, especially when it concerns the RCMP and our small rural communities, so that we will not have situations where police officers go off duty and are not replaced.

Government Orders

• (1250)

Mr. Bob Dechert: Mr. Speaker, I thank the hon. member for his support for at least part of this legislation, and hopefully all of it.

My comment about the voting record of his party on justice bills is based on experience. He does not sit on the justice committee as I do, but I am there day after day listening to his colleagues on the justice committee present witness after witness against bills that are designed to rebalance the criminal law as between offenders and victims. I can say from experience day after day that they slow down and delay legislation by putting forward witnesses that only want to talk about the needs of offenders.

Let me talk about the timing of this bill. I and other members of the government met with shop owners, including Mr. Chen, immediately following the event that took place in his store. We heard what they think is necessary on a range of issues. It was not just the timing of the citizen's arrest in that particular case. That was one very narrow aspect.

What they are concerned about and face every single day working in their stores 16 to 18 hours serving their communities is that there are people who repeatedly and violently steal from them. They need to know what they can do to defend their property and to defend themselves, their staff and their customers when these people enter their stores.

It would be unreasonable to simply add the word "reasonable" to the Criminal Code, which is essentially what the NDP wanted to do. They wanted to insert one word so they could say they have done something in responding to people's needs without actually taking the time, which is typical of the opposition, to get to the root of the problem and make important reforms that would solve the problem and simplify the Criminal Code for police, judges and all Canadian citizens.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Speaker, my question relates to what a reasonable amount of time is. It would be of great benefit if he could expand upon what is a reasonable amount of time. I would appreciate whatever the member may be able to put on the record with regard to that.

Mr. Bob Dechert: Mr. Speaker, that is a good question. What is reasonable really has to depend on the circumstances. It is very difficult to say generally what would be reasonable. In the specific case that was a catalyst for this bill, the court actually found that the period of time was not really in question because the perpetrator was actually in the process of perpetrating a secondary crime at the time the citizen's arrest was made.

However, we have made it clear that in addition to a reasonable period of time, it must also be not feasible in the circumstances for the police to be called in to make the arrest, which is of course what we want to happen in the vast majority of cases. However, when that is not feasible and police are not available, it would be reasonable for a citizen to make an arrest.

If the member is a lawyer, he may know that Lord Denning, a famous member of the House of Lords, said that what is reasonable is what is in the mind of the man on the Clapham omnibus. If I could put that in Canadian terms, it is what citizens on the Burnhamthorpe Road West bus in my riding or on the GO train going to work every

morning would think is a reasonable period of time in which they could make an arrest in order to protect their property.

• (1255)

Ms. Olivia Chow (Trinity—Spadina, NDP): Mr. Speaker, I do not see the relationship between a citizen's arrest in David Chen's case at the Lucky Moose and spousal abuse.

The bill in front of us has three parts. The first deals with citizen's arrest, the second with defence of property and the third with self-defence. Why has the Conservative government tacked on the two other elements when there is unanimous consent on the first element of citizen's arrest? The Bloc, the Liberals and the New Democrats are in agreement on changing the words to allow a reasonable amount of time on reasonable grounds. We have no problem with that. The other two parts basically remove the section that said "not intended to cause death or grievous bodily harm". This means that the Conservatives are expanding the whole notion of when people can protect themselves. It gets into very muddy waters.

I cannot see how self-defence is connected with a citizen's arrest and why it is included in this bill.

Mr. Bob Dechert: Mr. Speaker, if the member actually took the time to speak to shopkeepers, she would understand that in the vast majority of cases they are actually defending themselves in addition to defending their property. They need to know what they can do in order to protect their personal health. Also, they need to know what steps they can take to protect their property. These things are all intertwined.

If members actually take the time to think about what is going on and what shopkeepers need to do when they see somebody come into a store and take something off the shelf, they will realize that we are taking nine very confusing provisions of the Criminal Code, section 34 to section 42, and section 494, and we are simplifying them into three provisions that everyone will be able to understand.

Ms. Olivia Chow (Trinity—Spadina, NDP): Mr. Speaker, first, I want to say that David Chen of the Lucky Moose Food Mart would never want to assault another human being. Therefore, this whole question of self-defence is a red herring, because he was not being attacked by the person who stole things from his store. It is not a question of self-defence we are dealing with. We are talking about his right to make a citizen's arrest.

Why do we need the part of this bill that deals with citizen's arrest? From coast to coast to coast we have heard from small business owners, not just from the one group the Conservative government spoke of having one or two meetings with. I have in fact met with store owners not just in Toronto but in Vancouver and Montreal also. They are saying that they work long hours, their profit margins are small and, unlike large stores, they have no money to hire security guards and do not want to do so. They really do not have a lot of extra staff on hand. They work such long hours and their profit margins are very low, so every dollar they lose from shoplifting means that they must work many more hours.

Let me describe Mr. Chen's situation. I believe that a large number of Canadians are now familiar with the story.

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Mr. Chen works at least 16 to 18 hours a day, seven days a week, every week of the year. Most times he and his wife stay upstairs above the store in order to wake up early in the morning to go to the market to buy the merchandise they sell in their store. They hire a number of employees. However, on average they make around minimum wage, so every \$100 they lose means they have to work another 10 or 15 hours. When they noticed that a person was repeatedly coming to their store to steal plants and food items, they wanted to take action. It is not that they wanted to cause any harm to anyone. They called the police several times and yet the police for some reason did not come.

An hour later the thief came back with the intent to steal more plants, because the first time around the thief was unable to carry all the plants that he wanted to take. He came back to steal more, but did not get to do that. David Chen proceeded to give chase and held the person in his van. Once the police arrived, Mr. Chen was charged with the very serious offences of assault, confinement, carrying a concealed weapon, et cetera.

Mr. Chen had difficulty finding the time and financial resources to hire a lawyer to go to court over and over again to defend himself. Members of the community in Toronto organized a fundraising banquet in order to support him because they felt that what had happened to him was unjust.

In my riding, we have noticed that what occurred to David Chen is not an isolated incident. Another store owner in the Kensington market area, Jeff Ing, who sells fruits and vegetables at his store, Jungle Fruit, has lost a lot of business because of the same person who was shoplifting at the Lucky Moose.

• (1300)

I then went with the member for Vancouver Kingsway to talk to other store owners. We walked along Victoria Street with a petition in support of my private member's bill, Bill C-565, that would allow a citizen's arrest to happen, not at a time when the offence is taking place but within a reasonable amount of time after an offence has taken place, with reasonable grounds. Every shop on Victoria Street and every shopper with whom we spoke were willing to sign the petition. They thought it was important that the Criminal Code be amended with a very common-sense amendment and that it was high time for such an amendment to take place.

Some people asked whether the amendment would encourage vigilantism. No, it would not because the code would not be changed in a way that would allow a citizen's arrest to be done in a way that would cause harm. The "arrest" is basically detaining the person while waiting for the police officers to come and make the actual arrest. The amendment would not change any part of the code dealing with using force.

Some may ask if it means that the employees of some stores would be requested to put their lives in danger in order to apprehend shoplifters. Absolutely not. People do not need to detain shoplifters. We encourage people to call the police and wait for them to come. It is only when there is no other choice that they would make a citizen's arrest. No employees would be under any duress, because they are protected by the provincial labour code, to put themselves in any kind of dangerous situation. It would not justify any use of force because that is not what it is all about.

We believe it is up to peace officers, RCMP, provincial police and the local police force to do their job. We need to ensure that community policing is the order of the day. We need to ensure the police are visible in the community, work closely with the communities and the business improvement area so we can reduce shoplifting incidents in the first place, rather than waiting for them to happen and a citizen's arrest having to be made. It is also important that the Conservative government honour its campaign promise to hire more police officers. However, in some cities across Canada, we have not seen the increase of police officers as promised.

We must also invest in crime prevention. The person shoplifting should have drug treatment programs to ensure he or she quits the drug habit. The shoplifter admitted to that. For young people who may fall into gang situations, we need to find ways to ensure they have good role models and good employment programs before they start shoplifting in the first place.

• (1305)

Bill C-60, however, is not just about citizen's arrest. Two other portions in Bill C-60 are far more complex. I fail to see why the government would not allow this portion, which has the unanimous support of all parties, to move ahead, which is precisely the request that came from the community.

The member from Mississauga—Erindale, the Parliamentary Secretary to the Minister of Justice, was in receipt of suggestions for a private member's bill from the community with the precise wording that both myself and other members of Parliament have submitted. The community was interested in the citizen's arrest portion of the Criminal Code.

Adding in the defence of property and self-defence muddies the water. If the Conservatives are not willing to split the bill and do a quick consent for citizen's arrest, then the bill will go to the justice committee where it must go through a very detailed study of the two portions.

Some elements that modernize the Criminal Code may be worthy of support but some of the other amendments may have unintended consequences. For example, removing the requirements on the use of force in self-defence could lead to troubling incidents and may result in the escalation of violence. I certainly hope not but we do not know.

The guideline right now is very straightforward in that ordinary Canadians are not allowed to use force that could result in the death of the attacker unless they believe their life is at risk. The use of force must be proven in order to defend oneself. If the definition of the type of threat is removed, then unintended consequences may result for people who believe they are under any kind of threat. In the Criminal Code now, the amount of force needed to repel an attack should be used, but not more. Why do we need to change that aspect of it?

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This part of the bill is quite complex and causes some unease in terms of what precisely the Conservative government is trying to do, which is why we are calling upon the Conservatives to immediately split the bill and allow the other two portions of the bill to undergo careful examination. If the government is not willing to do so, then it is playing politics with incidents like David Chen's incident at the Lucky Moose Food Mart. Instead of working with other parties to get results and make Parliament work, the Conservatives want to take this incident and play partisan games with it, which is most unfortunate.

I hope that is not the government's intention, and I do not detect that intention. I sense a willingness of all parties to work together to ensure that incidents, like David Chen's incident, never happen again.

●(1310)

Perhaps all members of Parliament have heard the petitioners from coast to coast who have petitioned Parliament to take action. I recently submitted 10,000 names to Parliament of people urging us to take immediate action.

This debate on amending the Criminal Code for citizen's arrests has been requested by the community for over a year and a half. The incident that led to this discussion, David Chen's incident, occurred in May 2009. It is not as if this just occurred. We have had a long time to look at the Criminal Code and a long time to discuss what needs to be done. On my private member's bill, which came forward in September of last year, there were numerous discussions on the citizen's arrest portion. A lot of store owners from Montreal have talked about this and they want us to work together.

It is my sincere wish that we do not muddy the water with the other two portions of this bill and allow the citizen's arrest portion to move ahead. There is no doubt that the whole notion of self-defence and protection of property in the Criminal Code, which was written a long time ago, will eventually need some kind of adjustment and amendment with more modernized wording so that the different sections can be compressed into a few sections. I understand why that is necessary but to tack it on to Bill C-60 is unfortunate.

The other element of this is that we do not know whether the Conservative government will bring forward a budget that is supportable by all parties. If the budget comes forward and one of the opposition parties makes a decision not to support it, then Parliament will not survive past the end of March. If that is the case, then all the work that has been done to amend the Criminal Code, specifically on citizen's arrests, will not occur.

We are in early March and there are only a few weeks before the coming budget. For this bill to get through second reading today or tomorrow, then go to the justice committee where it has a large number of justice bills in front it, and then, assuming it passes there, to come back to the House of Commons at report stage and then third reading will take quite a bit of time. After that, it still needs to go to the Senate for approval.

Leaving this bill so late, in terms of the upcoming budget, is most unfortunate. I do hope the government will work with the opposition members of Parliament to split the bill and allow the citizen's arrest portion to move ahead with unanimous consent.

●(1315)

Mr. Bob Dechert (Parliamentary Secretary to the Minister of Justice, CPC): Mr. Speaker, I know the member met with her constituent, Mr. Chen, and other shop owners in her constituency. She is sincerely trying to amend the law to fix what everyone recognizes are anomalies in the law.

In her comments, the member asked why we need to amend the right to self-defence and the right to defence of property. With respect, I think she answered her own question in her remarks.

The member then went on to describe some of the facts in the Mr. Chen, Lucky Moose Market case. She rightly mentioned that he was charged with assault and forcible confinement. What happened in that case was that he chased the perpetrator down the laneway, arrested him, tied him up and put him in the back of a van. Therefore, he was charged with assault and with confinement. He needs to know that the provisions of the law that he was charged with are: What right did he have to defend his property; what actions could he take to defend his property; and what actions, in a more broader case, could he take to defend himself.

I wonder if the member could comment on that.

Ms. Olivia Chow: Mr. Speaker, at no time did David Chen feel that the shoplifter would assault him. When he gave chase, it was because of the plants that the shoplifter had taken. I fail to see how removing a section such as, "not intended to cause death or grievous bodily harm" from the Criminal Code to justify self-defence would help the situation.

Right now a person has to prove that he or she used force in order to defend himself or herself. At no point was that really the question. The question was whether it was within David Chen's right to make a citizen's arrest. Had he done so when the shoplifter was stealing in the store he would not have been charged, but because he chased him outside after the shoplifting had occurred, that was the real problem. That was perceived as the problem. That was what was debated in court.

I sat through the entire summary by David Chen's lawyer. I also sat through the entire judgment when the judge acquitted David Chen, so I am very familiar with the court case.

●(1320)

Mr. Alan Tonks (York South—Weston, Lib.): Mr. Speaker, the member has somewhat addressed the issue with respect to defending one's property within the context of an incident that was going on in a shop, as the case was.

The police and law enforcement agencies are concerned however with respect to the chase and the serious harm that could be done to an individual who has had his or her property stolen under the conditions Mr. Chen found himself.

Would the member elaborate in terms of how we could minimize the impression with the community that this is an action that, while understandable, is one that could place an individual in harm's way? Is there some associated communication that we could put out to the public? Is there anything we could entrench within the Criminal Code that would remind people, particularly those who are dealing with the public on a day-to-day basis, that quick acceleration of an incident could be dramatically harmful?

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Ms. Olivia Chow: Mr. Speaker, when asked by the media whether he would do the same thing again, David Chen said he probably would not. When asked what he would do if the incident happened again, he said that he would call the police.

Shoplifters still come into his store. He has a video camera in his store and he takes photos of the shoplifters and puts them on display. It is public shaming in a way. He works very closely with the police.

One of the consequences of the whole incident is that community-based policing in Toronto's Chinatown is much better. People are now working closely together so that the police response is faster and the store owners understand that they should call the police and make sure police officers are notified first.

It is a learning experience for some store owners. I am glad that lesson is learned, but that does not justify what happened to David Chen and all the things he went through. However, he wants to tell the other store owners to wait for the police to come, if they can.

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Speaker, just last week I visited businesses in Vancouver Kingsway, which is a community full of small businesses and many hard-working store owners and business owners of all types. In particular the Chinese, Vietnamese and Filipino communities all have a very strong business work ethic and they tell me that they are struggling.

They told me that many of their businesses are on the margins of survival and it is extremely critical that they be able to protect their property in every respect. Losing \$5,000, \$10,000, or \$100,000 a year is the difference in their businesses remaining viable.

My hon. colleague walked with me up Victoria Drive in Vancouver Kingsway and spoke to store owners. I am wondering what the store owners and small business owners are saying in her community about the good work she has been doing with respect to pushing this issue forward in the House.

Ms. Olivia Chow: Mr. Speaker, store owners in Toronto's Chinatown, throughout Toronto and across the country are saying that they want all political parties to work together to change the law and make it more flexible in terms of citizen's arrest. They would then feel secure knowing if they did something similar to what David Chen did, they would not have to go through what he experienced, namely, a year and a half of lost time, a huge amount of expense and a lot of attention that he did not want.

They are hoping for speedy passage of the amendment to the citizen's arrest portion of the Criminal Code.

● (1325)

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Mr. Speaker, at this stage, I will say that we plan on voting in favour of sending this bill to committee to be studied. It must at least be substantially amended, if not replaced by the bill that all legislators in this House wanted and that was much more simple than the one we have in front of us today.

The speaker before me mentioned some incidents in Toronto that have made people think. Two members from two different parties introduced much simpler bills to clarify things.

I will sum up the situation. A store owner who sees a shoplifter who has previously stolen from him return to his shop and act the same way, realizes that he will once again be robbed. He does not have time to call the police, who would not arrive in time. Therefore, he decides to arrest the individual himself and detain him until the police arrive. That is something that makes sense. I will talk about two cases I pleaded that show that this is useful, especially in a country as vast as ours, where sometimes the police are far away and may take 45 minutes to an hour to come arrest someone who is committing an offence on or in relation to property.

We should have been satisfied with these private members' bills. What is strange in this case is that the department is telling us that it is introducing this bill to clarify things, but the language it uses is far from clear. In a few moments I will read some excerpts. I think it will take a lot of thinking and explanations before we can truly understand the provisions of the bill.

I am told that people love to hear my speeches in the House. It feels as though we are talking to an empty room or to a completely disinterested group of people. Our debates are televised and some people are disappointed if I do not use examples from past cases of mine to illustrate my point. I will talk about two cases, if I have the time.

I would like to clarify our position from the outset. We recognize that this amendment to section 494 is exactly what members want right now. Subsection 494(2) of the Criminal Code states the following:

Any one who is

(a) the owner or a person in lawful possession of property, or

(b) a person authorized by the owner or by a person in lawful possession of property,

may arrest without warrant a person whom he finds committing a criminal offence on or in relation to that property.

It is important to take note of what is not said in this subsection. It says "finds committing". But if the following day the owner sees the person who committed the offence to his property—such as breaking his car windows, for example—it is too late to make a citizen's arrest.

That is what happened to Mr. Chen, as was mentioned by the previous speaker. And it happens quite often. We agree with the amendment proposed in Bill C-60, which would change subsection 494(2) to the following:

The owner or a person in lawful possession of property, or a person authorized by the owner or by a person in lawful possession of property, may arrest a person without a warrant if they find them committing a criminal offence on or in relation to that property and

(a) they make the arrest at that time;

Up until that point, there are only slight changes to the current law, but then the following is added:

(b) they make the arrest within a reasonable time after the offence is committed and they believe on reasonable grounds that it is not feasible in the circumstances for a peace officer to make the arrest.

● (1330)

This amendment, which is similar to two private members' bills previously introduced, would resolve the problem that we are all now aware of and provide the solution that we all want.

This government has a bad habit. Whenever it sees that the House is likely to reach unanimous consent on a given measure, it always has to add something. We in the Bloc Québécois are particularly concerned about the changes it is making to the principle of self-defence.

For instance, here are two situations that could become legal and—even worse—become widespread, if the bill passes in its entirety. After a dispute over a fence degenerates, one neighbour utters death threats against the other neighbour and his family. Incidentally, people do not usually really mean them when they utter death threats. They usually amount to nothing more than excessive language, not all that different from what is often heard here in this House, for example. The two are more or less on the same level.

One thing is certain: the neighbour who hears those threats should not feel truly threatened. However, say he does feel threatened and fears for his life, and wanting to defend his family, he will say, he goes after his neighbour and kills him, justifying his action by saying that the police could not guarantee his safety and that of his family in the long term. In such a case, no one would ever know if the deceased neighbour ever really intended to carry out his threats. Thus, if potentially deadly force is to be used, we want to ensure that the danger is real, that there is no other option besides violence to respond to those threats.

In the other scenario, imagine a young person shoplifting in a convenience store. The store clerk, outraged by this recurring act in his store that is eating up his profits, pulls a shotgun on the shoplifter, but it fires accidentally. At present, that is a criminal offence, because it deals with property and because it involves someone who is not a peace officer. He would be using force that is disproportionate to the crime committed and that caused someone's death.

This is why we want to carefully study the provisions of this bill that have to do with self-defence.

I have practised criminal law since 1966 and have always found the current provisions to be logical and rather self-explanatory and not requiring any radical changes. For example, without going into all the details, the current provisions on self-defence against unprovoked assault start out as follows:

(1) Every one who is unlawfully assaulted without having provoked the assault is justified in repelling force by force if the force he uses is not intended to cause death or grievous bodily harm and is no more than is necessary to enable him to defend himself.

(2) Every one who is unlawfully assaulted and who causes death or grievous bodily harm in repelling the assault is justified if

(a) he causes it under reasonable apprehension of death or grievous bodily harm from the violence with which the assault was originally made or with which the assailant pursues his purposes; and

(b) he believes, on reasonable grounds, that he cannot otherwise preserve himself from death or grievous bodily harm.

No matter their education, jurors who carefully read this section, or if it is read by the judge—perhaps judges provide a copy of the Criminal Code section—are perfectly capable of understanding it. Now here is what they want to replace it with. Why? I do not know.

• (1335)

This is the proposed wording:

A person is not guilty of an offence if

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(a) they believe on reasonable grounds that force is being used against them or another person or that a threat of force is being made against them or another person;

(b) the act that constitutes the offence is committed for the purpose of defending or protecting themselves or the other person from that use or threat of force;...

I am not exaggerating when I say that I am certain that anyone hearing this for the first time will not understand the underlying principle. However, if they referred to the text I read earlier, the current Criminal Code section, they would have a much better understanding.

I do not understand when the government says that it wants to clarify an act, but then it uses such esoteric language to replace Criminal Code provisions that have stood the test of time.

As a lawyer, I have been involved in various cases. I remember a client who was accused of manslaughter. In fact, he might have been accused of murder, but the Crown was prepared to convict for manslaughter of a boat thief.

The defendant was living on an island east of Laval and he had several neighbours. Thieves would arrive by water. One night, the defendant, who was having prostate problems, got up and turned on the lights. He heard a noise, looked outside and saw people fleeing in a canoe. He realized that they were thieves. He finished what he was doing and went back to bed. Later, he heard the sound of boats knocking together even though the river was calm at that hour. He kept the light off and looked outside. What did he see? He saw two people in a canoe pulling his neighbour's motor boat behind them. He yelled out to them and told them to let go of the boat immediately, that they had been caught red-handed. The people kept paddling as though nothing were wrong and headed toward a nearby island to hide. The man found the shameless thieves and told them he had guns. He warned them to give up the boat or he would shoot.

At this point his wife was awake and he asked her to call the police. He could still see the two men paddling. Since he is a hunter, he has at least two guns: a rifle he uses for big game hunting and a .22 calibre gun.

He decided against using the moose hunting rifle because the shot could be fatal and the .22 calibre gun would make enough noise just to scare them. The man warned the thieves that he was aiming his gun at them, ready to shoot, but they kept on paddling. He decided to shoot in front of the canoe to scare them, but they kept on paddling. He warned them he was going to shoot again and he ordered them to let go of the boat. The thieves continued to paddle. The man took another shot in front of the canoe—or so he thought. Then one of the perpetrators seemed to be hiding in the canoe and the other raised his paddle and said they were surrendering. They came back toward him. The police were called to the scene.

One of the two thieves got out of the canoe, but the other one seemed to remain hidden inside. The man warned the thieves that he was armed and that they should not do anything foolish because the police were on their way. Finally, when the police arrived, the man handed over the rifle, trembling, and said that there was another person hiding in the canoe. The police went to look in the canoe and saw that the other person was dead.

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Normally, a .22 calibre bullet fired at that range should not do that, but a .22 calibre bullet is still a bullet even though it is small and slow. In this case, the bullet entered the thief's side, passed between two of his ribs, through one of his lungs—where there was not much to stop it—and lodged at the base of his heart, which is what caused his death.

• (1340)

A police officer would have had the right to do what this man did, although admittedly a police officer would not have done it. Nevertheless, under the Criminal Code, a police officer has the right to behave like this. He used the only force available to make the arrest and it was deadly force. Individuals do not have the right to use deadly force simply to protect their property.

I told myself that the jurors would understand his position, so we decided to bring the case before a jury. We had an expert shooter come in, who told me to ask the police officers whether they had touched the weapon or made any changes to it. I asked him why and he said that he would tell me later. The police officers said that they had kept the weapon as they had found it. The expert shooter noticed that the sight was not calibrated for the range in question. He said that if the man in question had not wanted to hit the thieves, he should have aimed above their heads. Although a bullet travels several feet per second, a canoe also travels a certain distance in several seconds.

I thought that the judge would have to often reiterate that the force must be reasonable and proportional to the situation. If shouting was not enough to convince boat thieves who are on the water to stop, how else could they be stopped other than with a shot? The man had weapons at his disposal and he chose the less dangerous one. He aimed ahead of the boat so that the thieves would see the flash. His arguments convinced the jury and he was acquitted even though the judge told me that she would have found him guilty. She did not sentence him to time in prison since she understood his reasoning. This earned me some nice comments from the presiding juror, who knew Mr. Roy, Mr. Mulroney's former chief of staff. Mr. Roy was actually her nephew, and she told him that the lawyer was extraordinary. However, that has nothing to do with the application of the law, except that a law that is difficult to understand could lead to a sympathy verdict. This bill is ten times harder to understand.

I think that I have time to talk about another case, but it is about the ordinary arrest of an ordinary citizen after the fact. It is similar to the case of Mr. Chen, except that a security guard was involved. It is 17 years since I last practised criminal law. At the time, it was not popular for men to shave their heads, except maybe a few troublemakers. The individual in my case had no hair, no eyebrows, nothing. He had what is called alopecia universalis. He told me that he had no hair anywhere—yes, even where you are thinking. It is odd to see someone without any hair or eyebrows. This person told me that a few thousand people in Montreal have this condition, including the drummer of for the band Corbeau. He said that people always mistook him for someone else.

He had just moved and went into Steinberg's grocery to buy some bread and coffee for breakfast. When he got to the cash, he was arrested by the security guard who said that he had stolen something the day before. He responded that he had not been in the store the

day before and that it was likely someone who looked like him. He said that he was often mistaken for the drummer from Corbeau, who had the same condition.

We explained his conditions and the effects of it, but when I tried his case, the security guard at the door of the court had the same condition. So we did not need an acquittal, but we filed a lawsuit. Steinberg went bankrupt and the security guard committed suicide. He had made a mistake by arresting him the following day. He did not have the right to arrest him because he had not caught him in the act.

• (1345)

[*English*]

Hon. Larry Bagnell (Yukon, Lib.): Mr. Speaker, if the “H” government will allow me to speak in this “H” Parliament, in this “H” House of Commons, I would like to make a couple of comments.

The parliamentary secretary made two comments. One was on the witnesses brought to committee by the opposition. The other was about the time we spent deliberating in committee.

Like that member, I sat on justice committee in the past. I thought the opposition witnesses brought the expertise that was needed. Often the bills we saw in justice committee were not well thought out by the government. They were totally off track of what would have been useful.

The member implied that we spent too long discussing a bill without giving it thoughtful consideration. Yet in committee expert witnesses told us time and time again that they had not been consulted. Those witnesses could protect victims and make Canada safer.

Does the member think the witnesses brought to committee by his party and other opposition parties are not useful to the process? Does he think too much time is spent in thoughtful debate in committee, or is just part of the anti-democratic *modus operandi* of the Conservative government?

[*Translation*]

Mr. Serge Ménard: Mr. Speaker, I know that the witnesses we call are useful, but I do not understand what the hon. member's comment has to do with Bill C-60. We have not yet reached committee stage. We might have a witness in mind to invite, but as far as I am concerned, there are certain observations we can already make ourselves. With a small amendment, the current bill would be improved and not so confusing.

[*English*]

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Mr. Speaker, my colleague from the Bloc made some opening comments about this, but can he see any advantage at all in the proposed amendments in the first part of the bill, not those relating to section 494, but those relating to sections 34 to 42 of the code that deal with the right of self-defence, the right of defence of property, both residential and commercial, and the right of defence to protect one's other personal assets? Does he see anything in the proposed amendments in regard to those sections that would advance the law or protection for our communities?

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[*Translation*]

Mr. Serge Ménard: Mr. Speaker, not at all. I see it as a step backward to give less importance to self-defence with force likely to cause death. I also believe that the proposed amendments will make the bill much more confusing than it already is. What is more, in our experience over the years and in my experience as a lawyer, the current law has not caused much confusion, but there are sections in this bill that are absolutely illegible. The answer to the question is clear. I do not see any progress; I see a backward movement.

• (1350)

Mr. André Bellavance (Richmond—Arthabaska, BQ): Mr. Speaker, my colleague from Marc-Aurèle-Fortin is absolutely correct. For people who do not have a background in law, it is very helpful to be provided with real, concrete examples of what has happened in similar situations. At the beginning of his speech, he referred to certain private member's bills that have been introduced and that deal with these type of situations. For example, in the Toronto area, the owner of a convenience store had to use force to restrain a thief. As a result, members introduced bills.

The member for Marc-Aurèle-Fortin brought up certain problems that exist in Bill C-60. I would like him to explain the difference between the bills introduced by private members and the bill introduced by the government so that people like me, who do not have a background in law, can understand. He has said that the private members' bills are simpler. I would like to know what specific problems he sees with Bill C-60.

Mr. Serge Ménard: Mr. Speaker, the overall problem is that it will create confusion. The degree of force that can be used in self-defence is too subjective a concept. The legislation is good in that it extends the time within which an owner or his representative can arrest a repeat offender—that was already established in the law.

The example that I gave you, which was something I experienced during my time as a lawyer, demonstrated that someone should be arrested on the spot. If he is arrested the next day, a mistake could be made, even though there might be good reason for it, such as seeing a person with no hair or eyelashes. But it could be someone else.

Given the incident in Toronto, given the size of our country and given the time that it takes for police to arrive on the scene as they are often called to do, a little more time must be allowed after the offence is committed. As for the rest, why make the concept of potentially deadly force more subjective, especially if the owner does not fear for his life but simply fears the person who is attacking him?

[*English*]

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Speaker, the concerns the member raised and the concerns we have heard from other stakeholders in this matter raise the question about whether the bill should have been referred directly to committee before second reading. Members will be asked to vote on a bill that has some problematic areas in which expertise is necessary. This matter happened back in October of 2010. We are four to five months later and we are only at second reading debate.

The whole process seems to have been poorly thought out by the government. I hope the member would agree that the best approach is not to pass a bill at second reading, with approval in principle,

when we could put it straight to the committee and make fundamental changes, about which I believe the member is talking.

[*Translation*]

Mr. Serge Ménard: Mr. Speaker, we are going to try to remove the useless passages in committee. In my opinion, the amendments to section 494 are the only really useful thing in this bill.

It is true that a number of situations are described, illustrating when the use of force is reasonable. I would point out that all these situations were drawn from case law. Judges do not require a detailed list of what is or what is not reasonable, especially when the list is not exhaustive. What is deemed reasonable has never posed a problem; jurors and judges are perfectly capable of discerning this in practice.

Even though this clause is clear, it is useless. I believe that we should only retain the useful part, that is the amendments to section 494.

• (1355)

[*English*]

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Speaker, I am pleased to add some commentary on Bill C-60.

Most Canadians will recall the incident where a shopkeeper observed someone stealing from his market in Toronto and then took off. Then the person came back and did it again. The shopkeeper saw him, ran him down and held him.

It is fairly straightforward in the eyes of the public. It is interesting to note that there are some very sensitive questions of law. Most Canadians would say that they have the right to protect their property or to hold a person until the police arrive. We have seen many stories like that.

The issue of civil liberties is very sensitive in the law. From some of the speeches given to date, there is a question about whether the proposed amendments in Bill C-60 will, in fact, be appropriate.

It is my view, where there are technical, legal matters and where the House has brought in a bill, we are asked, without the benefit of expert witnesses and legal opinions, et cetera, to debate it the best we can do. Without hearing from witnesses, we are at second reading.

The importance of that is at second reading we kind of get the mood of the House and whether we are prepared to approve, in principle, a bill to go forward to the next stage, which would be to go to committee.

In the question about what is actually affected by second reading, it is important for members to know and to remember that when we give approval in principle, it restricts the scope of amendments that can be made at committee. Certain things cannot be touched. We will not be able to go beyond the scope of the bill. For instance, if it deals with this universe, these items and we wanted to make it bigger than it was at second reading, it could not be done. If we wanted to change, substantively, the intent or the essence of the bill, it could not be done at committee. That is one of the reasons I asked the question of the hon. member earlier.

Statements by Members

I am a little confused. This case took place in October 2010. I think it was tabled in the House February 10. We are now in the beginning of March and we are finally starting debate.

This is a matter where Parliament could have shown a bit more leadership in addressing a very serious question of law. The bill could have been put forward, certainly before the Christmas break, and referred to committee so it could prepare its work and at least arrange for witnesses during the Christmas break. Then we could have started the hearings in committee when we came back in January.

It is an important issue of law. It is an issue which I think Canadians would expect us to deal with in a responsible fashion so we could address the questions of the day.

I raise those points because I think it is important. There is always a good reason to send a bill straight to committee rather than having second reading.

The other part has to do with the whole concept of the civil liberties. The member who just spoke laid out the fact that many of the amendments were problematic and might be more harmful than helpful in this case. When I finish my comments after question period, I hope to lay some of those out.

• (1400)

The Acting Speaker (Mr. Barry Devolin): I must interrupt the member at this time for statements by members. The hon. member for Mississauga South will have 15 minutes remaining when the House returns to this matter.

STATEMENTS BY MEMBERS

[English]

ST. THOMAS INDUSTRIAL REVOLUTION CHALLENGE

Mr. Joe Preston (Elgin—Middlesex—London, CPC): Mr. Speaker, who wants to be an industrial revolutionary?

St. Thomas, Ontario has a vision to be the best manufacturing community in North America and a group of local private sector business leaders has taken huge steps to make this happen.

We want to welcome industrialists, innovators and business leaders from around the world to imagine building something great in St. Thomas, Ontario.

If people have an idea but no place to set up, then they should take the challenge now. They should enter to win a factory to call their own and to make their home. People must enter today and a winner will be chosen and be in his or her new home by September.

We are serious about manufacturing in St. Thomas, and we are proud of it, too.

If what people have just heard describes them, they should enter the St. Thomas industrial revolution challenge at stirchallenge.ca.

Win a factory, be an industrial revolutionary and make St. Thomas home.

IMMIGRANT SETTLEMENT SERVICES

Mr. Alan Tonks (York South—Weston, Lib.): Mr. Speaker, as the House knows, federal funding for language, counselling, mentoring and job training to help new Canadians integrate and support themselves and their families was arbitrarily cut by the government by \$53 million in December.

Nowhere has the impact been more dramatic than in Toronto and the greater Toronto area, where unemployment rates for new immigrants are nearly triple the national average, as their jobs have proven to be less secure in the recent recession.

Fully 81% of these cuts are being made in Ontario, largely in the GTA and are in addition to \$207 million the federal government promised but has not spent.

The Province of Ontario has responded with interim funding to community-based organizations, which will allow a continuation of service during this present impasse.

In addition, this House has supported a resolution from the Standing Committee on Citizenship and Immigration calling for a reinstatement of the program in support of settlement services.

Given the actions of the Province of Ontario and this House, I would ask that the minister simply declare a moratorium on the funding cut and accelerate negotiations with the Province of Ontario for a new Canada-Ontario agreement for settlement services.

* * *

[Translation]

COLOMBIA

Mrs. Maria Mourani (Ahuntsic, BQ): Mr. Speaker, in December 2010, the people of Colombia were hit hard by terrible floods.

I was saddened not only by the number of deaths, but also by the number of families affected by this natural disaster. Oxfam has estimated that over 2.1 million people have been affected by the severe flooding, which destroyed nearly 3,000 homes and damaged farmland, infrastructure and major highways. Some 28 of the country's 32 districts were flooded.

The flooding has exacerbated the already glaring socio-economic inequalities. It is estimated that about 70% of those affected by this disaster do not have access to clean drinking water.

In Colombia, it is time to rebuild and it is a time for hope. Here in North America, however, it is also time to rebuild—within our hearts and minds.

Long live the people of Colombia and may pan-American solidarity prevail.

Statements by Members

[English]

ANIMAL CRUELTY

Ms. Libby Davies (Vancouver East, NDP): Mr. Speaker, like many in B.C., I was horrified to learn of the slaughter of 100 sled dogs in Whistler. These dogs were massacred in an inhumane and cruel manner and then buried in a mass grave.

Public reaction has been huge as Canadians express their outrage and sadness about this appalling crime. I would like to thank the many people who have sent petitions banning the import of cat and dog fur, and petitions pressing for a ban on human consumption of horse meat. I am very pleased to have seconded Bill C-618 regarding the banning of products made of cat and dog fur. I strongly support Bill C-229 to strengthen cruelty to animals laws so that those responsible for such acts would be punished accordingly.

All these important citizen initiatives have focused our attention on what needs to be done.

Animal cruelty laws must be effective and they must not be stripped down in the Senate. I urge all members to join together to protect animals and prevent animal cruelty.

* * *

DON BRITTAIN

Mr. James Lunney (Nanaimo—Alberni, CPC): Mr. Speaker, it was Friday evening at a gala that Don and Rose Brittain were chosen as Parksville's citizens of the year. Sadly, the award was posthumous for Don, who passed away suddenly on February 6.

Don Brittain was a founding member of the Coombs-Hilliers Volunteer Fire Department and was fire chief for nearly two decades. He worked much of his career with the Ministry of Transport and Highways, and finished as an inspector of commercial vehicles.

An avid outdoorsman, hunter and farmer, a leader with 4-H and Arrowsmith Search and Rescue, Don was a good neighbour to everyone who knew him.

The Brittains raised their own and numerous foster children. Their home was a magnet for young people, and love was the foundation.

Don's memorial service drew an estimated 750 people, who jammed the hall to remember a man who always showed up when help was needed. Don's truck and firefighting gear were featured at his memorial. Area firefighters saluted a local icon and on Friday, and Parksville's citizen of the year received a standing ovation.

It is my pleasure to salute Don Brittain, citizen of the year, one great Canadian who left a legacy that shaped a community.

* * *

●(1405)

MUTUAL INSURANCE COMPANIES

Mr. Francis Valeriote (Guelph, Lib.): Mr. Speaker, Canada has 106 mutual property and casualty insurance companies that were set up by farmers over 100 years ago at a time when it was very difficult for them to find insurance at a reasonable cost.

As a result of action taken by external sources, the Economical Mutual Insurance Company announced its intention to demutualize

last December. Because there is no process in place for property and casualty insurers, the Minister of Finance will be asked to consider draft regulations.

The Canadian Association of Mutual Insurance Companies is strongly opposed to professional consultants, brokers, directors, officers and selected staff from getting a windfall from the demutualization. Furthermore, in the case of Economical, a small minority of policyholders stands to share in the whole value of the company. This is wrong and should not be allowed.

I call on the Minister of Finance to give significant consideration to how value should be distributed during the demutualization of a property and casualty insurance company with the objective of finding fairness for all.

* * *

CANADIAN FORCES

Mr. Phil McColeman (Brant, CPC): Mr. Speaker, it was a hero's welcome for reserve soldiers of the 56th Field Regiment of the Royal Canadian Artillery in Brantford. On February 24, families and friends gathered to celebrate the safe return of all 25 soldiers who just completed a recent tour in Afghanistan.

Fit, healthy and safe, these brave soldiers participated in a welcome home parade that honoured their exceptional service to their regiment, community and country.

As Canadians, we take enormous pride in our men and women who have served and continue to serve in Afghanistan. We are grateful for the sacrifices they continue to make and their unwavering commitment to our country.

* * *

[Translation]

SYLVAIN COUTURE

Mrs. Claude DeBellefeuille (Beauharnois—Salaberry, BQ): Mr. Speaker, I am pleased to congratulate Dr. Sylvain Couture, a doctor from Saint-Stanislas-de-Kostka, who was honoured at the *La Presse*/Radio-Canada excellence gala for 2010 for the quality of his work and for his devotion to humanitarian causes.

Following the earthquake in Haiti on January 12, 2010, Dr. Couture managed the emergency field hospital set up in Port-au-Prince by the Canadian and Norwegian Red Cross. He had already been to Haiti once before with Médecins du monde to provide assistance following Hurricane Jeanne in 2004.

Dr. Couture also worked on the ground in Southeast Asia after it was ravaged by a tsunami in 2004 and in Pakistan after the earthquake in 2005. He has also been to Afghanistan several times on relief missions.

I am proud to pay tribute to him for his exemplary work ethic, his courage and his devotion. I encourage him to continue his invaluable service.

Statements by Members

Congratulations Dr. Couture. You are an exceptional man with great strength of character.

* * *

[English]

OUTSTANDING CITIZENS

Mr. Robert Sopuck (Dauphin—Swan River—Marquette, CPC): Mr. Speaker, on March 3, Karen Davis of Dauphin and Adrienne Mack of Neepawa were awarded the YWCA Women of Distinction Award. This award is presented to role models who have made significant contributions to their communities.

Karen has distributed new books every month to 200 children in the Dauphin area, while Adrienne has volunteered for several community organizations, including the Yellowhead Road Runners Club and Neepawa Rotary Club. These citizens and others like them make Canada a better place in which to live.

I would also congratulate 20-year-old Shane Luke, captain of the Dauphin Kings MJHL hockey team. Shane was nominated for the Canadian Junior Hockey League Player of the Year award. Shane was named the MJHL's most valuable player and won a trophy for hockey ability and sportsmanship. He will attend Providence College next year on a full scholarship at the division one level.

Whether it is outstanding volunteers or skilled athletes, the people of Dauphin—Swan River—Marquette are well served by such outstanding citizens.

* * *

DEMOCRATIC REFORM

Hon. Carolyn Bennett (St. Paul's, Lib.): Mr. Speaker, I am pleased to rise today to support Dress Colourfully for Democracy Day, although a black armband would have been more appropriate.

After five years of this regime, senior members of the Conservative Party are facing serious charges and potential prison sentences in relation to a \$1.2 million scam to break election spending limits to buy more attack ads.

This adds to the government's egregious abuse of power and subversion of democratic processes, such as using the "H" word to rebrand the Government of Canada and misleading Parliament and hiding information.

• (1410)

[Translation]

In addition, people in charge of supervisory institutions were fired for criticizing the government, and Parliament was prorogued.

Given the way our government works, I have serious concerns about the future of our democracy.

That is why we want to fight for democracy through our plan for renewal.

[English]

It is time for the assault on Canadian democracy to stop. The Prime Minister does not make the rules. Canadians—

The Speaker: Order. The hon. member for Calgary East.

IRAN

Mr. Deepak Obhrai (Calgary East, CPC): Mr. Speaker, our government is deeply concerned by reports that Zimbabwe is willing to supply uranium to Iran.

Iranian authorities have refused to fully co-operate with the International Atomic Energy Agency to address international concerns about the nature of its nuclear program.

As a result of Iran's continued non-compliance, the UN Security Council adopted resolutions 1737 in 2006 and 1803 in 2008, which clearly prohibit the supply of uranium to Iran.

Canada strictly adheres to these international legal obligations to prevent the sale or transfer of uranium to Iran. Zimbabwe should immediately cancel any plans it may have to facilitate Iranian acquisition of uranium.

Our government will strongly oppose any attempt to circumvent these important UN Security Council resolutions.

* * *

MINING INDUSTRY

Mr. Charlie Angus (Timmins—James Bay, NDP): Mr. Speaker, Timmins—James Bay is home to some of the richest gold, copper and diamond mines in the world, and now with the ring of fire, we are blessed with an enormous potential for chromite. Our hopes for the ring of fire are tempered with the long-term plans for how this resource will be developed.

We saw the Conservative government completely abandon mining communities when it gave the thumbs up to Vale and Xstrata. The result was the shutdown of the smelter in Timmins and wars waged against the communities of Voisey's Bay, Sudbury and Thompson.

On the ring of fire, northerners are speaking with one voice. We do not want the ore shipped to other jurisdictions or to China. We want the ring of fire processed in northern Ontario. We want the full benefit for our communities, for natives and non-natives. We want to see if the ring of fire can develop our rail lines and provide long-term economic stability.

We are calling on the government to develop a plan. The New Democrats say that northern Ontario should be able to benefit fully from the ring of fire.

[Translation]

CHILDHOOD OBESITY

Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC): Mr. Speaker, childhood obesity is on the rise in Canada. Maintaining a healthy weight is crucial to a child's development and overall health. Obesity can lead to a number of health problems normally seen in adults, such as type 2 diabetes and hypertension.

The Conservative government is trying to reverse that trend. Today, the Minister of Health and Conservative colleagues launched discussions on a strategy to curb childhood obesity.

We are starting a national dialogue with the medical community, parents, teachers and children themselves on the best ways to promote and maintain a healthy weight among young Canadians.

This will be the first national dialogue of its kind in Canada. Never before have such broad and diverse groups come together to tackle the problem of childhood obesity.

The Conservative government is committed to making children's lives as healthy as possible.

* * *

INCOME TAX ACT

Mr. Robert Bouchard (Chicoutimi—Le Fjord, BQ): Mr. Speaker, Bill C-288, which was introduced by my colleague from Laurentides—Labelle and introduces a tax credit for new graduates working in regions facing economic challenges, has been before the Senate for almost nine months. However, the bill is being completely blocked and its study is constantly being postponed because of pressure from the Conservative government, which opposes Bill C-288.

Students from the FEUQ and the FECQ are on the Hill today to condemn this situation. At a press scrum over the noon hour, they condemned the attitude of the Prime Minister, who is playing party politics and going against the democratic will of the members of this House who want the Senate to examine Bill C-288.

The Prime Minister is trying to dictate each and every issue that the Senate examines, and this only emphasizes its partisanship, even though he himself promised to put an end to it. Is there a single Conservative member from Quebec who will have the courage to stand up and condemn this situation?

* * *

• (1415)

[English]

YEAR OF INDIA IN CANADA

Ms. Yasmin Ratansi (Don Valley East, Lib.): Mr. Speaker, the Year of India event last Friday was supposed to be a non-partisan celebration. That was until the PMO got involved. After the Prime Minister spoke, the PMO tried to embarrass the next speaker, the Leader of the Opposition, by removing the podium and ushering the media out of the room. This childish behaviour is not becoming of a prime minister. Clearly, the PMO has taken the concept of owning the podium too literally.

Oral Questions

Like the Minister of Citizenship and Immigration, I guess the Prime Minister will make sure his staff takes the blame for his mistakes, but the buck stops at the top for those who misuse government resources and treat Canada's ethnic communities like mere political pawns.

This nonsense has got to stop. I call on all members to proudly celebrate our historic and burgeoning ties with India, but let us do it free from partisan politics.

* * *

POLITICAL FINANCING

Hon. Jim Abbott (Kootenay—Columbia, CPC): Mr. Speaker, the era of Liberal entitlement lives strong. The Liberals have long held that the rules do not apply to them. Last week, Liberal members stood in the House and attacked my colleague because his former staffer mistakenly used parliamentary resources for partisan purposes.

Yet, we now know that the Liberals in Prince Edward Island have been advertising that constituents can buy Liberal Party memberships in a Liberal member's office. This is out of his taxpayer-funded constituency office. What does he have to say about the abuse? He said that constituency offices are all partly political anyway.

This weekend, that same MP went on the attack again. He said, "This is totally unacceptable...Parliamentary materials are never allowed to be used for political gain, especially to drum up donations for political parties". Apparently, what is "unacceptable" for others is "acceptable" for him.

Will the member for Charlottetown do the right thing and apologize?

ORAL QUESTIONS

[English]

POLITICAL FINANCING

Hon. Ralph Goodale (Wascana, Lib.): Mr. Speaker, the Conservative election fraud scheme is getting worse. It is a scheme to break national party spending laws by at least \$1.3 million and then bilk taxpayers for \$800,000 in illegal rebates claimed by 67 local Conservative riding associations. Now we know that at least 17 claims were actually paid before Elections Canada detected the fraud and stopped the dirty money.

If the Prime Minister thinks this is all okay, why did his regime concoct phony invoices to try to hide it?

Mr. Pierre Poilievre (Parliamentary Secretary to the Prime Minister and to the Minister of Intergovernmental Affairs, CPC): Mr. Speaker, it would be difficult to respond to and correct all of the factual errors in the hon. member's question in 35 seconds.

Oral Questions

I will inform the member that Conservative candidates spent Conservative funds on Conservative advertising. The national party did transfer funds to the local campaigns and those local campaigns followed all the rules in making proper filings to Elections Canada. That is why we continue to press our case in the court of law. We took Elections Canada to court because we have followed all the rules and we will continue to pursue our case.

Hon. Ralph Goodale (Wascana, Lib.): Mr. Speaker, let us be clear, this is not just a little administrative problem. It is election fraud. It is against the law and it is not commonplace. Only the Conservative regime had this scheme.

Charges have been laid. The Director of Public Prosecutions has said there is voluminous evidence of illegality. Even to lay those charges he first had to believe there was a likelihood of conviction.

To deter such illegal behaviour, will the Prime Minister support mandatory minimum sentences to get tough on Conservative crime?

Mr. Pierre Poilievre (Parliamentary Secretary to the Prime Minister and to the Minister of Intergovernmental Affairs, CPC): Mr. Speaker, last week I told the Liberals that they would not qualify for an Oscar victory, but that member might be an exception. He would win best fiction.

What happened here, of course, was Conservative candidates spent Conservative funds on Conservative advertising. The national party transferred funds to the local campaigns. The reason Elections Canada knows this is that we told it, and why would we not? After all, it is legal, ethical and common practice among all parties. It singled us out and so we took it to court and we will continue to pursue our case.

• (1420)

Hon. Ralph Goodale (Wascana, Lib.): Mr. Speaker, the Conservatives did not tell Elections Canada they sent false invoices.

One minister falsifies a document, tries to cover up and fails to tell the truth. Another minister launches an illegal fundraising scheme to shake down new immigrants. Four of the Prime Minister's close advisers are charged with election fraud involving forged invoices and dirty money. Those in the Conservative regime who object to this fraud are called "turds" and "idiots" by all the Prime Minister's men.

Will this regime at least tell Senator Finley and Senator Gerstein to step aside while charges against them are outstanding?

Hon. John Baird (Leader of the Government in the House of Commons, CPC): Mr. Speaker, let me tell the deputy leader of the Liberal Party that at least no one in this party has had to write a cheque for \$1 million back to the taxpayers that they stole when they were in office.

* * *

[Translation]

GOVERNMENT COMMUNICATIONS

Mr. Marc Garneau (Westmount—Ville-Marie, Lib.): Mr. Speaker, from coast to coast to the Canadarm in space, the identity of the Government of Canada is subject to strict, non-partisan rules. It is that identity, which belongs to all Canadians, that the Prime

Minister is attacking. Once again, he is disregarding existing rules. He is acting as though he were above the law.

In fact, is that not the problem, that the Prime Minister thinks that he is the government?

Hon. Stockwell Day (President of the Treasury Board and Minister for the Asia-Pacific Gateway, CPC): Mr. Speaker, there has been no change. This is a practice used by many governments. We will continue to use the term "Government of Canada". It is not uncommon for governments to use this practice.

[English]

Mr. Marc Garneau (Westmount—Ville-Marie, Lib.): Mr. Speaker, Canadians are immensely proud of their country and rightly so, but the Conservatives do not seem to share in that pride. It is no longer the "Government of Canada", but the government of the Prime Minister's last name. It is a government of only one, for only one and by only one.

Is this what the Prime Minister meant when he said that by the time he was finished we would no longer recognize Canada? Why does the Prime Minister think he is more important than Canada?

Hon. Stockwell Day (President of the Treasury Board and Minister for the Asia-Pacific Gateway, CPC): Mr. Speaker, there has been no change of policy or practice. It is not uncommon at all to see governments use various terms. A quick search of the various Internet sources show at least 109 references used by the Liberals. As a matter of fact, a term was used by the leader of the former government, a term that was endorsed by the clerk of the Privy Council, Mr. Mel Cappe, and also the president of the Privy Council.

* * *

[Translation]

POLITICAL FINANCING

Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ): Mr. Speaker, the Minister of Immigration said his staff's use of parliamentary letterhead for partisan fundraising was a minor administrative mistake. Yet it was the minister who told a member of his office staff, who is paid by taxpayers, to conduct this targeted fundraising.

Will the Minister of Immigration admit that he was behind this partisan fundraising carried out with government resources and that he must take responsibility and resign?

Oral Questions

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism, CPC): Mr. Speaker, it is obviously completely inappropriate to use government resources to raise funds for any political party. That is why I accepted responsibility as soon as I learned of this administrative mistake by my office. My political assistant offered his resignation and I accepted. I subsequently contacted the ethics commissioner and you, Mr. Speaker. I apologize for this mistake, and we have taken corrective action.

• (1425)

Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ): Mr. Speaker, that is a little too easy. When it is time to cut ribbons, the minister is responsible. He takes responsibility, he struts about, and he says that he made the decision. But, when he breaks the rules, it is no longer his fault, it is the fault of his assistants. He is never responsible for that. He cannot have it both ways. Ministerial responsibility is always applicable. He made a mistake, he is responsible, he should resign.

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism, CPC): Mr. Speaker, my office's standard practices were not followed in this case. As soon as I learned of it, I took steps to correct the situation. My political assistant submitted his resignation and I accepted. I personally informed you and the ethics commissioner as soon as I became aware of the situation. It is obviously inappropriate, and I apologize for the mistake made in my absence. I believe that this is the end of this story.

* * *

CITIZENSHIP AND IMMIGRATION

Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ): Mr. Speaker, the problem with the minister of immigration is that he is confusing his obligations towards newcomers with the partisan interests of the Conservative Party. It is preposterous that the minister responsible for processing all immigration applications is involved in a pre-election communications plan targeting certain ethnic groups.

How can we believe that the Conservatives' electoral and racial profiling will not be used as a framework for government policies, since they are orchestrated by the same minister?

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism, CPC): Mr. Speaker, this government is proud of the progress it has made in responding to the aspirations and values of new Canadians and members of our cultural and ethnic communities. This government cut the Liberals' head tax in half. This government tripled funding to establishment services for newcomers. This government issued an apology for the head tax charged to Chinese Canadians. And that is not all. We are proud of our record when it comes to new Canadians.

Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ): Mr. Speaker, one of the Minister of Immigration's responsibilities is to appoint citizenship judges as well as members of the Immigration and Refugee Board. These people must make decisions and examine cases based on merit, not the Conservative government's partisan interests.

How can we believe in their neutrality, knowing that the minister who chose them has drawn up a short list of communities to woo?

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism, CPC): Mr. Speaker, this government introduced

a new process for appointing and pre-screening IRB members. Of the people applying to become IRB members, 90% are not recommended to the minister. Only 10% are recommended. Since becoming minister, I have recommended to Cabinet the appointment of about 130 IRB members. I know that one of them had ties to the Conservative Party.

* * *

POLITICAL FINANCING

Mr. Thomas Mulcair (Outremont, NDP): Mr. Speaker, we are beginning to see the extent of the Conservative Party's electoral fraud. For example, in 2006, in Hull—Aylmer, actual local campaign expenses totalled \$12,000; however, the refund received from taxpayers' money totalled \$34,000. In other words, an illegal refund was received for three times the actual campaign expenses.

For years, the Conservatives have been calling on the Liberals to pay back the money from the sponsorship scandal. It is now the Conservatives' turn to tell taxpayers when they are going to pay back the money they stole through their system of electoral fraud.

Mr. Pierre Poilievre (Parliamentary Secretary to the Prime Minister and to the Minister of Intergovernmental Affairs, CPC): Mr. Speaker, clearly the premise of the question is wrong. In actual fact, Conservative Party candidates spent Conservative money on Conservative ads. The national party transferred funds to local candidates. The reason why Elections Canada knows about it is that we told them. Why not? It is legal, it is ethical and all the parties do it on a regular basis. We have defended our case before the courts and will continue to do so.

• (1430)

[English]

Mr. Thomas Mulcair (Outremont, NDP): Mr. Speaker, it is taxpayers' money and that party stole it.

For the past five years the Conservative motto has been abuse, cheat and scheme, that the ends justify the means. And if one gets caught, use a low level staffer as a scapegoat.

The latest example is one of the worst. The minister instructed his staff to use his letterhead and government resources for purely partisan political purposes, which is completely illegal. His pathetic justification? He would normally be responsible but he was not physically present when the letter was written; therefore, he is not responsible. This passes the bounds of hypocrisy even for a Conservative.

The minister is responsible for these illegal acts. When will he resign?

Oral Questions

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism, CPC): Actually, Mr. Speaker, that is the opposite of what happened.

I was leaving to go overseas and I asked a staff member to pass on to caucus colleagues some information, specifically saying not to use government resources in doing so. It is why, unlike the member for Edmonton—Strathcona, who uses her parliamentary email account for partisan messages, I have my own personal political letterhead that we use for these purposes. It ought to have been used in this instance; it was not. That was inappropriate, which is why the staff member in question offered his resignation, which I accepted.

Ms. Olivia Chow (Trinity—Spadina, NDP): Mr. Speaker, the senior staffer was fired just because he was caught.

This was a scheme organized by the minister of immigration to exploit immigrant communities. The minister has been doing much of this fundraising himself, abusing his power as the minister.

How many organizations hoping to get funding or some special favours were hit up for donations? Who else has he shaken down?

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism, CPC): Mr. Speaker, we are proud of our record and of communicating our record to new Canadians.

I want to emphasize that even just last night, I attended a fundraising event for the Conservative Party that was attended by more than 800 proud Canadians from diverse backgrounds. They were there to contribute of their own free will to the Conservative Party precisely so that we can communicate our message about how we finally have a government that reflects and fights for the values and aspirations of new Canadians who believe in entrepreneurship, in opportunity, and believe in this government.

Hon. Wayne Easter (Malpeque, Lib.): Mr. Speaker, in the riding of Malpeque, the Conservatives used the in and out scam to funnel money to use for national ads, overspent the limit and tried to buy the election. Bad enough.

Now we know that other ridings in Atlantic Canada not only used this scam but have already received refunds for it, in Halifax and in Humber, Newfoundland.

Will the Prime Minister order these two Conservative riding associations to pay back the thousands of dollars they owe Canadians in dirty money?

Mr. Pierre Poilievre (Parliamentary Secretary to the Prime Minister and to the Minister of Intergovernmental Affairs, CPC): Mr. Speaker, these ridings and, indeed, the entire Conservative Party followed all of the rules. Conservative candidates spent Conservative funds on Conservative advertising.

What is interesting is that we still do not have any questions from the Liberal Party on jobs. Why? It is because our economic action plan has created 460,000 of them. There are no questions on unemployment. Why? Unemployment in Canada is two percentage points lower than in the United States for the first time in a generation. There are none on the economy, because we have had six consecutive quarters of economic growth in Canada. There are none on savings, because five million Canadians have opened up Conservative-created tax-free savings accounts.

We are getting the job done.

Hon. Wayne Easter (Malpeque, Lib.): Mr. Speaker, could the parliamentary secretary get to answering the question?

The audacity of the government is simply astounding. No one is better at saying one thing and doing another than the super cop from Vaughan.

This month is fraud prevention month. The slogan is: “Recognize it, Report it, Stop it”. Meanwhile in Vaughan, where tens of thousands of dollars were used to commit election fraud, the new MP praises fraud prevention.

Will the member do the right thing and tell the Conservative regime to repay the dirty money?

Mr. Pierre Poilievre (Parliamentary Secretary to the Prime Minister and to the Minister of Intergovernmental Affairs, CPC): Mr. Speaker, if the members continue to ask the same question, they will continue to get the same answers.

Conservative candidates spent Conservative funds on Conservative advertising. The national party transferred funds to local candidates. The reason Elections Canada knows it is because we told them, and why would we not? It is legal, ethical and common practice amongst all political parties.

We have taken Elections Canada to court because we have followed the rules, and we will continue to pursue our case in front of the courts.

• (1435)

[*Translation*]

Mrs. Lise Zarac (LaSalle—Émard, Lib.): Mr. Speaker, it is already shameful enough that the Conservatives cheated our electoral process by committing electoral fraud in 67 ridings to the tune of more than \$1 million. To add insult to injury, the Conservatives had the gall to make taxpayers repay the bogus expenses.

Will the Minister of Intergovernmental Affairs give taxpayers back the thousands of dollars that she received fraudulently?

[*English*]

Mr. Pierre Poilievre (Parliamentary Secretary to the Prime Minister and to the Minister of Intergovernmental Affairs, CPC): Mr. Speaker, Conservative candidates spent Conservative funds on Conservative advertising. The national party did transfer funds to the local campaigns.

The reason Elections Canada knows that is because we told them and why would we not? It is legal, ethical and common practice amongst all political parties.

Elections Canada singled us out, so we took them to court. We will continue to pursue our case in front of the courts.

Oral Questions

[Translation]

Mrs. Lise Zarac (LaSalle—Émard, Lib.): Mr. Speaker, the Minister of Intergovernmental Affairs is not the only one to have extorted repayment from taxpayers as part of the Conservatives' scheme.

Her colleagues from Beauce, Charlesbourg—Haute-Saint-Charles, Lévis—Bellechasse and Lotbinière—Chutes-de-la-Chaudière were also reimbursed tens of thousands of dollars that they did not deserve.

What are the Conservatives waiting for to pay taxpayers back for these ill-gotten funds?

Mr. Pierre Poilievre (Parliamentary Secretary to the Prime Minister and to the Minister of Intergovernmental Affairs, CPC): Mr. Speaker, the hon. member just mentioned members who followed the rules.

[English]

The Conservative candidates in question spent Conservative funds on Conservative advertising. The reason Elections Canada knows that is because we told them and why would we not? It is legal, ethical and common practice. That is why, when they singled us out, we took them to court. We will continue to pursue our case against Elections Canada.

* * *

[Translation]

FORMER PUBLIC SECTOR INTEGRITY COMMISSIONER

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): Mr. Speaker, when he was in opposition, the current Prime Minister strongly condemned the severance package paid to David Dingwall, who had resigned over excessive expense claims. The Prime Minister said at the time that no law was forcing the Liberal government to pay him a severance package and that, in fact, it was merely a crass attempt to buy his silence.

Just as the Liberals did with David Dingwall, how could the Prime Minister pay a half-million-dollar severance package, with a confidentiality clause, to the former integrity commissioner, when she should have simply been dismissed—

The Speaker: The hon. President of the Treasury Board.

Hon. Stockwell Day (President of the Treasury Board and Minister for the Asia-Pacific Gateway, CPC): Mr. Speaker, in this situation, the government sought and received legal advice, which it followed.

I also understand the person referred to by my colleague will answer to the committee this Thursday. The members on the committee will be able to ask questions, for they have all the information.

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): Mr. Speaker, the truth is that Christiane Ouimet, who was appointed by the Conservatives, was so incompetent that she turned out to be a political embarrassment to the government.

The Prime Minister decided to do the same as the Liberals did with David Dingwall, and offered the former integrity commissioner a very sweet deal so she would leave quickly and quietly.

Why did the Prime Minister offer Christiane Ouimet a golden parachute, when she should have simply been dismissed?

Hon. Stockwell Day (President of the Treasury Board and Minister for the Asia-Pacific Gateway, CPC): Mr. Speaker, the individual in question was selected with the approval of all parties in this House. Furthermore, that individual will answer the members' questions at the meeting scheduled for Thursday afternoon. The members have all the information, and I believe they will have some questions to ask.

* * *

● (1440)

AFGHANISTAN

Mr. Claude Bachand (Saint-Jean, BQ): Mr. Speaker, when the Conservatives, with the Liberals' help, decided to extend the mission in Afghanistan, we were told that the mission would be centred around Kabul. But now the Minister of National Defence is saying that he hopes to open training centres in Herat, Mazar-E-Sharif, and Jalalabad, a city on the border with Pakistan. That is nowhere near Kabul.

Why has the government hidden the truth from us yet again, if not to try and get the public to blindly accept that the military mission in Afghanistan is being extended?

Hon. Peter MacKay (Minister of National Defence, CPC): Mr. Speaker, as usual, the member has incorrectly analyzed the issue.

[English]

The combat mission will come to an end. The Canadian Forces will then transition into a training mission in a Kabul-centric, behind the wire configuration. That is the position of the Government of Canada.

We fully support the ongoing efforts of the men and women in uniform, who are doing magnificent work on the ground in Afghanistan. I would elicit the support of the member opposite for the same.

[Translation]

Mr. Claude Bachand (Saint-Jean, BQ): In the meantime, Mr. Speaker, NATO allies are growing impatient and want to know Canada's plans for the training mission. The Minister of National Defence has still not submitted his plan to cabinet.

Is the minister's delay not explained by the fact that he is looking to buy time so that the public does not know the scope of the deployment before a potential spring election?

[English]

Hon. Peter MacKay (Minister of National Defence, CPC): Mr. Speaker, as usual we have more gibberish from the member opposite. He does not know what he is talking about. He does not support the Canadian Forces. He does not support the country. I will leave it at that.

Oral Questions

[Translation]

CITIZENSHIP AND IMMIGRATION

Ms. Martha Hall Findlay (Willowdale, Lib.): Mr. Speaker, it is clear that the Minister of Citizenship does not understand the seriousness of the matter or, worse, he does understand, but he just does not care about his responsibilities as minister. He is using his office and his position as minister to get votes from people in ethnic or very ethnic communities.

Is the minister not ashamed to use and manipulate new Canadians in that way?

[English]

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism, CPC): Mr. Speaker, I have already addressed the matter, which led to the resignation of my staff member. However, I will say the following.

[Translation]

This government is proud of its record and proud of responding to the aspirations and values of new Canadians. The Liberal government, however, imposed a \$1,000 head tax on every newcomer, and we have cut that fee in half.

The Liberal government froze settlement funding. We have tripled that investment. The Liberals were against apologizing for the Chinese head tax. It was this government that apologized. We are proud of our record.

[English]

Ms. Martha Hall Findlay (Willowdale, Lib.): Mr. Speaker, it is his position as minister. The Minister of Citizenship and Immigration decides on quotas for new Canadians. He decides on who gets to come to Canada. He gets to decide on who stays here. He gets to decide on which families get to be reunified.

However, it is also the minister who is using his office, his position, his connections and his detailed government information to work for votes from ethnic and very ethnic communities.

How can the Prime Minister condone this abuse of power and influence and this conflict of interest?

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism, CPC): Mr. Speaker, perhaps the member could explain to us what the rules are in her office. What kind of accountability exists when, for example, in the last Parliament she was sanctioned for raising money on her parliamentary website?

A member of my staff resigned when he made a mistake. I took responsibility as soon as I learned about it. Why did she not do the same?

* * *

ETHICS

Ms. Siobhan Coady (St. John's South—Mount Pearl, Lib.): Mr. Speaker, the minister of immigration is not the only Alberta Conservative under an ethical cloud.

Would the Minister of State of Foreign Affairs confirm that she broke the Conflict of Interest Act and was recently penalized by the

Ethics Commissioner? Would the minister tell the House and the Canadian people why?

• (1445)

Hon. Diane Ablonczy (Minister of State of Foreign Affairs (Americas and Consular Affairs), CPC): Mr. Speaker, that is incorrect.

Ms. Siobhan Coady (St. John's South—Mount Pearl, Lib.): Mr. Speaker, I am looking here at a public notice of an administrative monetary penalty. The name of the public office holder included is the minister's name, and the amount of the penalty is also cited. It has been more than six weeks since she was fined by the Ethics Commissioner and she is still refusing to pay the fine. She is not owning up to that.

Why will the minister not abide by the law? It is clear that she violated the act.

Hon. Diane Ablonczy (Minister of State of Foreign Affairs (Americas and Consular Affairs), CPC): Mr. Speaker, the Ethics Commissioner contacted me about a document that had not been filed and I immediately filed the document. There was no penalty.

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LABOUR

Mr. Ron Cannan (Kelowna—Lake Country, CPC): Mr. Speaker, inmates at the Mountain Institution in Agassiz, British Columbia, have indicated that they are preparing to apply to the Canada Industrial Relations Board to form the first inmate labour union in Canada.

Would the Minister of Labour please inform the House of the government's position on this move by criminals in Canada?

Hon. Lisa Raitt (Minister of Labour, CPC): Mr. Speaker, obviously we are strongly opposed to this. Offering criminals the same legitimacy that is afforded to prison guards and other legitimate labour unions is offensive. I have instructed my officials to examine all options to deal with the effects of such a move.

* * *

[Translation]

HEALTH

Ms. Megan Leslie (Halifax, NDP): Mr. Speaker, by giving the unelected Senate the mandate to review the health accord, the Prime Minister and his members are not representing Canadians' concerns. Together with the economy, health care is the most important issue to Canadians across the country.

Will the Conservatives include the NDP's practical health care proposals in the budget to be tabled in two weeks?

Mr. Colin Carrie (Parliamentary Secretary to the Minister of Health, CPC): Mr. Speaker, I would like to thank my colleague for the question. It is obvious that the NDP and its members do not understand our country's health care system. At every opportunity, the member has voted against giving money to the provinces.

*Oral Questions**[English]*

With regard to the Senate, as we know, having recently completed a detailed and objective review of H1N1, the Senate committee has displayed the expertise, the resources and the access to witnesses required to do a thorough and independent report of the progress in the 2004 accord.

The minister sent a letter to the Senate, requesting it to—

The Speaker: The hon. member for Halifax.

Ms. Megan Leslie (Halifax, NDP): Mr. Speaker, it sounds like the minister's answer but it does not get any truer with repetition.

The government is legally obligated to provide leadership and to make our health care system work, but the government has failed. Canadians want a concrete, comprehensive plan for medicare but the Conservatives refuse to provide anything more than talking points.

New Democrats have proposed practical solutions for the millions of Canadians who do not have a family doctor.

Will the Conservatives deal with the family doctor crisis in this budget, yes or no?

Mr. Colin Carrie (Parliamentary Secretary to the Minister of Health, CPC): Mr. Speaker, what is shameful is that the NDP members had every opportunity. When we offer transfers to the provinces, those members vote against everything in health care.

As the member knows, the delivery of health services is the prerogative of the provinces and we work closely with the provinces and territories to ensure they have the resources to deliver those services.

She and her entire party should be ashamed that they vote against every opportunity to give more money to the provinces to provide more doctors, more services and more medication to the people of Canada who need it. That is their record.

* * *

*[Translation]***QUEBEC CITY ARENA**

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): Mr. Speaker, the minister responsible for the Quebec City region is rejecting Mayor Labeaume's proposal on the pretext that the federal government does not have any programs to support facilities that are designed primarily for professional sports. Nevertheless, an internal memo stated that, although the multi-purpose arena could house a professional team, this was not a condition of the proposal.

Rather than misrepresenting Mayor Labeaume's proposal, why will the minister not recognize that this is a multi-purpose arena for which the government must provide immediate funding?

• (1450)

Hon. Josée Verner (Minister of Intergovernmental Affairs, President of the Queen's Privy Council for Canada and Minister for La Francophonie, CPC): Mr. Speaker, our position has been clear for several months. We indicated that we do not have a program for facilities designed mainly to house professional sports teams. We also indicated that the private sector must make a significant

investment. Given the fact that most of the money for the proposed Quebec City arena is public money, the federal government does not have a program to support it.

That being said, at the beginning of October, 60,000 people marched on the Plains of Abraham to bring back the Nordiques.

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): Mr. Speaker, the Canadian Press tried to obtain details about the government's deliberations on the Quebec City arena. They received only 60-some pages with half of the information censored.

Since there have been doubts from the beginning that the Conservatives actually intended to help fund the arena, why does the minister not make public all the internal documents related to this project? What does she have to hide?

Hon. Josée Verner (Minister of Intergovernmental Affairs, President of the Queen's Privy Council for Canada and Minister for La Francophonie, CPC): Mr. Speaker, my colleagues in the Quebec City region and I have nothing to hide. We have a solid track record. The Bloc has no track record to speak of.

Access to information requests are made under the act and given to public servants who apply the act.

* * *

ACCESS TO INFORMATION

Mr. Justin Trudeau (Papineau, Lib.): Mr. Speaker, North Africa is going after tyrants and fighting for democracy, but here in Canada, it is the Conservatives who are attacking our democracy. They continue to refuse to be held accountable by covering up anything that could enable Canadians to judge their actions.

The latest example we have is the document on the financing of the Quebec City arena with page after page blacked out. There are no state secrets here. They are only hiding the dangerous incompetence of this irresponsible government.

Why are the Conservatives so afraid of transparency?

Hon. Josée Verner (Minister of Intergovernmental Affairs, President of the Queen's Privy Council for Canada and Minister for La Francophonie, CPC): Mr. Speaker, access to information requests are administered by qualified, independent public servants who apply the legislation.

[English]

Mr. Justin Trudeau (Papineau, Lib.): It has come to this, Mr. Speaker. In order for members of the House to do our jobs and make informed decisions on behalf of Canadians, we need to pry scraps of relevant information out of the Conservatives' clenched fists and drag it out of them as they kick and scream at committee.

I will remind them that they have a deadline to meet today to produce the costs of prisons, planes and corporate tax giveaways. Or, do they actually take pride in being found in contempt of Parliament and, therefore, in contempt of Canadians?

Hon. John Baird (Leader of the Government in the House of Commons, CPC): Mr. Speaker, I am pleased to inform the member for Papineau that the information that was requested by the finance committee has already been tabled in the House.

*Oral Questions***AFGHANISTAN**

Mr. Jack Harris (St. John's East, NDP): Mr. Speaker, Canadians are right to distrust the government's plans for the extension of the military mission in Afghanistan.

We know that weeks after its about-face announcement of the extension, the government had to send a fact-finding mission to the region to figure out what to do.

Today we learn that the government still has not decided what our soldiers will be doing and that it is running out of time to do so.

How can the government promise a Kabul-centric mission when it has not even figured it out for itself?

Hon. Peter MacKay (Minister of National Defence, CPC): Mr. Speaker, the member has it all wrong. In part of his answer he said that he had not learned. That is true because we have not released the details. What we have said is that the combat mission will come to an end this year, that we will transition into a training mission, which will be Kabul-centric, meaning in the Kabul region; and that there will be work done to continue the important efforts by the Canadian Forces to impart the skill set needed by the Afghan security forces to do what we do.

Mr. Jack Harris (St. John's East, NDP): Mr. Speaker, first it was to be military training in classrooms behind the wire in Kabul. Then the line was that it was to be Kabul-centric. Now we find out that the Conservatives do not know where our troops will be going.

This is not the first time the government has extended our military mission in Afghanistan by saying one thing to Canadians and doing another. Previous extensions were supposed to be about training too, but our soldiers continued to be put in harm's way.

How can the government expect Canadians to keep buying the same lines over and over? It is time the government kept its promise, repeated again and again, to bring all of our soldiers home in 2011.

• (1455)

Hon. Peter MacKay (Minister of National Defence, CPC): Mr. Speaker, the member opposite and his party have made it very clear that they do not support the ongoing mission in Afghanistan. We, in fact, believe it is important. We continue with our NATO allies to support the efforts in Afghanistan, to see the Afghan national security forces improve their professionalism and to give them the ability to defend their own borders and their own security. This has been an ongoing effort for which Canadians can be very proud.

The effort will be in transitioning to training in and around the Kabul area. The focus will be on training, not combat.

* * *

THE ECONOMY

Mr. Phil McColeman (Brant, CPC): Mr. Speaker, recently the Liberals sent the member for Willowdale to Brantford looking to attack my riding. The Liberals found a local business, Brant Screen Craft, that happened to be removing a sign from its building that day. The Liberals said that was a sad sign of depressing Brant. However, the only depressing thing is cheap Liberal politics because the hard-working people of Brant Screen Craft were actually expanding their operations, putting up a brand new sign and hiring 50 people.

Could the Minister of Finance explain why this company is expanding?

Hon. Jim Flaherty (Minister of Finance, CPC): Mr. Speaker, the member for Brant is doing a fine job for the people and businesses of Brant, the employers of Brant.

The only thing that is sad and depressing about this is that the Liberals keep getting it wrong. They are wrong with their high-tax plan and wrong with their planned tax hike. They should listen to the people who are running the business and hiring 50 new people in Brant. They say:

“[The Liberals’] attempt at disparaging the Conservatives...was a disaster.... Ironically, we had looked into locating our finishing...facility in Michigan. The corporate tax cuts and programs provided by the Conservative government were the deciding factor—

The Speaker: The hon. member for Halifax West.

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FORMER PUBLIC SECTOR INTEGRITY COMMISSIONER

Hon. Geoff Regan (Halifax West, Lib.): Mr. Speaker, the Prime Minister paid Christiane Ouimet half a million dollars after she resigned as integrity commissioner. There is no other job in Canada where one can get rich for quitting.

It is clear that the Prime Minister is buying her silence, but why is he paying her half a million dollars in hush money? What is he so desperate to hide?

Hon. Stockwell Day (President of the Treasury Board and Minister for the Asia-Pacific Gateway, CPC): Mr. Speaker, the government sought legal advice in this matter and it has followed that advice. That individual, quite rightly, reports to an all party committee, the same committee that approved her original hiring. The committee has asked for and has received all the details related to this matter.

The former commissioner will be reporting to that committee this week and I would expect that members of Parliament, who have all the information, would pose the questions. That is where this should be taking place.

* * *

[*Translation*]

FOREIGN AFFAIRS

Mr. Jean Dorion (Longueuil—Pierre-Boucher, BQ): Mr. Speaker, the leader of the Bloc told the Minister of Foreign Affairs what options were available to him in order to freeze Ben Ali's assets without the need for special legislation. Specifically, the government could use section 354 and part XII.2 of the Criminal Code as well as article 54 of the United Nations Convention against Corruption to immediately freeze the assets of Ben Ali and his family.

Oral Questions

Did the minister look at the Bloc's proposals and will he immediately freeze the assets that were stolen from the Tunisian people?

[English]

Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, I thank the Bloc member for that legal advice. Of course, he got it completely wrong.

We work with Tunisia. We work with other countries. I am very pleased and very proud that the legislation to correct the laws of our country and fill in the gaps will go to committee today.

This hon. member should get behind that. Let us get it passed by the end of the week.

* * *

RAIL TRANSPORTATION

Mr. Alex Atamanenko (British Columbia Southern Interior, NDP): Mr. Speaker, for years, rail companies have been gouging western farmers out of hundreds of millions of dollars a year to ship their crops.

In 2007-08 farmers were overcharged \$123 million and in 2008-09 another \$275 million. Service continues to decline, while the government is holding back on releasing the railway service review report that was promised by the end of 2010. Repeated calls for a railway costing review have been unanswered, while the robbery continues.

When will the minister finally release the railway service review? When will he commit to a full costing review of railway charges?

• (1500)

Hon. Rob Merrifield (Minister of State (Transport), CPC): Mr. Speaker, I want to clarify something for my hon. colleague because he may not understand the prairie farmers. What they really have a problem with is service. That is why we put a professional panel in place to deal with rail service in our country. I have the report. We will be announcing our next steps to that report very soon.

* * *

MINING INDUSTRY

Mr. Richard Harris (Cariboo—Prince George, CPC): Mr. Speaker, Conservative Party members are aware that mining is at the heart of many rural communities in Canada and provides stable, well-paying jobs to hundreds of thousands of Canadians.

While the opposition spends more time criticizing Canada's mining activities around the world, Canada's expertise is sought to help promote mining and complete mining in a safe and responsible way.

Could the parliamentary secretary tell the House how our Conservative government is helping to support thousands of jobs across Canada in the mining sector?

Mr. David Anderson (Parliamentary Secretary to the Minister of Natural Resources and for the Canadian Wheat Board, CPC): Mr. Speaker, unlike the opposition, our government has a long-standing commitment to the Canadian mining industry.

With the support of a strong rural caucus, including the member for Cariboo—Prince George, we have taken steps to create mining jobs by lowering taxes, the flow-through tax credit for exploration, and by reducing red tape.

I am proud to say that today the Minister of Natural Resources announced the extension of the targeted geoscience initiative for three more years. This investment will strengthen the Canadian economy. It will support the more than 300,000 Canadians who work in mining.

We are proud of this investment and we are proud of our support for rural Canada.

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FORMER PUBLIC SECTOR INTEGRITY COMMISSIONER

Hon. Geoff Regan (Halifax West, Lib.): Mr. Speaker, Ms. Ouimet received more than 228 complaints from public servants and did nothing. The supposedly independent officer of Parliament was taking direct orders from the Prime Minister's Office to cover up complaints of wrongdoing.

Now the Prime Minister has paid her \$500,000 to shut her mouth. When will he admit that the creation of the integrity commission was a sham to cover up wrongdoing and protect his power?

Hon. Stockwell Day (President of the Treasury Board and Minister for the Asia-Pacific Gateway, CPC): Mr. Speaker, with all due respect to my friend, I cannot believe he accepted it, without any complaint, when that scripted diatribe was handed to him. I just cannot believe he accepted it.

The cases that she did not look into were looked into by the Auditor General. The Auditor General has made certain recommendations, which are being followed. We took immediate action to put in place an interim commissioner, who is doing a full review of all of those cases.

The former commissioner is going to be before the standing policy committee this week.

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CHILD CARE

Ms. Irene Mathyssen (London—Fanshawe, NDP): Mr. Speaker, by refusing to even consider a national child care policy, the Conservatives are not only insulting families, they are damaging the economy too.

According to the YWCA, the lack of accessible, affordable child care is keeping women out of the workforce. Tomorrow is International Women's Day.

New Democrats have an affordable, pragmatic plan for national child care. Does the minister have the courage to admit her family policies are a failure? Will her party get behind the NDP plan?

Hon. Diane Finley (Minister of Human Resources and Skills Development, CPC): Mr. Speaker, few governments have ever done as much as we have to support families. We believe in them.

Routine Proceedings

We believe that parents are in the best position to decide how to raise their children. It is they who should decide what form of child care they get, whether it is institutional care, or it is mom or dad staying home or granny around the corner.

It is their choice, not the government's. We support the choice of parents all the way.

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POINTS OF ORDER

ORAL QUESTIONS

Mr. Marc Garneau (Westmount—Ville-Marie, Lib.): Mr. Speaker, you will recall from my questions during question period that I was making reference to the fact that the Prime Minister had decided to re-brand the Government of Canada to the “H” government. I made it quite clear that I felt this was outrageous as an act and also that it went against strict rules. Civil servants have been instructed to make those necessary changes.

My question today has to do with Parliament. Parliament is the designation that has now been pushed on the civil service by the Prime Minister. Is it considered parliamentary? Because we will be often referring to the Government of Canada in this chamber and in the Senate, I would like to have a ruling from you, Mr. Speaker, as to whether the new designation replacing “Government of Canada” is considered to be parliamentary.

• (1505)

The Speaker: I suspect it is not, but I will certainly look at the matter and return to the House if necessary.

Hon. Diane Ablonczy (Minister of State of Foreign Affairs (Americas and Consular Affairs), CPC): Mr. Speaker, this is in response to the question that was asked to me in question period by the hon. member for St. John's South—Mount Pearl. Through the magic of the Internet, my assistant let me know, after the question, that, in fact, I had a letter in my office from the Ethics Commissioner, which arrived on Friday. She had not told me about it yet.

However, because I did not file the document within 30 days, as I was supposed to, the Ethics Commissioner has let me know that I will be liable for a \$100 fine, which I will pay forthwith with apologies to the Ethics Commissioner for my tardiness.

Ms. Siobhan Coady (St. John's South—Mount Pearl, Lib.): Mr. Speaker, I would like to advise the House, and I will be happy to table the documentation, which is the public notice of administrative monetary penalty issued under the authority of the Conflict of Interest Act, that gives the nature of the violation, the name of the public office-holder, the amount of the penalty, as was discussed, and also the notice of the date of violation, which was January 26, 2011. I ask leave to table this document.

The Speaker: Does the hon. member have the unanimous consent of the House to table this document?

Some hon. members: Agreed.

Some hon. members: No.

Hon. Geoff Regan (Halifax West, Lib.): Mr. Speaker, during question period the President of the Treasury Board referred to a

legal opinion, which he said justified paying the former integrity commissioner half a million dollars for utterly failing to do her job. The Integrity Commissioner is an officer of Parliament. She reports to the House. It seems to me it would be appropriate for the President of the Treasury Board to table that legal opinion. Would he do so?

Hon. Stockwell Day (President of the Treasury Board and Minister for the Asia-Pacific Gateway, CPC): Mr. Speaker, was this a point of order?

The Speaker: It is a point of order. It may be a question. He did ask if the minister was prepared to table the document to which he referred.

Hon. John Baird (Leader of the Government in the House of Commons, CPC): Mr. Speaker, if the member opposite wants to get into tabling legal opinions, we could go back and perhaps table the legal opinions provided to the previous Liberal government from the sponsorship scandal.

ROUTINE PROCEEDINGS

[English]

GOVERNMENT RESPONSE TO PETITIONS

Mr. Tom Lukiwski (Parliamentary Secretary to the Leader of the Government in the House of Commons, CPC): Mr. Speaker, under the provisions of Standing Order 36(8), I have the honour to table, in both official languages, the government's response to three petitions.

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COMMITTEES OF THE HOUSE

CITIZENSHIP AND IMMIGRATION.

Mr. David Tilson (Dufferin—Caledon, CPC): Mr. Speaker, I have the honour to present, in both official languages, the 10th report of the Standing Committee on Citizenship and Immigration in relation to a motion adopted at the committee, on Tuesday, March 1, on the negotiations between L'Association québécoise des pharmaciens propriétaires and the Department of Citizenship and Immigration Canada pertaining to the interim federal health program.

• (1510)

ACCESS TO INFORMATION, PRIVACY AND ETHICS

Hon. Shawn Murphy (Charlottetown, Lib.): Mr. Speaker, I have the honour to present, in both official languages, the 12th Report of the Standing Committee on Access to Information, Privacy and Ethics in relation to its study of the follow up of the Information Commissioner's report cards.

HUMAN RESOURCES, SKILLS AND SOCIAL DEVELOPMENT AND THE STATUS OF PERSONS WITH DISABILITIES

Ms. Candice Hoepfner (Portage—Lisgar, CPC): Mr. Speaker, I have the honour to present, in both official languages, the ninth report of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities in relation to the 2011 census.

Routine Proceedings

I also have the honour to present, in both official languages, the 10th report of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, which pertains to Canada summer jobs.

* * *

TOBACCO ACT

Ms. Megan Leslie (Halifax, NDP) moved for leave to introduce Bill C-631, An Act to amend the Tobacco Act (smokeless tobacco and little cigars).

She said: Mr. Speaker, health experts agree that flavoured tobacco products are consumed by young Canadians as a stepping stone to consuming non-flavoured tobacco products. By banning flavoured tobaccos, we will help reduce smoking rates in Canada.

Bill C-32, which amended the Tobacco Act and came into force in October 2009, was supposed to ban flavoured cigarillos. However, we learned last year that tobacco manufacturers found a loophole in the definitions that allowed them to continue selling flavoured cigarillos.

The bill I am tabling today would close that loophole. The bill would also ban all forms of flavoured smokeless tobacco, something that government officials promised to do by June 2010. They did not fulfill that promise and this bill would fill that legislative gap.

I would like to thank my New Democrat health critic predecessor, Judy Wasylcia-Leis, for her significant efforts to have flavoured tobacco banned in Canada and the work that led to the passage of Bill C-32. While she is no longer a member of Parliament, her legacy of good work remains a testament to her time in office.

(Motions deemed adopted, bill read the first time and printed)

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SERVICE CANADA MANDATE EXPANSION ACT

Hon. Bryon Wilfert (Richmond Hill, Lib.) moved for leave to introduce Bill C-632, An Act to expand the mandate of Service Canada in respect of the death of a Canadian citizen or Canadian resident.

He said: Mr. Speaker, currently when a Canadian dies, a family member typically has to contact about a dozen federal departments and agencies to cancel tax records, passports, social insurance cards and various other benefits and IDs. This is a hard process, especially for people who are already grieving the loss of a loved one. It is unfair for the government to force them to repeat the story over and over again to different federal agents.

The bill would establish a one-stop shop for grieving Canadians to contact all federal departments with a single phone call or email after a loved one dies. It would eliminate a burdensome obligation for Canadians going through a very difficult period and I believe would ultimately save Canadian taxpayers a tremendous amount of money and stress.

It is important that we deal with the issue of bereavement in a very professional and compassionate way and this bill seeks to do that through the human resources department of Service Canada.

(Motions deemed adopted, bill read the first time and printed)

[*Translation*]

PETITIONS

HOUSING

Mr. Daniel Paillé (Hochelaga, BQ): Mr. Speaker, I am pleased to present a petition from people in Hochelaga who are concerned about low income housing.

These buildings were constructed in the 1970s and are in dire need of renovations. People from across Quebec have spoken to me about this type of problem.

[*English*]

AIR CANADA

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Speaker, it is with pleasure that I bring forward another petition in regard to Air Canada and the jobs that are being threatened.

The petitioners call upon the government to have Air Canada held accountable to the Air Canada Public Participation Act, believing, as I do, that Air Canada is in violation of the law.

Personally, we have to do whatever we can to protect those jobs. That applies to Winnipeg, Montreal and Mississauga. We are talking about thousands of good quality jobs. There was a commitment when Air Canada was privatized. We are calling for the government to do the right thing and protect those jobs as it states in the Air Canada Public Participation Act.

● (1515)

THE ENVIRONMENT

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): Mr. Speaker, I am adding a group of petitions to an already sizable number signed by Canadians who have written to the minister and to the government. These petitioners are from Prince Rupert, Victoria and Nanaimo.

They call upon the government to finally enact a legislative tanker ban on the north coast of British Columbia, in light of the threat of a proposed raw bitumen pipeline from Alberta to B.C.'s north coast.

The petitioners, many dozens of whom are British Columbia residents, consider this to be an area that deserves the protection and the attention of the Canadian government, which has already recognized the area for a federal park and a marine park.

The petitioners strongly urge the government to immediately legislate a ban on bulk oil tanker traffic off B.C.'s north coast.

FIREARMS REGISTRY

Mr. Mark Warawa (Langley, CPC): Mr. Speaker, I have four petitions that I am honoured to present. The first one is with regard to the long gun registry.

Routine Proceedings

The petitioners indicate that the registry has not saved one single life since it was introduced and that the costs have spiralled out of control to over \$2 billion a decade later.

The petitioners call upon the House of Commons to pass any legislation that would cancel the Canadian long gun registry and streamline the Firearms Act.

SKIN CANCER

Mr. Mark Warawa (Langley, CPC): Mr. Speaker, the second petition has to do with skin cancer.

The petitioners note that one in seven Canadians will develop skin cancer in their lifetime. Melanoma is the most serious type of skin cancer and one of the most rapidly increasing cancers in Canada.

The petitioners call upon Parliament to support a national skin cancer and melanoma initiative to provide much needed access to newer drug treatments and funding for research and educational programs.

EMPLOYMENT INSURANCE

Mr. Mark Warawa (Langley, CPC): Mr. Speaker, the next petition is in regard to medical benefits.

The petitioners note that there are a number of severe, potentially life-threatening conditions that do not qualify for disability programs. Pre-existing conditions or poverty may prevent individuals from purchasing private coverage.

Therefore, the petitioners call upon the House of Commons to adapt specific and precise legislation to provide additional medical EI benefits that are at least equal to maternity EI benefits.

RIGHT TO LIFE

Mr. Mark Warawa (Langley, CPC): Mr. Speaker, the last petition has to do with life.

The petitioners note that Canada and the Canadian Charter of Rights and Freedoms respect the human rights of everyone who has the right to life.

Therefore, the petitioners call upon Parliament to pass legislation for the protection of human life from the time of conception until natural death.

EMPLOYMENT INSURANCE

**Mr. Scott Simms (Bonavista—Gander—Grand Falls—Wind-
sor, Lib.):** Mr. Speaker, I rise again on the issue of employment insurance to present two petitions to the House.

Many workers on the coast of Newfoundland and Labrador are working seasonally, primarily in fishing plants and the tourism sector. They are asking that the pilot projects introduced in 2005 be continued. These projects continued until June, but these workers would like them to be made permanent, which would leave the companies able to hire them and the employees in a better position.

The petitioners come primarily from Birchy Cove, Newman's Cove, Amherst Cove, as well as Bonavista.

The residents of Bonavista also need a wharf and they need it soon in the area of the Ocean Choice International Plant.

PENSIONS

Mr. John Rafferty (Thunder Bay—Rainy River, NDP): Mr. Speaker, I rise today with two petitions to present.

The petitioners call upon Parliament to affirm that pension benefits are in fact deferred wages, to elevate defined benefit pension plans to secured status under the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act, and to pass into law any legislation before it that would achieve these objectives. This petition is signed by hundreds, and perhaps even thousands, of Canadians.

I remind those present here today that these petitioners and millions of other Canadians across Canada will be watching very closely this coming Wednesday when Bill C-501 comes before the House for a vote at report stage.

• (1520)

CHILD PORNOGRAPHY

Mr. Peter Stoffer (Sackville—Eastern Shore, NDP): Mr. Speaker, I rise today to present a petition signed by approximately 3,000 to 5,000 individuals from across the country.

The petitioners indicate that the Internet is an unregulated pipeline of child pornography and child exploitation. My own private member's bill deals with a lot of the things this particular petition is asking for.

The petitioners call upon Parliament to enact strict child pornography laws to protect our children once and for all from the evils and dangers of the Internet.

[*Translation*]

The Speaker: The hon. member for Hochelaga has already spoken during the hearing of petitions. He is supposed to present all of his petitions at the same time. Does he have the unanimous consent of the House to present another petition at this time?

Some hon. members: Agreed.

HOUSING

Mr. Daniel Paillé (Hochelaga, BQ): Mr. Speaker, I would like to apologize to you as well as to the hon. member for Abitibi—Témiscamingue. I am pleased to present a second petition, which is every bit as important as the first. I had forgotten about it. I am sorry.

[*English*]

AFGHANISTAN

Mr. Jim Maloway (Elmwood—Transcona, NDP): Mr. Speaker, my petition is signed by dozens of Canadians and calls for an end to Canada's military involvement in Afghanistan.

Government Orders

In May 2008, Parliament passed a resolution to withdraw the forces by July 2011. The Prime Minister, with much help from the Liberal Party, broke his promise to honour the parliamentary motion and refuses to put it to a vote in the House.

Committing 1,000 soldiers to a training mission still presents a big danger to our troops and an unnecessary expense when our country is faced with a \$56 billion deficit. The military mission has cost Canadians more than \$18 billion so far, money that could have been used to improve health care and seniors' pensions here in Canada.

In fact, polls show that a majority of Canadians do not want the military mission to continue beyond July 2011. Therefore, the petitioners call upon the Prime Minister to honour the will of Parliament and bring the troops home now.

* * *

QUESTIONS ON THE ORDER PAPER

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

The Speaker: Is that agreed?

Some hon. members: Agreed.

GOVERNMENT ORDERS

[*English*]

CITIZEN'S ARREST AND SELF-DEFENCE ACT

The House resumed consideration of the motion that Bill C-60, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons), be read the second time and referred to a committee.

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Speaker, before question period I had set out some arguments that reflected the concerns already raised by some hon. members that this bill may not be a good start in terms of the intent. There may be good reasons that this bill should have been referred to committee before second reading to allow some expert testimony from witnesses to assist in making whatever changes they felt necessary before it came to the House for debate.

I pulled up the minister's speech from Friday on this matter, and it strikes me that this has been going around for a long time. In fact, we are talking about an incident that took place in 2009. Mr. Chen was acquitted on February 17, 2011. It has taken a very long time for this bill to be received. I think it was only on February 17 that the bill was tabled at first reading, and here we are in March.

I wonder why the minister would not take the opportunity for a bill that includes, in the opinions of a number of hon. members, potentially some confusing areas that may be very problematic. The factors that would determine whether or not there was a reasonable amount of time, a reasonable expectation, et cetera, are very long and when these incidents occur on a snap basis, the public at large will not be familiar with them. This bill may encourage people to feel empowered that they can undertake a citizen's arrest without knowing that they may very well still be charged. Ultimately, it

would be up to the courts to determine whether or not they met the test under the bill. This is not a black and white situation.

Given that is the case, the only explanation I can think for why the minister did not refer the bill directly to committee was that the justice committee right now, as usual, is bogged down with several pieces of legislation. Considering the average time it would take to discharge those pieces of legislation, it is likely that this particular bill would not come back to the House after committee until sometime in the fall. We may not see this bill go to the Senate until the Christmas break, and then the Senate will deal with it at some point.

That is an awfully long time, even though it still presumes that the bill would go through the process very expeditiously. However, I do not believe that would be the case. I much suspect there will be substantial amendments sought at committee, first of all, to delete a number of clauses and, second, to add others, which may be challenged as beyond the scope or intent of the bill. There may be other problems with it.

As much as I hate to admit it, this particular case has been used as a bit of a political football.

I was reminded by another member that the member for Eglinton—Lawrence introduced a private member's bill on June 16, 2010, after Mr. Chen was acquitted and when the government still had not taken action.

On September 27, 2009, the minister of immigration actually visited Chinatown for a photo op and made an empty promise to raise the issue of amending the Criminal Code with the government.

• (1525)

On June 16, 2010, after nine months of inaction, the member for Eglinton—Lawrence introduced his private member's bill.

On October 10, 2010, Mr. Chen was acquitted. I was in error when I said it was February 2010; it was actually October 2010.

On November 4, 2010, the member for Eglinton—Lawrence held a press conference calling on the government to adopt his bill, Bill C-547.

On January 21, 2011, the Prime Minister met with Mr. Chen and promised legislation would be introduced soon.

On February 15, the government put a notice on the notice paper by the Minister of Justice that there would be a bill. It was in fact tabled in February and debated in the House for the first time on Friday.

This was an important case of clarification necessary in the Criminal Code for Mr. Chen and for other citizens who are victims of robbery, but there are certain elements that have to be taken in the law.

For most Canadians, it is a slam dunk. They are going to protect their property even if they have to tackle the guy, whoever he might be, and hold him until the police come. They do not think about whether or not they are using unreasonable force. If they happen to see this person the next day and recognize him they will tackle him. They are not sure whether that is a reasonable period of time.

Government Orders

That is precisely what the bill deals with, the various factors on how the courts are going to be asked to interpret our intent for this legislation. From listening to a couple of the speakers, I think the conclusion is that it is going to add confusion. Let me give some examples.

When people think about the amendments they will understand that in a heated moment, in a snap decision they might not have considered some of the following.

First, a person is not guilty of an offence if he or she believes on reasonable grounds that force is being used against him or her, or another person, or that the threat of force is being made against him or her by another person, if the act that constitutes the offence is committed for the purpose of defending or protecting himself or herself from another person, and the act committed is reasonable in the circumstances.

That is where the problem starts. What constitutes being reasonable in the circumstances to use force to arrest someone? In determining whether the act committed is reasonable in the circumstances, the bill suggests that the court may consider certain things. It is not that the individual should consider them, but I doubt that the public at large would be able to deal with it.

The court is going to have to consider the nature of the force or the threat being used and the extent to which the force was imminent or whether there were other means available to respond to the potential use of force. For example, were there any options. The court will have to consider the person's role and intent in the incident, what he or she was doing, was the person a party to it at some point in some way. The court will have to consider whether the party to the incident used or threatened to use a weapon. Sometimes it is unknown and people are not sure what constitutes a weapon.

The court will have to consider the size, age and gender of the parties to the incident. I am not sure many people would even think about that. I suppose if the individual is a very large person and the other person is intimidated by that individual, it may have some influence on the person's judgment about whether or not the person is going to attempt to arrest the individual. The nature, duration and history of any relationship between the parties becomes relevant, as does the nature and proportionality of the person's response to the threat of use of force, and whether the act committed was in response to the use of threat or force the person knew was lawful. That is part of it.

There is another whole part that goes into the whole aspect of defence of property, but there is a lot of parallel of what constitutes a defence of property. The point, without reading the various provisions, is that the bill does not propose a change in the Criminal Code, which is going to make a defence of property by apprehending or arresting someone because it is one's property.

I have a feeling that Canadians may not be comfortable understanding that we are balancing off the interests of defending and protecting our property and civil liberties. There are certain things that cannot be done to other people. Where is that balance?

• (1530)

When I looked at the speech the justice minister gave on Friday, he used terminology to say that the bill was balanced and necessary,

but the speeches so far do not concur. The commentary so far is that although the amendments to sections 34 through 42 in the Criminal Code would cause some confusion, there seems to be some support for the amendments to section 495 and section 494.

Currently section 495 of the Criminal Code says that a peace officer may arrest without warrant a person who has committed an indictable offence or who, on reasonable grounds, the peace officer believes has committed or is about to commit an indictable offence; a person whom the peace officer finds committing a criminal offence; as well as any person whom the peace officer believes, on reasonable grounds, has committed or is about to commit an indictable offence.

What the courts have told us is that for an arrest to be valid on the basis of reasonable grounds, the grounds must be objectively established, in the sense that a reasonable person standing in the shoes of the officer would believe that there are reasonable and probable grounds to make the arrest.

Section 494 of the Criminal Code deals with a private citizen making an arrest. Currently section 494 of the code says that a private citizen may arrest those found committing indictable offences, those being pursued by others who have the authority to arrest, or those committing criminal offences in relation to property.

It is important to note, and the minister agrees, that there is a legal duty under section 494 to arrest and deliver the person to the police forthwith. This has been interpreted by the courts to mean as soon as reasonably practical under all the circumstances.

All of a sudden, "reasonable" and "interpretation" become a big part of the bill.

The bill would expand section 494(2) to permit the property owner or a person authorized by the property owner to arrest a person if he or she finds that the person who committed a criminal offence on or in relation to his or her property is just at the time when the offence is being committed or also within a reasonable time after the offence is committed.

Here again is the concept of a reasonable time and, all of a sudden, it is subject to interpretation, so caution has to be taken.

I think I have made my point with regard to the changes being made. I would like to briefly comment on a couple of other points.

We have had two private members' bills on this issue already. It is clear that the government has not taken this seriously. In fact, it has politicized it by having photo ops and saying that it is going to do things, which it did not do for almost a year. Then, when we look at the calendar and what is going on at the justice committee, it is very clear that the bill is a long time away from ever becoming law, if at all.

I also note that the very last clause of the bill says that the bill will come into force when it gets fixed by an order of Governor in Council.

After the legislation goes through the House and the Senate and receives royal assent, the provinces have to get involved. It becomes even more problematic because the provincial policing authorities are probably the ones which are going to have to enforce this law. The government has not done its homework. It should have been done already. I do not believe that the government is serious about this. I hope it does not stand in the way of getting the bill through the justice committee expeditiously.

• (1535)

[*Translation*]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Mr. Speaker, I listened carefully to my colleague. I will have the opportunity to come back to this topic later, when I speak to Bill C-60.

My colleague is quite right. Incidentally, the Standing Committee on Justice and Human Rights is in session right now, and I will return to that meeting following my speech here in the House. There are 16 bills awaiting study by the Standing Committee on Justice and Human Rights and, among them, we are currently examining Bill C-4, An Act to amend the Youth Criminal Justice Act and to make consequential and related amendments to other Acts—also known as the Youth Criminal Justice Act. Our examination of Bill C-4 is nowhere near complete.

That being said, my colleague is probably right to say that perhaps we will not be examining Bill C-60 anytime soon. I found that aspect of the member's position very interesting. The bill contains two series of clauses. One part has to do with the whole notion of self-defence. I will come back to that later. It has to do with section 34 and subsequent sections of the Criminal Code. The second part, regarding the defence of property, has to do with section 494.

Would his Liberal Party colleagues be willing to split the bill? We could drop the whole self-defence part, in other words, the amendments to section 34 and subsequent sections that are far more problematic than the request under section 494 of the Criminal Code. Would they agree that the bill should be split in two in order to study the changes to section 494 sooner, even if it means delaying the passage of the other amendments regarding self-defence, that is, regarding section 34 and subsequent sections?

• (1540)

[*English*]

Mr. Paul Szabo: Mr. Speaker, I thank the member, who is on the Standing Committee on Justice and Human Rights, for confirming to the House that the committee is very bogged down with 16 bills. That is a story in itself. If we go back in history and find out how many of these bills have been before us previously, how many died on prorogation and had to be introduced, how many were dropped and put into a consolidation and how many were dropped altogether, we are on a merry-go-round.

With regard to his specific question, I agree with him. I have heard from others in the House and it seems that is the way the debate is going, with amendments to sections 34 through 42. These are the areas where there seems to be some confusion or concern about making the law even less clear than it is already. There does not seem to be much difficulty with the other amendments regarding police and public arrest under subsection 494(2).

Government Orders

The member has an important suggestion for the House to consider and it may even be dealt with at committee by simply making that change right off the bat.

[*Translation*]

M. Marc Lemay: Mr. Speaker, if I have the opportunity to ask another question, then I will gladly do so. In response to what the hon. member just said, I would say that there were nine bills before the Standing Committee on Justice and Human Rights that died on the order paper when Parliament was prorogued. In the end, three of these nine bills were reintroduced for consideration by the House. Moreover, one of the bills we considered here has to do with online pornography and online predators. I cannot recall the exact numbers because there are so many, but I think that it was Bill C-20 that was recently passed by the House and, in our opinion, should be passed by the Senate.

That being said, Bill C-60 deals with two issues, one of which is very problematic: the use of self-defence to protect one's property. This has always been a problematic issue. The hon. member was speaking about the proposed amendments to sections 34 to 42 of the Criminal Code, which pertain to self-defence. These sections are often subject to interpretation and the courts have rendered many different decisions in this regard. The protection of property, which is what interests me, is addressed in section 494 of the Criminal Code. Under section 494, we may arrest without warrant a person who is destroying our property or that of others. I will come back to this later.

Can the protection of property be distinguished from self-defence? If so, we could pass Bill C-60 to amend just one section of the Criminal Code, section 494. I would like to hear the hon. member's thoughts on this. Perhaps he could speak to us about his party's position, which unfortunately I have not yet heard.

[*English*]

Mr. Paul Szabo: Mr. Speaker, members in this place want to be successful when delivering legislation, in whole or in part, that helps address the problem raised by the Chen case. We need to be responsible in this fashion.

The member had a suggestion and I heard a couple of other suggestions. In most cases, though, it sounds like the full bill, as presented to us, Bill C-60, will not be acceptable to the majority of parliamentarians.

It does raise, however, the number of bills we have had over all these years, which the member mentioned. This is the political or the partisan line. If the Conservatives have lots of bills, we could say that they were tough on crime or at least that they intend to be tough on crime. However, if the bills keep getting shut down or thrown out because we have an election or prorogation and they have to be reinstated or not, this is part of the game that is being played.

This was a straightforward incident. By consultation, the Department of Justice, with appropriate consultation with provincial authorities, could have come up very quickly with what the principle deterrents are to having an effective Criminal Code with regard to citizen's arrest. It could have dealt with it.

Government Orders

It looks like another ministerial staffer has come up with a laundry list of a whole bunch of other things, none of which have been vetted with the provinces yet, so we will have to enforce this and Canadians will have to understand it.

The minister has let the House down and so has Bill C-60.

● (1545)

Ms. Ruby Dhalla (Brampton—Springdale, Lib.): Mr. Speaker, I want to take the opportunity to commend my colleague, who is in a riding adjacent to mine, on some of the work he has done in regard to ensuring that there is a tough on crime stance that is effective and efficient.

When talking to some of the officers in my constituency of Brampton—Springdale and some of the organizations, they feel that the bill does not address the initiative that was intended. A variety of different ideas and suggestions have been put forward.

In my particular riding there is a huge initiative by many of the organizations and many of the officers to ensure that we actually have local solutions. We have heard a lot of rhetoric from the government on justice and addressing crime but when it comes to actual results they are very minimal.

There is a great deal of frustration and anxiety that these particular issues are not being addressed. In my community we have an initiative we have co-founded called the Brampton-Springdale Youth Advisory Council where we have young people engaged to design and develop some local solutions on some of the challenges they face.

Perhaps the member could elaborate on some of those amendments and ideas on how we can get the community engaged to ensure we have effective results instead of just pieces of legislation being thrown at parliamentarians and no real results for community members.

Mr. Paul Szabo: Mr. Speaker, crime prevention is an extremely important part of the equation. We talk about prevention, punishment, rehabilitation and reintegration as the pieces. Prevention is always a dollar best spent. It is always better.

With regard to Bill C-60, though, I am concerned that this may flare up in a feeling that people can take the law into their own hands and mete out a little bit of justice themselves, which raises the whole concern about vigilantism, which we must be very careful about. Yes, rights need to be balanced but we cannot be seen to be encouraging people to give it a try while we cannot protect them. The courts may still decide, on a case by case basis, that an individual could not do what he or she did.

People need to know that the bill is not black and white. It will not give an answer to individual cases, and certainly not in the heat of a moment when something occurs.

[*Translation*]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Mr. Speaker, I am pleased to speak to Bill C-60, which came to Parliament rather oddly. The Prime Minister went to Toronto to make an announcement about a man who had been arrested. This government is known for its piecemeal legislation. In other words, if something happens in

Toronto, Winnipeg or Vancouver, the government suddenly jumps on it and introduces a bill to amend the Criminal Code.

The problem is that they go about it all wrong. That is the first problem. They amend sections of the Criminal Code. If it is not parole, then it is the parole act, at which point they amend sections on probation, release, etc. They jump from pillar to post and Bill C-60 is no different. We are going to explain the problem to those watching us. It happens. It concerns section 494 of the Criminal Code, which states:

494. (2) Any one who is

(a) the owner or a person in lawful possession of property, or

(b) a person authorized by the owner or by a person in lawful possession of property,

may arrest without warrant a person whom he finds committing a criminal offence on or in relation to that property.

This where the problem begins.

Allow me to explain. Let us just say you own a home or a convenience store, as in the case that led to the proposed amendment now before us. The convenience store owner was robbed. The owner saw the robber some time later and, when he recognized the robber, arrested him. The problem is he does not have the right to do that. It was the poor store owner, Mr. Chen, from Toronto, who was arrested, brought to court, charged with illegal arrest and sentenced. It makes no sense; we know that. However, the legislation says, “may arrest without warrant a person whom he finds committing a criminal offence on or in relation to that property”, in other words, the property he legitimately owns or the property regarding which he is authorized by the owner.

Therefore, you can arrest someone who comes to steal from your convenience store. If you are the clerk at a convenience store and a thief tries to take your money from the cash register, you can arrest him because the law says that you can arrest someone who is “committing a criminal offence on or in relation to that property”. It is not a problem for one person to arrest another who is committing an offence: the former will never be charged. The problem arises, as in the case of the poor man from Toronto, when you arrest someone for a crime committed earlier. The police were taking so long to arrive that he thought it would be quicker for him to arrest the thief. Unfortunately for Mr. Chen, the thief was acquitted because it was an unlawful arrest, and the poor man found himself being charged with unlawful arrest.

Up to this point, it is a good idea to amend section 494 because people are unhappy, with good cause, as they feel that they cannot even arrest someone who has come to rob them at home.

● (1550)

But a subtle point is being introduced in Bill C-60 and the proposed new subsection 494(2):

The owner or a person in lawful possession of property, or a person authorized by the owner or by a person in lawful possession of property, may arrest a person without a warrant if they find them committing a criminal offence on or in relation to that property and...

This is where the problem arises.

(a) they make the arrest at that time;

Government Orders

It is clear that if someone is robbing a convenience store, they can be arrested. That is not a problem. However, this is what they want us to pass into law:

(b) they make the arrest within a reasonable time after the offence is committed and they believe on reasonable grounds that it is not feasible in the circumstances for a peace officer to make the arrest.

That is going a bit far. This means that the owner of a convenience store, to use the same example, can arrest someone who steals money from the register. This happens often. I had many clients who went into a convenience store to steal. Convenience stores have a strange habit of always putting cases of beer on sale near the door, where anyone can see that a big case of 24 costs \$24.92 instead of the regular price. Someone opens the door while another person steals the case of beer. You could say that the convenience store owners are asking for trouble.

If you see someone in the process of stealing, you can arrest them, no problem. However, the bill adds the following: "...they make the arrest within a reasonable time after the offence is committed and they believe on reasonable grounds..." Those two points are important. Not only do they have to make the arrest within a reasonable time, but they have to believe that the police or a peace officer would not be able to get there. That is asking a lot of someone.

The Bloc Québécois is in favour of sending this bill to be studied in committee. We think that section 494 of the Criminal Code should be amended. This poor man arrested someone, knowing that this individual had come to rob him. That happens often. To come back to my example, there is a sale: 24 beers for \$12.98. That will surely attract thieves. One of the thieves opens the door of the convenience store and the other grabs the case of beer. The owner of the store did not see him steal it, but after two minutes he realizes that he is missing a case of beer. He opens the door, looks outside and sees someone leaving with a case of beer. Under the current section 494, he could not arrest the individual because he did not catch him in the act. That is what happened in Toronto, but the individual decided that he would still arrest the thief and then ended up in trouble.

We believe that a solution can be found so that this section allows an individual to arrest someone. Clearly, if the owner does not immediately arrest someone who is stealing a case of beer, and if the police are not around the corner, it is over. Those are the two instances where something can be done.

However, we have issues with the bill. If it were only about amending section 494, all of the parties would have passed Bill C-60 to rectify that particular issue quickly. It is a Conservative thing. They are using Bill C-60 to introduce a series of amendments to sections 34 through 42 of the Criminal Code, which have to do with self-defence. And they are way out in left field on this.

● (1555)

We cannot support them in that. There are a number of amendments proposed for sections 34 through 42. It is worth reading some of them. Anyone who has practised criminal law, for the defence or the Crown, anyone who has argued a case will know what this means.

Every one who is unlawfully assaulted without having provoked the assault is justified in repelling force by force if the force he uses is not intended to cause death

or grievous bodily harm and is no more than is necessary to enable him to defend himself.

Subsection 34(1) is very easy to understand. If you are attacked, you have the right to defend yourself. But if someone punches you and you use a baseball bat or pool cue to defend yourself, in a bar for example, and you cause grievous bodily harm or even death, that is clearly not a case of self-defence. Someone who is attacked on the side of the road has the right to defend himself. Everyone has the right to defend himself against a violent attack, as long as he does not intend to cause death or grievous bodily harm.

They are trying to force us to accept certain things. The bill would amend section 34 with a new subsection 34(1), which reads:

A person is not guilty of an offence if

(a) they believe on reasonable grounds that force is being used against them or another person or that a threat of force is being made against them or another person;

And there is more. Listen to this:

(b) the act that constitutes the offence is committed for the purpose of defending or protecting themselves or the other person from that use or threat of force; and
(c) the act committed is reasonable in the circumstances.

They dare to add another amendment:

(2) In determining whether the act committed is reasonable in the circumstances, the court may consider, among other factors,

(a) the nature of the force or threat;
(b) the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force;
(c) the person's role in the incident;
(d) whether any party to the incident used or threatened to use a weapon;
(e) the size, age and gender of the parties to the incident;

I could go on. What they would have us swallow makes no sense. It is clear we will never, ever accept that.

They want to put every ruling from the Supreme Court, the Court of Appeal for Ontario, the Quebec Court of Appeal and the Court of Appeal for British Columbia that ever defined self-defence into the Criminal Code.

With all due respect to the Conservatives, I must say that the concept of self-defence has evolved over time. The definition of self-defence is no longer as open as we thought. We have taken into account the force necessary to repel the attack if, in so doing, the person did not intend to cause death or serious bodily harm. If that is not clear, then it is up to the court to decide. It is not up to us to define the concept of self-defence for the court.

This would also be added:

(f) the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat;
(g) the nature and proportionality of the person's response to the use or threat of force;

● (1600)

It does not make sense to try to define self-defence in the Criminal Code. We cannot accept that. The courts have given rulings and when people were dissatisfied, they filed an appeal. If they were still dissatisfied, the case went before the Supreme Court, which established, once and for all, the definition of self-defence and how self-defence can be invoked by defendants.

Government Orders

We cannot accept all of this. There are examples of legitimate self-defence. Here is one such example. One of my clients goes into a convenience store—this has happened a few times—except he does not know that this is the fifth time the store has been robbed. Nor does my client know that the store owner has a 12-gauge. For the benefit of my Conservative friends, a 12-gauge is a weapon, a shotgun. So he has a 12-gauge shotgun under the counter. The owner tells himself that this is the last time someone is going to rob his store. My client enters the store and, yes, he goes about assaulting the store owner to steal from the cash register. I am not saying that my client is a charming man or that he should win a Governor General's award. That is not what I am saying. I am saying that my client goes into a convenience store and robs it. He has no weapon. He leans over to reach into the cash register to take the money. What does the store owner do? He pulls out the 12-gauge shotgun and shoots him. He does not shoot him in the head. He does not shoot him in the heart. He shoots him in the legs to make sure this guy remembers him. He does not want to kill the robber. That is what he told the court.

With all due respect, I do not think that this qualifies as self-defence. The court agreed. I defended the accused. The owner came and said all this before the court. Clearly the judge said that his behaviour did not constitute self-defence. What is self-defence? I repeat: self-defence is “repelling force by force if the force he uses is not intended to cause death or grievous bodily harm and is no more than is necessary to enable him to defend himself”. When someone shoots another person in the leg with a 12-gauge shotgun, the courts assume that the person did so with the intent to cause grievous bodily harm. In this example, the man was convicted.

Bill C-60 is well-intentioned in aiming to solve the problem of defence of property. However, a distinction must be made between the defence of property and self-defence. Self-defence applies when an individual is the victim of a personal attack. Motorist A is driving down the highway—and this has happened on more than one occasion—and is cut off by another motorist, motorist B. Motorist A does not like this. He pursues the other vehicle and cuts the driver off. Motorist B parks his vehicle and hits motorist A with a baseball bat. This is not self-defence.

What was well-intentioned risks going nowhere because clearly we are not going to agree to amend sections 34 to 42 on self-defence. There is too much in there. The courts have ruled on the definition of self-defence, on the defence of self-defence. We have to let the courts do their job.

However, and I will end on this point, the idea of amending section 494 of the Criminal Code is well-intentioned and we can work on amending this section so that it does what society is asking for.

• (1605)

[English]

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Speaker, the more I hear the input of members, the more I understand that this bill seems to try to put into legislation what the courts traditionally have thought of as being factors and other considerations but not factors or considerations that may cause someone to be charged with an improper arrest.

In the simple case of Mr. Chen, which is a very vanilla case, someone robbed him. He was not able to apprehend that person and hold him for police at the time. However, that person returned to rob him a second time. He was identified, chased on his bicycle, stopped and held for the police. Mr. Chen was charged under the application of the current Criminal Code.

If we had to make a change to the Criminal Code to ensure that Mr. Chen would never be charged again for the same act, what would the change be?

[Translation]

Mr. Marc Lemay: Mr. Speaker, that is the \$1,000 question. I thank my colleague for his question, and I will try to be brief in my reply.

If we remove sections 34 to 42, Mr. Chen would not be able to benefit from the presumption of self-defence because Mr. Chen was not attacked. That settles the matter of sections 34 to 42. I do not understand why these clauses are being proposed; they should not be there.

Let us now discuss the heart of the matter, section 494. I concur with my colleague that we have to find a solution to the problem. This section states that a person authorized by the owner—we are talking about the man in question—“may arrest without warrant a person whom he finds committing a criminal offence on or in relation to that property”.

We need to find a way to say that he may make the arrest, within a reasonable time, after the offence is committed. This has not been studied or analyzed. If someone leaves the convenience store with a case of beer without the owner or clerk seeing him and, in the next few seconds, that person realizes that a case of beer is missing, goes outside and sees the perpetrator, then I believe that he could make the arrest, even though he did not see the offence being committed. We must find a way to rewrite section 494.

My colleague is quite right to say that we have to avoid such legal mistakes, if we can call them that. Above all we must not introduce piecemeal legislation that addresses individual issues.

• (1610)

[English]

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Speaker, I listened with interest to the many cogent points put forward by my hon. colleague. It is fair to characterize this bill as comprising three parts. The first part deals with the situation that many Canadians were very appalled to see involving the circumstances that happened to Mr. Chen.

The first part of the bill would enlarge the time period in which someone can make a citizen's arrest. We know the current Criminal Code says that a citizen's arrest can be made during the commission of an offence. The first amendment would enlarge that period to be within a reasonable time, which I think most Canadians would find reasonable. The next two parts have to do with the government rewriting the sections on defence of property and defence of person.

Government Orders

I think we can all agree in the House that the first part of the bill is merited and should proceed but that the second and third parts require careful and considered study. Would he agree that we can support sending this bill to committee so that it can be examined in a cautious manner what kind of amendments may be necessary to the Criminal Code to deal with the second and third parts of this bill?

[*Translation*]

Mr. Marc Lemay: Mr. Speaker, I thank my colleague for his question. He is correct. There are two things. First, there is no need to touch sections 34 to 42 on self-defence. The courts in all of the provinces and the Supreme Court of Canada have issued rulings; there is jurisprudence. Lawyers who have even the briefest introduction to criminal law in the first year of law school learn the definition of self-defence. There is no need to amend these sections.

Second, there is defence of property, which is less clear. Defence of person is self-defence, but I agree with my colleague that when we talk about defence of property there are some grey areas in section 494. At least we will have focused the debate on subsection 494(2) of the Criminal Code. I admit that it is not clear.

If I had had to defend that individual, there would have been a trial, even though we know that you can arrest without a warrant a person you find committing a criminal offence, as is written in the bill. A citizen must witness the offence; he must be there. He has the right to arrest someone he finds committing an offence. The rest, only peace officers may do. But if they do not come, even after being called three times, what does someone do when the thief is drinking a beer on the corner? That is where the public is right. When the committee studies section 494, it will no doubt find a solution. However, we must not be touching sections 34 to 42 on self-defence.

•(1615)

[*English*]

Mr. Paul Szabo: Mr. Speaker, the member has really helped to move this along a fair bit.

After seeing how this pattern is working out, it strikes me that the government bill before us is not one which has been crafted with due care and diligence. The Department of Justice and legal experts are there to help the government in crafting these things. There are representations by the government and the minister, photo ops by the minister and the Prime Minister, and yet the bill fundamentally does not work. It is problematic.

I wonder whether the member shares my concern that maybe this whole idea of photo ops and bills that do not work has more to do with getting another picture for the government's ethnic strategy rather than delivering legislation, because the government wants to continue to say it is tough on crime without actually delivering legislation on crime.

[*Translation*]

Mr. Marc Lemay: Mr. Speaker, I would like to thank my colleague for his question. They might seem to be tough on crime, but they only needed to amend subsection 494(2). They did not need to touch sections 34 and on. That is what irritates me. Bill C-60 was introduced to deal with a specific problem and that is fine. But at the same time, they are trying to meddle in every court decision ever

made on self-defence. My colleague from Marc-Aurèle-Fortin has said before that bad laws make good lawyers rich.

If Bill C-60, which amends sections 34 through 42, is passed as-is, lawyers will be laughing all the way to the bank just because they can exploit the wording of this incomplete bill. Let us fix section 494 now and deal with the rest later.

The Acting Speaker (Mr. Barry Devolin): 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 London—Fanshawe, Status of Women; the hon. member for Lac-Saint-Louis, Public Safety; the hon. member for Richmond Hill, National Defence.

[*English*]

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Mr. Speaker, a number of us have been waiting for Bill C-60 to come forward, at least we were hoping it would, although, as my remarks may show, it was never clear that the self-defence provisions of the Criminal Code, which the bill would purport to fix, were really broken. However, it does provide for a very interesting debate, at least for those of us who are interested in some of the micro details of the Criminal Code, especially as they relate to the common law.

As colleagues have already pointed out, on one level the bill was drafted to address a situation that arose in a Toronto Criminal Code prosecution. It is one that I got involved with on the street, as a number of publicly elected people did at the time because of the nature of the facts. I can say that the proposed new wording for subsection 494(2) is a reasonable attempt to address the fact sequence in that case. I am not sure that an amendment actually is needed, but I respect the intention of that portion of the bill.

The rest of the bill quite surprisingly purports to codify the common law provisions of self-defence and put them in the Criminal Code. I was not aware that these provisions were broken. I always subscribe to the adage that if something is not broken, we should not try to fix it. I am getting the impression that is what is going on with the other aspects of Bill C-60.

Let us go back to the first set of issues involving subsection 494(2) and the unfortunate events surrounding the shoplifting and attempted shoplifting at the Lucky Moose supermarket. That is a real business in the heart of downtown Toronto and is owned by a very fine gentleman, a proprietor and small businessman who is very hard working, as are his employees.

He was confronted by a shoplifter. The particular shoplifter is known to almost everyone who works there. He is a repeat offender and has a record longer than my arm. He is so notorious as a thief that his picture has been placed throughout the neighbourhood on lamp posts. His modus operandi involves going into an area with his bicycle, parking it, stealing something, getting on the bike and whisking away. As I say, he has a very lengthy record. He is before the courts now and probably will be for the foreseeable future, so there is no point in my saying much more than that.

Government Orders

The store involved is one that puts merchandise out front. Sometimes it is vegetables, fruit or flowers. Canadians in large cities will be very familiar with that format of a grocery store or supermarket.

What happened on that particular day was that the thief showed up once, stole merchandise, left in the way I described on the bike, and showed up again later. At that point he was recognized and the shop owner and his employees took steps to apprehend the guy, knowing that he had already stolen once and was preparing to do it again. The guy was apprehended. The outcome was shocking and really quite sad to me and many other people in that the shop owner was charged.

• (1620)

A few weeks ago the court case ended with the charges being dropped. In the meantime, the unfortunate proprietor had to undertake a defence. He had many people in the community supporting him. He had a good legal team. The sad thing was that this law-abiding citizen suddenly, in the course of defending his business, became an accused criminal.

This bothered me a lot at the time. Because it was before the courts there was not a whole lot any of us could do. We just hoped for fair treatment in the courts. That eventually happened, but at what cost to this law-abiding businessman in our community?

In my view, the whole story from start to finish should have been about that businessman, Mr. Chen. It should have been about him and his business and its place in our community, but for reasons I really cannot explain and none of us could, it was not about that. The police changed the story. The police turned him into an alleged criminal and it became a story about the powers of arrest by police versus the citizen. That was just wrong.

I do not know what part of the system went wrong, but I am not alone in saying that whatever went on in the days that followed that event, it did not happen properly. In my view, it was not even in accordance with the law as I read it. I think the police and the prosecutors made a mistake in forcing Mr. Chen to defend himself. I can only say that the police and the prosecutors were doing more to defend their own powers of arrest than they were to protect Mr. Chen and his business.

I say that sadly because in Toronto we have a very good police force. Its motto is "To Serve and Protect", but one can only ask how much did it serve and protect Mr. Chen in this case. The police turned him into the alleged criminal and it took him a year to clear his name.

Was there a need to change the law? I do not think there was, but I can see the argument that there was. It is quite a normal reaction to say that if the existing state of the law is interpreted by the police as this, we have to change the law. I understand where that is coming from. I am just not sure that the police had the law correctly.

I did a bit of research, and needless to say I had a bit of help doing it. In looking at the law, of course it is related to the common law in that the powers of arrest that citizens have are buried in the common law. They exist. They are real. They are not a fiction. The Criminal Code does not say citizens have the power of arrest. The common law says that citizens have the power of arrest. In fact, citizens had

an obligation to effect an arrest in the old days and if they did not make the arrest, they could be fined. Even though we do not fine people now for not making citizens' arrests, the powers are still there and they are referred to, at least indirectly, in our Criminal Code the way it has been worded up to now, and members should keep in mind our Criminal Code is over 100 years old.

In common law, the power of a private person to arrest is limited to treason or a felony that has actually been committed or attempted, or where a breach of the peace has been actually committed or is apprehended, and larceny, theft. Stealing is a felony in common law.

There was no power to arrest for a simple misdemeanour where there was no breach of the peace and where it was not necessary to arrest the offender to prevent the renewal of the act. Members should please recall, as I go through this, that the thief in the real life situation showed up again, apparently to steal again, with his bike, the same *modus operandi*, the same routine. He showed up again and that is, I repeat, a renewal.

• (1625)

For people who are interested in history, in 1892, the old system of misdemeanour and felony was wiped out and replaced in our Criminal Code and in the British system. However, abolishing the distinction between felonies and misdemeanours at that time had no effect on the principles of arrest without warrant in the common law, at least for breach of the peace.

Section 8 of the current Criminal Code permits all of the common law defences to be used. Citizens should take some comfort in knowing that all of the common law defences that we have had for hundreds of years, going back to the Magna Carta, still exist in the Criminal Code unless they have been explicitly removed, and case law across the country has confirmed that, similar to other jurisdictions.

I will read the current state of this as best I could research it. In the case of a breach of the peace, there is a power to arrest, without warrant, on the part of a citizen where:

- (1) a breach of the peace is committed in the presence of the person making the arrest; or
- (2) the arrestor reasonably believes that such a breach will be committed in the immediate future by the person arrested although he has not yet committed any breach; or
- (3) where a breach has been committed and it is reasonably believed that a renewal of it is threatened.

I just referred to my research here, that is the case of *R. v. Howell*, which was a British Queen's Bench case.

However, the court *dare* held that there must be an act done or threatened to be done that either actually harms a person or, in his presence, his property.

In the Lucky Moose supermarket case, there was property and a threatened new breach of the peace, which was the taking, the theft, the larceny in relation to the property of Mr. Chen. That particular line of reasoning does not appear to have shone through in this particular court case but I believe it should have. I believe the prosecutor should have known that. I believe the police should have been told that. Mr. Chen should not have been charged.

Government Orders

In any event, he was charged but, fortunately, the judge who presided, in the end, made the right decision or decisions and we in Toronto have all gone on with our lives.

However, I found two things regrettable. One was the lack of appreciation of the prosecutors and the police of these of common law provisions. If that is the state of the art and our police and prosecutors do not know these common law defences and common law provisions that citizens have been basing their lives on here in our jurisdiction and under our Constitution for over a century, then maybe it is time to rewrite the code. We will write it down for them so they can read something and be satisfied with it.

However, I do regret that all of this transpired when I believe Mr. Chen had a very clear legal case that should have been made. I could not help but think that the police were trying to make the point that arresting people was their job, not the citizen's job. Yes, it is their job to do law enforcement, and they do a very good job of it across the country, but they should never place the citizen in a secondary or second-class role. Citizens, for whom the police work, should always be number one. This particular shop owner, Mr. Chen, up to that point in time, had not done anything wrong. He was just defending his own business. I do not know how the police did not see that. I hope the police understand my words as not being critical of their ongoing work on behalf of all of our communities, but their work in connection with prosecutors ought to be well based on the law.

• (1630)

This legislation seems to be a fix for the section of the Criminal Code that pertains to the facts of this case. Even though I do not feel that it was necessary, I accept that we can amend the code for that.

Accompanying this statutory amendment is a whole rewrite and codification of the law of self-defence under the Criminal Code. As I said earlier, if it is not broken, why are we trying to fix it?

I read one of the sections and it bothered me a bit. I will read the relevant words:

A person is not guilty of an offence if

- (a) they either believe on reasonable grounds that they are in peaceable possession of property or are acting under the authority of [some who is]...;
- (b) they believe on reasonable grounds that another person...is about to enter...the property...;
- (c) the act...is...for the purpose of...preventing the other person from entering the property...;
- (d) the act committed is reasonable in the circumstances.

There are many private properties in a big city. I cannot imagine all of the complications that will arise when we codify this and try to figure out what is reasonable and what is not, how much force someone is allowed to use before somebody steps off the public sidewalk, where the property line is, is it an individual or a corporation that owns the property, is it a condominium corporation, is it a landlord or is it rented property.

The government has not explained why it feels the need to rework and codify these common law provisions in the Criminal Code. The danger in doing it are that it will codify a part of the common law but not all of it or it will go too far, or it will not think of every fact situation in having codified the part of the common law that seems to be working reasonably well generally for us. By codifying it, the government is preordaining and structuring a result involving a

sequence of facts that nobody ever thought of. We would then have to amend the code again because nobody ever thought of that particular set of circumstances.

I will be looking for answers from the government. It really has not stated why it felt it was necessary to write these new sections, to codify the common law self-defence provisions in the Criminal Code.

The minister said that the list of factors codifies well-recognized features of many self-defence situations and will help guide judges and juries in applying the new law. Is it new law or is it just old law codified? The government should tell us what needs to be fixed before we walk down this road of codifying something that has worked pretty well for us under our Constitution the right of self-defence. Everybody has a pretty good gut feeling for what it is and it has worked for us for over 100 years, maybe even 200 or 300 years.

I will be looking for those answers in the debate and I will be scrutinizing this bill very carefully at committee.

• (1635)

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Speaker, I know my hon. colleague said that he was seeking answers to why the government has added what appear to be unnecessary provisions to this bill. I will suggest a possible answer for him and I would like his comment on it.

The issue that spawned this was when Mr. Chen arrested someone after the commission of an offence but within a reasonable time. My colleague from Trinity—Spadina quickly drafted a private member's bill, Bill C-565, which dealt exactly with that scenario. It would have amended the Criminal Code to permit a citizen to arrest someone, not only during the commission of an offence but within a reasonable time. Had we stopped there, the problem would have been solved.

However, if the government had adopted that common sense solution, it would have given the New Democrats credit for fixing the solution, which it could not tolerate. Instead, it had to draft a bill to add two further and unnecessary aspects to this bill, which is to radically alter the way we deal with self defence of person and property in this country.

I would submit for my hon. colleague that the reason the government did this was that it did not want anybody else in this House, be it the Liberal Party, the New Democrats or the Bloc, taking meaningful measures that protect community. In the government's view, it is the only one that can do that. Of course, Canadians know that is not the case.

Could my hon. colleague comment on that as being a potential theory as to why the government added two very unusual aspects to this bill that were not called upon by the situation of Mr. Chen and which cause more confusion than any solutions they offer?

Government Orders

Mr. Derek Lee: Mr. Speaker, I kind of agree with the hon. member as he described the lead-up to this. However, I am trying to put rationale to this initiative of the government to codify and legislate in relation to defence of property. I am speculating wildly, and forgive me if I am wrong, but the only thing I can think of is that the Conservative Party is a right wing party that has tried and failed and cannot find a way to put into our Constitution the area of property rights. A lot of people have sympathy for that type of initiative without defining it.

This is coming at us right out of the blue. I think it is the Conservatives' way of putting into statute something that enters into that envelope of protection of property rights. The only thing I can think of is that codifying self-defence provisions in the Criminal Code in relation to property, because they specifically mention it here, is their way of nudging that thing and pretending to be doing something in the envelope of property rights. That is about the only reason I can put on this, other than that I draw a blank. If I am wrong, I hope I am forgiven.

● (1640)

Mr. Don Davies: Mr. Speaker, I do note that the current Criminal Code does actually refer to “defence of person” and “defence of property”. In fact, section 38 is entitled “defence of property” and section 34 of the current Criminal Code deals with the common law defence that allows someone to repel an assault with reasonable force. I am not sure that is the answer.

When my colleague from Trinity—Spadina went to visit Mr. Chen and quickly drafted legislation that would solve the problem that Mr. Chen and all the small business owners across this country faced, what did the government do? Did it move that bill forward to fix that problem and stand up for the shopkeepers and small business owners of the country? No. The government sent the Prime Minister in to do a photo op with Mr. Chen, and then it went to the trouble of re-drafting sections of the Criminal Code that were not raised by this issue.

In the case of Mr. Chen, the issues of “defence of property” or “defence of person” were not raised. The only question we were talking about there was when is the appropriate time for Mr. Chen to make a citizen's arrest. Of course, he was charged, to Canadians' shock and horror across this country, because he made the arrest when the criminal returned to the store to hit him up again.

I would like my hon. colleague to comment on the scenario that the government simply does not want Canadians to know that parties on this side of the House also take community safety very seriously and propose very meaningful and helpful policies and bills to help achieve that goal.

Mr. Derek Lee: Mr. Speaker, it is true that the government is not the only party in the House that has spent time on this file. I personally have spent quite a few hours on this file both downtown, in my office, on the phone, et cetera.

However, I would respond with one caution, and that is this. In attempting to codify, to define the common-law rights of self-defence in the way it has, by putting conditions and provisos in particular circumstances and situations, the government may actually be shrinking the rights of self-defence without knowing it. This is

what we have to turn our minds to. In my view, it is an unnecessary Criminal Code amendment. The rationale for it is yet unclear.

I am looking forward to hearing those answers in due course.

Mr. Don Davies: Mr. Speaker, I want to chat for a minute about how the bill impacts the small businesses in the community of Vancouver Kingsway.

Vancouver Kingsway is a commercial centre made up almost entirely of small businesses. Up and down Kingsway, Victoria Drive and Nanaimo Street, thousands of small businesses are operated by families and individual proprietors who employ Canadians. They are the real drivers of the Canadian economy. Whether run by Vietnamese, Chinese, Filipino or South Asian families, the people in these businesses have told me that they are having difficulty staying afloat. In many cases, the HST has really hurt their businesses. Now we see the issue of them being subject to charges under the current Criminal Code for defending their own property.

I believe all of us in the House agree that we need to make changes to the Criminal Code. Does my hon. colleague agree with the New Democrats that we should split off the sections of the bill, which he finds controversial, and I agree with him, about defence of property and defence of person and pass the part of the bill that extends the right of someone to conduct a citizen's arrest within a reasonable time of the commission of the offence and, at all times, restrict that person to reasonable measures so the person is not justified in committing an assault on the alleged criminal? In his view, would that be a better approach to dealing with this matter?

● (1645)

Mr. Derek Lee: Mr. Speaker, I can agree with him that it might be a good approach. I cannot bind my colleagues in the House or at committee, but it is one approach to getting rid of the whole truckload of potential issues involved in codifying the self-defence provisions of the Criminal Code.

My friend mentioned small business owners. There are thousands of them across the country, all of whom deserve the respect of police and Canadians in their communities. I am also thinking of other scenarios where there are big companies, firms and corporations and security guards, some of whom are armed. There are implications for those scenarios and personal property scenarios that we will have to think about now.

The average citizen is probably quite happy thinking that he or she is okay with his or her rights of self-defence. However, now the government must codify and change it. Therefore, we must think it through to ensure that we get it right for the ordinary citizen, whether he or she is dealing with a small shopping store, a big shopping mall, the big corporate-owned plot of land or the big corporate-owned ranch scenario, when it comes to trespassing and defence of property. I am suspicious that all of this is unnecessary.

Government Orders

Mr. Bruce Hyer (Thunder Bay—Superior North, NDP): Mr. Speaker, it is my pleasure to rise in the House today to speak to the citizen's arrest and self-defence bill. As we know, a good portion of the bill, and the part that I want to talk about today, was originally put forward as part of a private member's bill by the hon. member for Trinity—Spadina.

I support her idea to enhance the ability of small businesses to protect their property through the mechanism of citizen's arrest. As a small business owner myself, I know all too well the enormous challenges that small businesses face across Canada.

I support passing the amendments to section 494 of the Criminal Code in the bill dealing with citizen's arrest to permit arrest without warrant and within "a reasonable period" rather than the present wording, which requires an arrest contemporaneous with the event. This change was originally introduced by the hon. member for Trinity—Spadina in her private member's bill as a result of an incident at a convenience store in Toronto, the Lucky Moose. The name of that store is well known, although it sounds like it should be a store in Thunder Bay—Superior North. The owner apprehended an individual, who had stolen an item from the store, some time after the theft had taken place. The amendment to section 494 has been supported, in principle, by chiefs of police across Canada, prosecutors and defence counsels.

Bill C-60 proposes compressing sections 34 to 42 of the Criminal Code, which deal with the defence of a person and property, into two new parts. The stated rationale is to clarify the laws on self-defence and the defence of property so Canadians, including the police, prosecutors and the courts, can more easily understand and apply the law.

The legislation would expand the legal authority for private citizens or persons with small businesses to make arrests within a reasonable period of time after they found a person committing a criminal offence either on or in relation to their property, ensuring the proper balance between the powers of the citizens and the powers of the police. It would also bring much needed reforms to simplify the complex Criminal Code provisions on self-defence and defence of property and clarify where reasonable use of force would be permitted in relation to the above.

The amendments to Criminal Code subsection 494(2) on citizen's arrest would authorize a business person or other citizen to make an arrest within a reasonable period of time after he or she found someone committing a criminal offence that occurred on or in relation to his or her property. This power of arrest would only be authorized when there were reasonable grounds to believe it would not be feasible in the circumstances for the arrest to be made by a police officer.

It talks about reasonable use of force. The legislation would make it clear by cross-reference in the Criminal Code that the use of force would be authorized in a citizen's arrest, but there would be limits placed on how much force could be used. In essence, the laws permit the reasonable use of force taking into account all the circumstances of a particular case. To be clear, a person will not be entitled to use excessive force in any citizen's arrest. That will continue.

There are some important considerations for us to take into account. A citizen's arrest is a very serious and potentially dangerous undertaking. Unlike a police officer, a private citizen is neither tasked with the duty to preserve and maintain public peace or, generally speaking, properly trained to apprehend suspended criminals. In most cases, an arrest might consist of either actually seizing or touching a person's body with a view to detaining him or her or using words where the person submits to the arrest. A citizen's arrest made without careful consideration of the risk factors may have serious, unintended physical or legal consequences for those involved.

● (1650)

When deciding if a citizen's arrest is appropriate, a small business person, or other citizen, should consider the following things: whether a peace officer is available to intervene at that time instead and their personal safety, or that of others, that might be compromised by attempting such an arrest. They should report information about the crime to the police instead of taking action on their own whenever possible. They should have a reasonable belief regarding the suspect's criminal conduct and ability to identify them. Last, they can and should turn over the suspect to the police without delay once that arrest is made.

Let us look at the current laws in this regard.

Under section 494(1), people may arrest a person whom they find committing an indictable offence, or a person, who on reasonable grounds, they believe has committed a criminal offence and is escaping from, and is freshly pursued by, persons who have lawful authority to arrest that person.

Section 494(2) of the Criminal Code, which is the provision proposed to be expanded by the bill, currently provides that anyone who is either the owner or in lawful possession of or has been authorized by the owner or the person in lawful possession of that property may arrest a person if he or she "find committing" a criminal offence on or in relation to that property.

"Finds committing" means situations where the accused is caught in the act, committing that offence. This concept extends to take into account a situation where the accused has been pursued immediately and continuously after he or she has been found committing the offence. Also, the existing law requires that when a citizen's arrest takes place, the individual must be delivered to a peace officer without delay.

Let us talk about self-defence and the defence of property as it relates to the proposed amendments. The new Criminal Code provisions are being proposed to clarify the laws on self-defence and defence of property so Canadians, including the police, the prosecutors and the courts, can more easily understand and apply the law. Clarifying that law and streamlining statutory defences may assist prosecutors and police in exercising their discretion not to lay a charge or proceed with a prosecution.

Government Orders

Amendments to the self-defence provisions would repeal the current confusing law and create one new self-defence provision. It would permit people who reasonably believe they or others to be at risk of the threat of force or acts of force or damage to their property to commit a reasonable act to protect themselves, their property or others.

As I said before, I am a small business owner and I know all too well the huge challenges of many kinds that small businesses across Canada face. Therefore, I would like to raise some of the reasons that are collateral and that bear on the need for small business people to feel more empowered by the Government of Canada and to make their businesses more viable. They are struggling. Small businesses across Canada today, the small economic engines across Canada, are struggling through our recession because of a lot of red tape and a growing tax burden as we shift taxes off of large corporations and onto small corporations.

Small business people are straddled with usurious credit card merchant fees. I and my party have talked about this issue, again and again, the need to get banks and credit card companies off the backs, out of the pockets, the bank accounts and the wallets of small business people across Canada.

Small business people pay fees to the credit card companies that are above and beyond what it costs them to provide average Canadians with the service that is required. Small business people are left with no choice but to pay those usurious fees because they cannot run our businesses without those credit cards. So far the government has not gone to bat to protect small businesses from usurious credit card companies and banks.

• (1655)

Another challenge that small businesses face is a government which has been constantly shifting tax burdens, tax responsibilities off large corporations and onto the backs, not only of average Canadians, but onto the backs of small- and medium-size business firms.

In the late 1970s, the marginal corporate tax rate on large corporations in the U.S. and Canada was the same, at 36%. Today it is still 36% in the United States, but through the Mulroney years, the Chrétien years, the Martin years and now under the current government, those taxes have been reduced. They are soon to be 15% and the government, through the HST, is shifting them onto average Canadians and the burden of collecting and doing the paperwork for that will fall on small businesses.

It has also been shifted through things like the EI premiums which are about to increase again, increasing the cost to Canadian workers and Canadian small businesses.

Despite the fact that small businesses are usually locally based and invest and hire in their local communities, governments, and the current government especially, have favoured large corporations with across-the-board tax cuts, whether they make sense or not, whether they result in investment in Canada or not, whether they keep jobs in Canada or not.

When the NDP government came in 11 years ago in Manitoba, it made a promise to take the tax burden off small businesses because it understood that it is small businesses which are creating jobs. In fact,

80% to 90% of all the jobs created in Canada for many decades have been created, not by big businesses, but by small businesses. The Manitoba government kept its promises and reduced the provincial corporate tax rate on small businesses from 11% down to zero. The government and small businesses in Manitoba have demonstrated through growth, prosperity and job creation, that this has been the economic engine which has made Manitoba the most prosperous province in Canada today with balanced budgets, high employment and weathering the recession almost without even noticing it.

Small businesses in our communities take many forms, from mom and pop convenience stores on the corner all the way up to significant engineering and consulting firms and software developers. In fact, 76% of small- and medium-size businesses earn revenue between \$30,000, all the way up to close to \$500,000 a year. Now, \$30,000 may seem small to us, but it is important to a family that uses it to grow its business and support its children. Small businesses are major economic engines, pint-sized engines which jointly drive the economy of Canada and are growing, not shrinking, and staying, not leaving the country or leaving town, and adding jobs, not cutting jobs.

It is about time that our small businesses got more help and more respect from a government that is happy to hand out billions of dollars in senseless, unnecessary tax cuts to oil giants, big banks and big insurance companies.

Small businesses represent almost 98% of the total number of business establishments in Canada. That number comes from the Canadian Federation of Independent Businesses. Small- and medium-size businesses employ 55% of all the working individuals in Canada.

• (1700)

Service jobs are important. Government jobs provide important services across the nation. Union jobs in large companies are important to our economy. It is true that many of the dollars generated by large corporations do trickle down to small businesses in the community. But, to reiterate that number, over half of the direct jobs in Canada are jobs that relate to small- and medium-size businesses.

Small- and medium-size businesses are taking the lead on research and development in Canada, which is something we desperately need if Canada is to address our perennial shortfall in productivity and competitiveness.

Large corporations in Canada spend a piddling 0.8% of their revenues on research and development. Small- and medium-size firms spend an astounding 5.8%, almost 6%, of their revenues on research and development.

I am an evolutionary biologist and the best evolutionary strategy through a billion years was a main gene pool with outlier populations. It is in those outlier populations where progress, where evolution occurs, feeding that genetic material into the main gene pool.

Government Orders

Similarly, small businesses are the places where the new ideas come from. Steven Jobs and Bill Gates at one time were small businessmen. Look where some of these small businesses can go. We need to support them and help them.

Small businesses are exporters. They play a big role in keeping Canada a trading nation. Over 85% of all Canadian exporters are small- and medium-size businesses.

These facts and statistics show how vital small- and medium-size firms are to Canada's economy and to the future of every Canadian and every member of Parliament. We work for the Canadian taxpayers and increasingly, the Canadian taxpayers are average Canadians and small- and medium-size businesses.

Small- and medium-size businesses create jobs right here at home. They inject dynamism into the Canadian market, which we desperately need and they invest their revenues back into our communities. They do not export those investment dollars back to the United States. They do not pay them out in ridiculously over-the-top, obscene CEO salaries which then get stuffed into tax shelters in the Caribbean and in Panama.

Canada needs to do more to support our small- and medium-size firms. We should be encouraging the entrepreneurial spirit which in the past has driven so many Canadians to take a chance on a great idea and see where it goes.

Whether in Thunder Bay, Geraldton, Longlac, Marathon, Schreiber, Terrace Bay, Red Rock, and so on, in my riding of Thunder Bay—Superior North, we need to help and grow our small businesses, particularly given the role that the government has played through NAFTA, softwood lumber and non-help in the recession to our forest industry in northwestern Ontario. To a large extent, it is small businesses which have hung on bravely and are saving us.

• (1705)

Hon. Steven Fletcher: Mr. Speaker, I rise on a point of order. I have listened to the member for quite some time now. I question the relevancy of his comments. We are supposed to be talking about Bill C-60. He is talking about things that are not related.

The Deputy Speaker: I would urge the member to be mindful of the subject matter of Bill C-60. He has about a minute left, so perhaps he could bring his remarks back to the subject matter of the bill.

Mr. Bruce Hyer: Mr. Speaker, it is clear to me and clear to most, other than the government, that any way we can help small businesses helps to offset the many other liabilities that have been placed upon them by the government.

We should not be burdening our small businesses with unfair taxes, exorbitant fees, mountains of paperwork and the inability to deal with crime that affects their business.

I urge all members in the House to support our small business people by giving them another important tool to protect their property and their businesses.

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): Mr. Speaker, I listened to the entire speech of my friend and his laudable words about small, medium and larger enterprises. I know from his

background as an evolutionary biologist that we were all hoping that the remarks would evolve into commentary about Bill C-60.

I do not want to take too much of his time in asking my question, so what does he think about Bill C-60, with respect to self-defence and a citizen's arrest? Does he think it goes too far as drafted? Is it beyond what his colleague from Trinity—Spadina had suggested, or is it the right fit?

I will give him all the time to evolve an answer on that one.

Mr. Bruce Hyer: Mr. Speaker, as an evolutionary biologist I also know that evolution did not all occur in the past; it is an ongoing process. It is happening today, it is happening this afternoon and it will continue to happen as long as there is life on earth.

The portions of this bill that were drafted by the hon. member for Trinity—Spadina are just right. I am still looking at the rest of the bill and thinking about the important balance between the rights of citizens, the rights of small business people and how important it is to make sure that those rights are not exceeded and that we do not stray into areas that are dangerous for them or society.

Hon. Steven Fletcher (Minister of State (Democratic Reform), CPC): Mr. Speaker, as an evolutionary biologist I am surprised that it has taken the member so long to figure out that crime is bad and bad people need to be arrested and that good people need to conduct their affairs conducive to the Canadian way of life. Bad people go to jail and good people help keep the bad people in jail.

I wonder if the member's evolution as a member of Parliament coincides with the advanced thoughts of his constituents rather than the de-evolution which often occurs when the NDP talk about hugging a thug rather than keeping the thugs in jail.

Mr. Bruce Hyer: Mr. Speaker, I will give a serious answer to a sarcastic question.

As a biologist I know that much of evolution is not about competition only. It is also about co-operation. Charles Darwin was brilliant but he did not go quite far enough. Social Darwinists throughout a century and now alive and well on that side of the House believe that competition, tooth and claw, and winners and losers make evolution and government work.

People in this party and I believe that more often it is about co-operation between different aspects of society helping everybody who wants help. There are a few who are hopeless, but most of the people in prisons today are going to need our help to become functioning members of society.

The idea that it is only about punishment is unfortunately antediluvian.

• (1710)

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Speaker, my hon. colleague from Thunder Bay—Superior North represents not only his constituents well but many of the small businesses that operate in his riding.

I am really quite surprised at the questions from members of both the Liberal Party and the government. They are questioning the bill's relevance to small business.

Government Orders

The bill's genesis was based on a store owner who was defending his property. One of the reasons he was defending his property was that he was so frustrated at the pilfering going on at his store. Why was he concerned about that besides the obvious problems facing his business? He was concerned because small business owners in this country operate on tight margins. If we listened to Mr. Chen speak at committee, which I am sure most members of the House did, they would have heard him say just how marginal his business is and how important it is that he have the ability to protect his property.

To hear the Liberals and the Conservatives just dispense with that and wonder why the bill has anything to do with the precarious situation of small business owners across this country is quite surprising to me. I would like to congratulate my hon. colleague for bringing that important aspect of the bill to the attention of the House.

I would ask him to explain how businesses are operating in his riding and how they may react to this bill before the House.

Mr. Bruce Hyer: Mr. Speaker, the hon. member for Vancouver Kingsway was a successful lawyer for many years. He understands, as a justice here in Canada explained, that the middle class most of the time can no longer afford to go to court and defend themselves and that we see increasingly laws and justice for only the rich and powerful.

It is sad when stockbrokers and bankers steal and defraud. It is sad when politicians sometimes lie and steal and misrepresent the law. The worst these people get is a slap on the wrist or they never are fully prosecuted. Middle-class business people often do not have the resources to properly defend themselves in the courts.

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): Mr. Speaker, I am going to use most of my time speaking about Bill C-60. I will open by summarizing what I think the pith and substance of the bill is, namely, two sections of the Criminal Code.

The Criminal Code is a large book that stuck together all kinds of laws in the 1890s after Confederation. The book is that old. It is a compendium that started out with a bunch of general provisions, including regarding cattle stealing, treason and things that we do not see a lot of these days; high treason indeed is not something that we often see. The code has often been amended, however, and appended to it are all of the fact situations that we have lived through as a country and community over our great history.

What we are seeing today is a call for two things, the modernization of the code with respect to two parts of a citizen's life, that of self-defence against an offence and the powers they may have on behalf of the state in arresting or stopping the action of a fellow citizen. Thus the bill deals with what we commonly call self-defence and citizen's arrest. We are looking either to modernize the general provisions that have been around a long time and/or are reacting to a specific fact situation or a number of them that have happened in this country.

We have to step back as parliamentarians and say that it is always good to modernize or harmonize the law, in this case the code and its antiquated language, with respect to what is happening now. There is no question about that. It is not always a good thing to have the Criminal Code or any law chase after a particular fact situation, no matter how compelling the reason is.

Whatever is enacted to react to a specific situation had better go through the prism of the general welfare and good of communities so that it fits every other fact situation in these two important areas of self-defence and citizen's arrest.

The two aspects, self-defence and citizen's arrest, are so different from each another that they are about 400 sections apart in the code. The self-defence provisions, which are among our oldest provisions, are in the 30s and 40s sections of the code, and the so-called citizen's arrest provision is way up in section 494. They are very different. However, they are tied together in this instance here, because what we are really reacting to as parliamentarians are a number of fact situations where specific individuals, shopkeepers or small businessmen or homeowners, have taken action to protect either their property or themselves and, in many instances, detained individuals.

It is extremely important to look at it from the point of view of asking people that if this were to happen to them, would they want that protection in the law. Let us look at both citizens. There is a citizen who did something wrong by taking goods from a shopkeeper, from another citizen, which is wrong. If we were to say there were nothing in the code that covered that theft or public nuisance, I would say we ought to put something in it.

However, let us not look at this in isolation. There are various sections covering these. If there is theft, nuisance, harassment, racist acts or violent acts, these are now covered by the Criminal Code. Let us be clear about that. There are provisions that cover the fact situations we have all been listening to and talking about today.

The question is, in the absence of action by the state, should a person be able to stop or prevent the action as it affects his or her personal safety or property?

• (1715)

Again, those sections are now in the code. They do allow citizens to take the law, as we say quite frequently and pejoratively, into their own hands. The Criminal Code now provides for that. Anyone who says there are no provisions in the code for a person to apprehend and stop another citizen from doing something is not telling the whole truth. Those provisions exist.

The issue is how far should those powers go.

This is a delegation of a state power. The state has the right, and the obligation in some cases, to arrest an individual who is breaking the law. In the section in the 490s, as I mentioned, about citizen's arrest, a citizen who is not a peace officer can also undertake that task that has not been performed by a peace officer.

We would expect, therefore, that if that were to be the case, it would have to be done with great care, greater care than by a peace officer, who also has to provide reasonable grounds for arresting someone and to abide by all the laws, including our Charter of Rights and Freedoms. The onus is even higher on someone who takes the citizen's arrest route to protecting him or herself, or property.

Government Orders

What we are trying to do here is have a debate as to whether the law as it sits is adequate, or whether we need to expand that law so greatly that judges and police officers would even have some doubts as to whether it would lead to increased vigilantism and the taking of the law into one's own hands.

I do not think there is anyone on any side of the House who is going to say that this is a simple question. It is a question of degree. The degree to which someone takes the law into their own hands on behalf of the state to protect themselves or their property is not a simple question; it is a metered question, a question that depends very much on the facts.

There was a saying in my days of reading the law that cases do not stand for grand propositions but turn neatly on their facts. That is really what we are talking about here. In the case of a shopkeeper in Toronto who was terrorized and humiliated and who had seen his livelihood, and perhaps his own personal safety, put in peril on many occasions, he decided that he knew who the perpetrator was and that he would apprehend the perpetrator after the fact.

What we are finding here is that if that action had been taken at the time of the incident, he would not have been charged with unlawful confinement. It is academic, but he probably would have had every right under the section as it now exists to take his citizen's arrest role seriously and have it ratified by police officers, prosecutors and the judges, if it have ever gone that far.

When this case really first came up, I knew many members of Parliament, and not just from the greater Toronto area and all parties, who felt very badly that this shopkeeper who had merely been defending his security had been charged. I do not think there is a person who did not feel for that citizen of Canada.

The question at that time seemed simple, I suppose, to me. I thought that at some point, on the volition of the government or that of the opposition or someone else's, we would change the Criminal Code, as I mentioned in my first remarks, so that it would evolve into a modern document. I thought that we would respond to this by suggesting that a reasonable time could elapse from the time of the offence to the time of the apprehension and that we would provide not just that defence but also the ability to apprehend someone under the citizen's arrest provision. I really thought that was maybe all we would be facing with respect to this whole area.

Let us remember that this could not have been a burning issue for the government before that incident in Toronto. Let us recall, as we do profoundly on this side, that the government has been in power for over five years and has had multiple opportunities to bring forward justice legislation. It has brought forward many justice bills that it has killed itself. At no time until Bill C-60, some five years after coming into power on a law and order agenda, a putative or Pyrrhic law and order agenda, did the government do anything with respect to these two issues in the code. It did nothing. These were not burning issues.

● (1720)

From year one to year five of a mandate, there is a fact situation that all members of Parliament react to in a positive way. That is, they want to help, and the Conservatives came forward with Bill C-60. However, the bill does not make that little change to the code

that would fit the fact situation and make the criminal law more modern and responsive. The bill perhaps goes too far, which is the argument being made as bill moves along to committee.

I say this because the Prime Minister visited Chinatown in Toronto, as reported in *The Toronto Star*, where he said that previous governments had refrained from stiffening the law because:

they [had] wanted to avoid vigilantism, which is a genuine threat to the rule of law.

However, he added that many Canadians believed that “the right balance [had] been lost in the justice system” and that there was a sense that criminals were protected at the expense of victims.

I had my researcher look back to see if there were any quotes specifically on this aspect of vigilantism and self-defence and the provisions for citizen's arrest. However, there had been no comments made by the Prime Minister or his justice minister on reforming this law, until this fact occurred.

So we have a Prime Minister who is commenting on previous governments. I would say that the indictment is against the Prime Minister and his various justice ministers who, for five years, have done nothing about this problem, which they seem to think existed for some time. It is a bit misleading for the Prime Minister to say that in a political scene, of course. However, he also wanted to make the police feel secure by saying at that time that the:

—police are the first line of protection against crime—

—which everyone would agree with—

[And that] Police officers will continue to have the responsibility to preserve and maintain public peace as Canada's first and foremost criminal law enforcement body.

That is fine, but what this act would go ahead and do is perhaps to give people the view that as citizens they are now going to have more powers to prevent wrongdoing as they see it on their property. This is not me saying this, but the deputy chief of the Halifax Regional Police service, not that of a minor, inconsequential backwoods or half-professional force but one of the best police forces in Canada. The deputy chief of the Halifax Regional Police said of the law as it is that:

It doesn't give any great power of citizens to go out and grab people on the street.

He said that as part of a round table discussion with the Minister of Justice at the time. Throughout the article by the Canadian Press reporting what he said, he was very cautious in suggesting that any accretions to public arrest powers should be exercised very conservatively, which is not a word that I use very often. He said that these were not matters that people should engage in without some caution. He said that the law enforcement agencies had enough of a challenge in teaching experienced officers how to interpret the law, and wondered if it meant now that they would have to go out and give citizens courses on how to perform a citizen's arrest.

Experts outside the government and outside of Parliament have also recognized that the rules around self-defence, the extension of citizen's arrest, tell us that if someone performs an action in reaction to an assault or an invasion or perceived invasion or threat to personal property, he or she might act in a physically, emotionally, or other harmful way to another person.

Government Orders

• (1725)

The person would then have to have a defence to not be charged or convicted, and that is generally in those provisions that I mentioned in the low 30s and 40s of the Criminal Code on self-defence.

The idea that one could tinker with self-defence on a situational basis is rather appalling. The police officers who participate in round tables do not come to those round tables with written amendments to the laws that the government then puts up on the television screen the next day after consulting with Department of Justice lawyers.

I heard today at committee that a number of provincial prosecutors who were talking about amendments to a bill were not consulted on the bill as presented. There is something wrong when ministers of justice and prime ministers do not consult police officers and crown prosecutors when amending legislation.

We have had experts from the police and prosecutorial communities say that because each case is unique with widely diverse and sometimes contradictory evidence, no broad policy statement is intended with respect to the use of a firearm in the defence of one's home, for instance. This was in response to a situation where certain charges were dropped against a person who was defending his home. This tells us that these are very complex issues.

While the government has put forth a bill that seemingly reacts to a very small set of circumstances, it has in fact opened up a Pandora's box that must be studied very vigilantly and diligently at committee to make sure that the box is not too wide open.

As I said, everyone has sympathy for the shopkeeper in Toronto. This is one of those issues that unifies all parties. I heard the NDP speak eloquently about the situation, as have the Liberal Party and the Conservative Party. However, instead of bringing a bouquet, the Conservatives bring an entire flower garden to the issue. It is confusing. Are we just responding to a particular set of circumstances for which minor amendments to the code would suffice, or are the Conservatives trying to open up a very dangerous Pandora's box that might lead certain people to believe that the law of Canada has changed?

I saw the Prime Minister on television for the usual 6.8 seconds. He said that we were allowed to take that law, and we do not really need the charter, but if someone goes across the corner of our property with a Ski-Doo, we can defend that.

This is not an urban or rural issue. It is not a male or female issue. It is not an issue that divides on the basis of race, religion, or in what part of the country one lives. It is the Criminal Code of Canada and it has to apply in every fact circumstance.

The good people of Grand Manan Island in my province of New Brunswick had a problem several years ago. People from the mainland were going there and selling drugs to their young people. They frequented or lived in a house which the community felt was the centre of this activity. It is alleged that the people got together as a community and burned the house down and ran those people off the island.

As a father of three young children and a former mayor of a city, I understand local politics. I understand about protecting the

community. On one level we would say, good for them that they cleaned up the community. However, we might recoil and think that if an illegal activity was going on, where were the police? Why were the police not able to do the job that should be done?

We might ask the question of the police and they might say that they are severely under-resourced, that the troops the RCMP in rural New Brunswick were supposed to get did not come, that the resources they are supposed to have are not there and it is a rural and remote community and they just cannot enforce the laws that are on the books. We would have an understanding of that.

However, to open up the law to let people burn other people's houses down is not necessarily a solution. In the trial sentencing, if there was wide open judicial discretion in this case, a judge might take into consideration the volition of the community and, while saying it was wrong, be a little merciful on the sentence. In fact, that is what happened in my province and it showed that the system worked. It is under-resourced, but it works.

However, not all of this law is good law and we will take a good look at it at committee. I want to commend those who spoke in favour of the good provisions that helped the store owner in Toronto.

• (1730)

Mr. Rodger Cuzner (Cape Breton—Canso, Lib.): Mr. Speaker, throughout his entire speech, my colleague did not mention a single word about small business in Canada, in contrast to the speech that was delivered earlier by a member of the NDP.

If we proceed with this, is there a greater risk of putting citizens in harm's way? We have highly trained police forces. In some of the police shows on television, we see police officers going after somebody who is totally enraged. The person may be on drugs or in an unsettled mental state for whatever reason. They are very intense situations. Are we placing citizens at risk if we proceed with this legislation?

Mr. Brian Murphy: Mr. Speaker, in fact, I did mention small businesses and shopkeepers. I just did not spend 20 minutes on that sector of the economy and I apologize because I know my friend wanted to hear more on that.

His principal point is whether this is opening a Pandora's box where vigilantism might be encouraged. As drafted, let us hear what the experts, police, prosecutors, professors who study this area of the law, and victims have to say on this. Let us hear from victims whose loved ones have been killed mistakenly, whether by police officers or private citizens who took the law into their own hands. Let us hear from those victims.

The government is all about victims. Let us hear from all stakeholders on this issue and decide whether this is going too far for public political purposes or whether there can be a balance achieved with respect to righting and modernizing some of the code provisions that did not protect the storekeeper in metro Toronto.

Government Orders

•(1735)

Hon. Steven Fletcher (Minister of State (Democratic Reform), CPC): Mr. Speaker, I would like to thank the member for actually speaking to the bill. That helps with the debate.

I wonder if the member could comment on the situation that led to the introduction of this bill. The shopkeeper ended up being re-victimized when, after being robbed, the police charged him. That is double victimization. The robber got off. That is ridiculous.

I wonder if the member could at least agree that the person who does the crime should do the time and the people using common sense and good judgment to apprehend the criminal should not be penalized for that.

I wonder if the member could at least agree that the thrust of the bill is not to punish victims of the original crime but to keep the bad guys away from the citizenry.

Mr. Brian Murphy: Mr. Speaker, there is a very specific amendment to the citizen's arrest portion of the code which would basically correct what was wrong in this fact situation.

Yes, it is wrong that the person who did the crime did not do the time. He was let off because he was unlawfully confined in that Mr. Chen allegedly confined him after the event occurred.

As we see in the government bill, clause 3 would amend subsection 494(2) to add very important words to say that the owner or a person in lawful possession of property may arrest a person if "they make the arrest within a reasonable time after the offence is committed and they believe on reasonable grounds that it is not feasible in the circumstances for a peace officer to make the arrest".

That is the specific fact situation that would have assisted in the case of Mr. Chen. I say bravo on one section of five pages and we will take a look at the rest.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): Mr. Speaker, I listened with great interest to my colleague.

When we look at the aspect of citizen's arrest, one of the problems we have seen with the law is the time limit component, which one part of the bill deals with quite explicitly.

From the member's speech and others from the Liberals, the Bloc and certainly from the New Democrats, because it was the member for Trinity—Spadina who came up with the suggestion, and the member for Windsor—Tecumseh, who will be speaking soon, it seems there is agreement.

The idea was to extend the time allowed for someone to make a citizen's arrest, so that if the alleged theft happened at two o'clock and the person missed the offender right at that moment, at three, four or five o'clock the person would be able to make that citizen's arrest if the person was not able to secure some support from the police. That is the piece where we seem to have agreement from the other parties, and obviously from the Conservatives, because they put it in the bill, although they took it from the New Democrats which is fine.

Can we not simply fast-track that element of the bill that does not seem to require a great deal of study or hearing of witnesses? We could then study the other two parts that have more nuance on how

they get applied. Would that be something the Liberals would support? Since the Liberals are clearly in support of the case of Mr. Chen and others like that around the country, a little more permission on the time aspect would be supported by all members in the House and we could get this bill done even before the budget is seen by this place.

•(1740)

Mr. Brian Murphy: Yes and no, Mr. Speaker.

Obviously the Liberals would support those parts that I just read in the previous answer about extending the time to make an arrest within a reasonable time after the offence is committed. If that is what my friend is talking about, that would be good law. That would be an easy amendment.

The no part is, I have been here for only five years and I have been on the justice committee all that time. Even when we make reasonable suggestions to Conservatives, it is the baby with the bathwater scenario with them. The member for Windsor—Tecumseh has been here a lot longer. He has been on this earth a lot longer too. Every time he makes a suggestion, it may be a good one, but the baby goes out with the bathwater because the Conservatives want the whole bill so they can go to the six o'clock news with it. They really do not want to make the incremental changes that would prevent this fact situation from occurring.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Mr. Speaker, the bill is really two bills and probably should not be drafted in this way.

If we deal with the part that it appears all parties agree with, and perhaps picking up where my colleague from Moncton—Riverview—Dieppe finished off, section 494 of the Criminal Code as it is now places restrictions on the use of citizen's arrest. In particular, in the simple reading over the years there have been two conditions where it is not a police officer who does the arrest. The first is the arrest has to occur on or immediately adjacent to the property where the crime occurred and it has to be done contemporaneous with the event.

I think everybody in the House and the vast majority of Canadians know the situation in the Toronto Chen case. The individual was suspected of committing a crime of theft once before. He returned to the property and was confronted by the owner. He fled and then was seen subsequently by the owner and then apprehended, away from the property and clearly not contemporaneous with the potential additional theft that it was suspected he would have perpetuated on that day. The shop owner was subsequently charged.

I have had a great deal of discussion with police officers, including chiefs of police, across the country. Generally there is this sense that they would have found other ways of not charging the shop owner in that case. However, they recognized, as well, that to clarify the Criminal Code, section 494, at this period of time, both because of that case and because of other incidents where police officers and prosecutors had been caught by a strict interpretation of that section, they had to proceed with charges when they would have preferred not to.

Government Orders

As my colleague from British Columbia mentioned earlier, and we have heard repeatedly in the House, our colleague from Trinity—Spadina had proposed some amendments to the section some time ago, shortly after the Chen case became public and notorious. It was to introduce two concepts of reasonableness, a reasonable length of time and with a reasonable apprehension that the person would not be brought into custody and charged because there were no police officers available.

The government has added an additional provision to clarify the issue around the role the owner of property must perform. It is not only that it has to be within a reasonable period of time, but the government has put in specific wording, in addition to the reasonable time test, that the individual citizen who considers making a citizen's arrest must also "believe on reasonable grounds that it is not feasible in the circumstances for a peace officer to make the arrest".

We have heard a number of comments in the public, from the legal community and occasionally from a police officer, around vigilantism being fostered or encouraged by this amendment. The very fact that we have put in this criteria that people have to make the apprehension within a reasonable period of time and be under the belief that if they do not make the arrest, there will be no police officer available to make the arrest, the individual will escape responsibility for the alleged criminal act.

● (1745)

The government's proposed amendment to section 494 is very similar to what the NDP had proposed, with that one additional strengthening of it, which we would be in support of and, as we heard today and previous days, the other opposition parties would be in support of that as well. Unfortunately, the bill does not end there and it should have. We should have run this through quite quickly with all party support.

Instead, the government has lumped in a bunch of other amendments, which it so commonly does. It has taken sections 34 to 42 of the Criminal Code and compressed them down into sections, which would now be sections 34 and 35. I am not sure what the government will do with the numbering of the rest of the code because it would shrink by six sections, if my math is correct, if these amendments were to go through.

The government seems to be somehow drawing an analogy of the principles that are contained in section 494 with those in sections 34 to 42, and that does not follow. If we look at the rest of the sections around section 494, they are very much about the authority of police officers to arrest, either with or without warrants, and the role of both the prosecutor and the judiciary in that regard as well.

There are a number of sections, starting at around 492-493, running down through to about section 200, that deal with that issue. Section 494 should properly be there. The concept of citizen's arrest fits in very appropriately there. It is not the same as the provisions in sections 34 to 42.

If I do a quick summary, what is in sections 42 down to 34 are provisions for self-defence of our person, defence of our principal residence, defence of commercial property with regard to trespass and other crimes on those properties and our right to defend our

ownership of personal property, from cars to jewellery to furniture to clothing, et cetera.

The sections in that part of the Criminal Code, and it is early on in the Criminal Code, reflect law that has been in the code since it started back in the 1890s in Canada and back to even before we had criminal codes and criminal legislation in England. These would have been fiats from the king when these concepts began to evolve, and they have evolved over hundreds of years, to the point where we have them now encoded in the Criminal Code.

What is being proposed, and I cannot put it any other way, are radical changes to those sections. I have looked at it quite closely over the last few weeks since we first saw the initial draft of the bill. What jumped out at me was some wording that, clearly, the government had taken from interpretations of those sections 34 to 42, which are judicial decisions. Because the language was more modern than what was in the Criminal Code, it thought it would be a good to add it. Unfortunately, it also seems to have left out some very important legal principles, and I say this from the vantage point of both lawyers who prosecute offences and our police and defence lawyers who defend.

I will use as one example the provisions in those sections 34 to 42 with regard to the concept of provocation. I will do it in a three-step process.

● (1750)

If the perpetrator of the provocation is assaulted, that perpetrator is then entitled to self-defend but to a lesser degree because that individual caused the provocation of the assault. There is a sort of quasi-defence there, both to the assault and then the defence of that assault. That concept has evolved and been interpreted by our courts and is quite well understood, not by the average citizen but by lawyers and judges in our criminal courts.

I do not see any reference at all to the concept of justification. This one is certainly more complicated, but it is not the same as provocation. People have reason to believe they can use physical force on other people and similarly they can use perhaps excessive force to repel what is perceived as an assault on either them or their property. That concept does not appear in either of the sections that are purported to replace sections 34 to 42.

Another concept that appears vaguely is the concept of what we used to refer to either as colour of right or claim of right. I feel like I am back at law school. I have instructed at university and I feel I am back doing that same kind of thing. These are very basic legal concepts that are usually taken in the first term of first year law school, but are sometimes repeated in later years if specialty courses are taken in criminal law.

The concept of colour of right or claim of right crops up quite regularly in matrimonial disputes. Someone says that he or she is the registered owner of the property and threatens to throw out someone who has been living at that property as a partner for a lengthy period of time. The person being evicted has a claim of right to stay there. That concept does not appear, at least clearly, in the proposed amendments.

Government Orders

There is a similar type of concept in commercial relationships involving multiple business partners. One person may be the registered owner of the business, with the majority of shares, and the other person may want to come back on the property to remove stuff or whatever. This claim of right allows an individual to go back on to the property. That only appears once in the proposed amendments and it seems to be absent in other areas.

Going back to my first year at law school, I have to wonder if this bill was drafted as we were dealing with the issue of Mr. Chen and his citizen's arrest. These principles should be in the amendments. It may be done in a different way. An argument could be made that the sections are being modernized, brought into the 21st century. I am a strong advocate of the need to bring our Criminal Code into the 21st century because there are all kinds of problems with it.

I do not know if the government was trying to do that. I do have serious doubts, at least in part, that it did not accomplish that in terms of keeping those principles but modernizing the wording around them. If that is what the government is doing, then I have serious problems with the bill because it did not accomplish this.

On the other hand, there may be another agenda here, and I am not sure what it is other than to move toward a more U.S.-style of what we in law talk about as self-help. Perhaps the agenda is to move more toward that which is allowed much more broadly in the U.S. criminal justice system than it is in Canada, Britain, Australia or New Zealand, countries that have similar jurisdictions both in terms of the way our law developed and the way we deal with the issue of crime and the ability to use self-help to fight crime.

● (1755)

Whether that other political ideological agenda exists is not clear, but there must be concerns that with some of these proposed changes we may in fact go that way.

Due to our support of section 494 and wanting to correct the problem in the Chen situation, I believe most of us will support the bill to go to committee. However, when the bill gets to committee, we will need very clear explanations as to the drafting behind the bill and whether the concepts of provocation, justification and claim of right have been done away with in most cases.

Having set out those parameters and limitations in the bill, it goes without saying that this will be a source of great wealth for lawyers. Both prosecutors and the defence bar will literally spend years reinterpreting the concepts in the bill because the historical principles that applied around the use of self-help appear to have changed so radically. After listening to the speeches from the government, I have determined that we have not had any rational explanation as to why it has made this move. It just does not seem to add up.

It is unfortunate that the government coupled it with the amendments to section 494. It would have been nice to get that as a separate bill. I know my colleague from Trinity—Spadina had offered the government to make it a short separate bill containing a two-paragraph amendment to the existing section 494 to be able to get it through the House rapidly.

As it stands now, once this bill gets to the justice committee it will be backed up behind other bills that are already there. We will need

to spend a great deal of time to determine if there are unintended consequences, whether long-standing legal principles will be undermined and, if so, what that would mean to the practice of law in Canada and the right of citizens to defend themselves and their property, whether it be their home or their commercial interests. We will need a great deal of evidence in order to understand that.

As I have indicated, the NDP will be supporting this going to committee because of our support for the amendments to section 494 and the whole concept of making it clear when the power of a citizen's arrest can be used. However, we have very grave concerns about the balance of the bill. That will require a great deal of work at the justice committee in order to understand it.

● (1800)

Hon. Joseph Volpe (Eglinton—Lawrence, Lib.): Mr. Speaker, I want to take advantage of the fact that my hon. colleague has introduced himself as a former law professor and, therefore, an esteemed person, a knowledgeable person and someone who is aware of the consequences of the law, the intent behind what the laws may say and how the courts may interpret the legislation.

I noted that he wanted his colleague from Trinity—Spadina, in her presentation, to serve as a model for the government.

I want to ask him if he would share with us just what his interpretation was of the court case dealing with Mr. David Chen in Toronto that prompted two opposition members, both from Toronto, to present legislation for the government's consideration.

As I read the decision, the judge interpreted the actions of Mr. Chen to be one continuous activity and therefore interpreted the concept of reasonableness in all of its permutations into one very basic issue and said that it was very reasonable for Mr. Chen to do what he had to do.

I am wondering whether that was the interpretation, in his capacity as a former professor of law, that he came to. Does he agree with Professor Anand and Professor Young who have expounded on this and whether that is the basis for his position that the government should have cut this short, should have focused on what is the very simple crux of the matter and then asked all parties to pass this all in one hearing, one very quick decision? The courts have already ruled on this. Would that be his interpretation as well?

Mr. Joe Comartin: Mr. Speaker, one needs to be careful of the factual situation. My colleague is correct about the decision by the court, that it saw this as a continuous event.

In effect, after the original theft, Mr. Chen believed he was able to recognize the thief who was in his shop again acting in a fashion that led Mr. Chen to believe he was at risk of a further theft occurring. The continuous nature of it was not just the original offence and then Mr. Chen identifying the person. It was identifying the thief and being concerned that another theft was about to occur.

When we consider that, it was quite reasonable for the court to say that it was reasonable that when Mr. Chen saw the person a very short time later on the street, this was one continuous event: the original theft, the suspected attempt at another theft and now the apprehension. That is the way the court drew those conclusions.

Government Orders

I need to be blunt. When we look at the rigidity of the wording in section 494 as it is, the court was being very, although I hate to say it, liberal in its interpretation.

Hon. Joseph Volpe: It's a good word.

Mr. Joe Comartin: I want to be very clear that I mean small "l" liberal in its interpretation of the section because a small "c" conservative interpretation of it could have very easily come to a different conclusion.

That brings me to the second part of the member's question, which is the importance of getting this amendment through. The same kind of fact situation could come up, but there then may be a judge applying a rigid conservative interpretation and convicting somebody like Mr. Chen with maybe the facts being slightly different.

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Speaker, I was proud to second Bill C-565 introduced by my hon. colleague from Trinity—Spadina, a bill that would repair the situation when Mr. Chen was arrested for simply detaining someone who had stolen from his store mere hours earlier.

I walked up Victoria Drive in Vancouver Kingsway with my colleague and we visited store owners. We visited flower shops, restaurants and retail outlets of all types and asked store owners in Vancouver Kingsway how they felt about the situation. Every one of them felt that it was completely inappropriate to have a law that would see a store owner charged for simply detaining someone who had stolen from the store owner mere hours earlier.

My hon. colleague's bill, Bill C-565, repaired that situation by expanding the Criminal Code in a very prudent manner, allowing people to arrest make a citizen's arrest, as it is called, within a reasonable time of the commission of an offence.

Does my hon. colleague agree that is an amendment to our law that we really need to make in the House and leave the issues of defence of property and defence of person to further prudent, careful and cautious study as we hear from witnesses before we make amendments to those areas of the law that may actually have far-reaching consequences beyond that which is necessary to solve the Chen situation?

• (1805)

Mr. Joe Comartin: Mr. Speaker, let me emphasize that it is important to get that through. I have been on the justice committee for over seven years now and up to this point we have not heard from any government witnesses, ministers or officials that there is a crying need to amend those other eight sections of the Criminal Code.

After I saw what was being proposed in the bill, I had the opportunity to spend time with criminal defence lawyers, prosecutors and, more important, police officers and police chiefs. They are all telling me that they do not see any problem. They understand we want the amendment to section 494 because of the Chen case but they are not aware of any problem with sections 34 to 42, the provisions that allow for self-defence of the person or property. There just does not seem to be a crying need for it.

Why the government would have combined them when there is a crying need for amendments to section 494 and why it is moving down that road at all really begs the question. There is no crisis that needs to be addressed. That much is fairly clear.

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): Mr. Speaker, my hon. friend did all this talking about the liberal interpretation and about being conservative, but let us talk about a socialist perspective on the defence of property, the means of production, the defence of property amendments that are here.

The Department of Justice memo talks about the bill and says that the defence of property aspects are spread out over a number of sections and they differentiate based on personal property or real property. It seems that the bill attempts to concentrate it and make it coherent.

In the defence of property proposal, does the member think it would give homeowners or property owners more justification to use violence? Is that his interpretation or not?

Mr. Joe Comartin: Mr. Speaker, I have not come to a conclusion on that. I can see where there is that possible interpretation but it is not at all clear.

As I said in my comments, the whole concept of justification is very poorly treated in these amendments. Therefore, it is really hard to understand what the end result will be. I do not think it is stretching it all, nor fearmongering, that we are looking at unintended consequences because it is drafted so generally as opposed to a number of the specifics that we have in the existing section.

I will add one additional point around the responsibility that we have as citizens to protect ourselves. Our courts have made it quite clear, and this goes back into all sorts of interpretations and decisions from England, that as we develop our society we place police officers in the position of playing this role. The role of the citizen for self-help is always the exception.

I will make one further point. Our courts have made it quite clear that in this situation, for instance, if the person is being arrested, the police officer must give the warnings under the charter, which are the right not to self-incriminate, et cetera. There has been one decision that citizens do not have that responsibility, but it comes back to the point that our courts have been very clear that they want to see the use of self-help as the exception and they want our police officers to be doing the job that they have been mandated to do.

• (1810)

The Deputy Speaker: I will just take this opportunity to inform members that we have concluded the first five hours of debate, so now speeches will be 10 minutes and the questions and comments periods will be five minutes.

Resuming debate. The hon. member for Eglinton—Lawrence.

Hon. Joseph Volpe (Eglinton—Lawrence, Lib.): Mr. Speaker, the bill should be named the David Chen bill, or the we thank David Chen for opening our eyes to the deficiencies of the Criminal Code, section 494, bill or, even more importantly, the why David Chen deserves credit when the Conservatives want to give Canadians none bill.

Government Orders

Why do I say that? Members might think me a little harsh, but David Chen, a legitimate store owner who runs a family business, who minds his own business, who calls in the police whenever there is a problem and there is a problem virtually on a daily basis, and he asks the court system, the justice system to help him make a living in Canada, like so many Canadians, and what happens? One day he sees a thief, someone who has stolen from him in the past, someone who has appeared on his video screen, someone on whom he has called the police on several occasions, someone who has more than 47 convictions for theft. He sees him come back not one-half hour after he has stolen from him.

He seized the thief and held him. He called the police and the police came, but they arrested him. They charged him with a whole slew of charges, including forcible confinement, arrest, kidnapping. Imagine, in a country like Canada where due process is a very important element of our life, the store owner, the defender of his own property, is the one who is charged.

For a government which likes to have these news bite type of titles to its legislation, it does not do that this time. Instead it sends its senior minister, the Minister of Citizenship, Immigration and Multiculturalism, because of course this is an immigration issue. It is not a law issue. It is not a justice issue, it is not a tough-on-crime issue. This is an immigration, citizenship and political issue.

Off the Minister of Citizenship, Immigration and Multiculturalism goes, to demonstrate that the Government of Canada, no, I am sorry; what is its new title? It is not the Government of Canada. It has been personalized. The one individual, the guy who makes all the rules, the guy whose initials are S.H., dispatches his senior minister on a citizenship, immigration and political issue.

On September 27, 2009, and let us keep that date in mind because it is an important date, he says that this is an egregious problem and we are going to change this. I notice that the Parliamentary Secretary to the Minister of Justice accompanied him. He said that this is a real problem and we are going to correct it because this is unjust, untrue and it is not right that a guy who tries to run a family business gets put through a process where he is a victim of somebody else's crime. He is a victim, again. He says that the Conservatives are going to change the law. That was on September 27, 2009. What is the date today? I am not sure if the government members can actually read a calendar, but the last time I looked we were in the month of March in 2011.

The government finally decided to present a piece of legislation. If I seem angry, it is because I am angry for all those citizens who, like David Chen, were looking for the government to do something right. They were looking to the Government of Canada, before it became the S.H. government, but it is all about evolution.

The interesting thing about September 27, 2009 is two things were happening concurrently. There was paranoia on the government benches about the potential of an election and the Minister of Justice was dialoguing with his colleagues, the attorneys general of the various provinces, about precisely what to do in a case like David Chen's, which apparently happens more often than not.

●(1815)

I asked my colleague from Windsor what he thought in his capacity as a former professor of law, about making this particular minor change that would have given direction to everybody. Just a few days ago, the Minister of Justice spoke on the bill and said that they are doing this because the courts pay attention to what Parliament says when they look for direction in law. Then he proceeded to give three, four, five, a million reasons as to why he wanted to consolidate the concept of reasonableness in law. However, the Minister of Justice knew in 2009 when David Chen was first ordered to appear at court that the law was going to change because everyone agreed it needed to be changed. What did he do? He allowed David Chen to use his own resources, at his own expense and stress in order to test that concept in court, to see what the courts would do. They did it for him.

So instead of thanking David Chen for saving the government all this money, the Conservatives said they are going to have a piece of legislation. Everyone wants to glory in the victory that appears on behalf of all Canadians. David Chen deserves not just a medal, but he also deserves to be compensated for all his work.

Two members of Parliament, the member of Parliament for Eglinton—Lawrence on June 16 last year presented a very brief proposal to amend section 494 of the Criminal Code, and the member for Trinity—Spadina did a similar thing in September 2010. We come to October 29, 2010 and the courts decide in favour of David Chen. The government rushes to congratulate him. The Prime Minister, the one who runs the government, for whom the government is named, says the government is going to make this its first priority and it is going to change the law. However, David Chen already had to go to court.

What does the Prime Minister do? Instead of taking up the offer of members of the House, the member for Eglinton—Lawrence and the member for Trinity—Spadina, he decided to have his justice minister come forward with a hugely complicated piece of legislation because he has to solve all the problems of the world, except this one. Why is there such urgency now? Because, as I understand it, he may decide he does not want to deal with Parliament anymore and he may want to go to an election.

I want to indicate a timeline here. As the member of Parliament for Eglinton—Lawrence, on November 2 during question period I asked to change the act. I suggested the government take the bill as we had already done all the drafting. The member for Windsor—Tecumseh acknowledged that there is a possibility of interpreting issues on reasonable grounds. Other professors have already done this. There have been all kinds of people who have decided to have input on this.

On November 4, we held a press conference and asked the government to come forward and accept the principle of Bill C-547 and the other one as well. However, on January 21, the Prime Minister finally decided he wanted to go to see David Chen again, to use him as a prop once more so he could say the Conservatives were going to come forward with legislation right away. Right away turned out to be March 4. February 15 was really when the Conservatives wanted to go ahead and give an indication that they were going to act.

Government Orders

I am not sure about the sincerity of all of this and I am equally suspicious about all the remonstrations of the Parliamentary Secretary to the Minister of Justice who was part of the discussions going on in November 2009. Finally, during some of this negotiating after he had actually approved some of the wording that appeared in Bill C-547, he said that now he has been appointed parliamentary secretary he can no longer deal with the legislation, and by the way, he is not aware of anything that the Minister of Justice might want to do in this matter.

• (1820)

He washed his hands of the whole affair leaving all of the people who had been looking to the Government of Canada, that is the real Government of Canada, for some guidance and assistance in a lurch to look to members of the opposition to give them some guidance.

What did the government do? It came forward with an unnecessarily complicated bill in order to stall for time and do away with this.

The Deputy Speaker: The hon. member for Ancaster—Dundas—Flamborough—Westdale is rising on a point of order.

* * *

BUSINESS OF THE HOUSE

Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC): Mr. Speaker, on a point of order, the minister responsible for the Status of Women Canada will be delivering a ministerial statement tomorrow on the 100th anniversary of International Women's Day. Therefore, I believe you will find unanimous consent of the House for the following motion:

That, notwithstanding any Standing Order or usual practice of the House, on Tuesday, March 8, 2011, statements by ministers, pursuant to Standing Order 33, shall be taken up at 3 p.m.

The Deputy Speaker: Does the hon. member have unanimous consent of the House to propose this motion?

Some hon. members: Agreed.

The Deputy Speaker: The House has heard the terms of the motion. Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

(Motion agreed to)

* * *

CITIZEN'S ARREST AND SELF-DEFENCE ACT

The House resumed consideration of the motion that Bill C-60, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons), be read the second time and referred to a committee.

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Speaker, I know that my colleague did some important work on this issue, along with my colleague from Trinity—Spadina, when Mr. Chen's situation came to the attention of members in the House.

My hon. colleague quite rightfully identified the absolute injustice of the store owner finding himself charged after doing nothing more than apprehend someone who had been continually robbing him.

This was due to the Criminal Code's peculiar wording at the time, which basically said that one could only apprehend a person if that person was caught in the commission of an offence.

The private member's bills of my colleague from Trinity—Spadina and the hon. member sought to cure that situation by extending the time period for citizen's arrest to a reasonable period of time.

How does my hon. colleague feel about the other provisions the government has seen fit to introduce into this legislation which go far beyond that and actually alter the law by codifying the defence of property and defence of persons provisions? Does he think it might be better to simply deal with the original problem that was caused by the Chen situation and pass that legislation instead of dealing with other sections of the bill which we really do not know what the implications would be?

Hon. Joseph Volpe: Mr. Speaker, I suspect that the S.H. government does not know either and that is why it has thrown it all into this package. It does not have any intention of passing this package at all.

All one has to do is take a look at what that same minister for propaganda did in September 2009. He speaks out against the courts that deal with immigration issues. He rails against judges. This sort of thing would never happen anywhere else. The member is right. This should be about store owners, property owners, like David Chen.

I am sure the hon. member would agree that what should happen is, first of all, the government should apologize to David Chen for having used him as a prop not once, not twice, not three times, but now a fourth time.

Second, it should pay him for all of his expenses for having forced him to go through such a situation.

The government could have pronounced itself, the way it is doing now, and the way it has done through the Minister of Citizenship, Immigration and Multiculturalism on other occasions on other issues. The government pulls back to say that it is *sub judice*, but it does not do it when it is inconvenient.

Third, it should give an indication to all the courts that the David Chen case and the decision on the definition of reasonableness by that judge is the standard upon which people will base their decisions when going to court again.

Mr. Rodger Cuzner (Cape Breton—Canso, Lib.): Mr. Speaker, like my colleague from the NDP, I also want to recognize and congratulate the member for Eglinton—Lawrence who has done so much on this file. He has brought this issue to the chamber through question period on a number of different occasions and has continued to pursue it with great vigilance.

My colleague is an experienced member of this chamber. Is this another missed opportunity by the Conservative regime? It had a chance to get it right with the bill, but instead lumped a number of other issues around it and in doing so may be missing an opportunity.

• (1825)

Hon. Joseph Volpe: Mr. Speaker, I thank my hon. colleague for recognizing some of the work that I have done with the co-operation of my caucus colleagues. It is always nice to receive that pat on the back.

However, as I said earlier, this is really about David Chen and what he has been forced to do for all Canadians to demonstrate that the system works. If the law does not work in a situation like his, in an egregious fashion, then the law must be changed. That is what was behind those two opposition private members' bills and their intent.

What the government bill does is it says that those were good ideas but that it was not its idea so it will not do it and to ensure it does not do it, it will add so many very specific things that there will be a court challenge on every one of the definitions that it wants to put in place because it does not believe in them either. That is the government's attitude. All one has to do is read the intervention of the Minister of Justice in the House. He said, "We had a solution in 2009; we just didn't implement it".

Why not? Justice delayed and justice put off is justice denied. That is his true—

The Deputy Speaker: Resuming debate. The hon. member for Nanaimo—Cowichan will have about three or four minutes before I will move on to adjournment proceedings.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Mr. Speaker, I am pleased to speak to Bill C-60. I know others have outlined this but I want to put it once more on the record. What we have here is a government bill that is a result of some of the very good work that the member for Trinity—Spadina had done.

The member for Trinity—Spadina had introduced a private member's bill, Bill C-565, and we have talked about it already. It was as a result of an incident in a convenience store called the Lucky Moose in Toronto where the owner apprehended an individual who had stolen from the store some time after the theft had taken place.

I know other members in this House have spoken about the challenges for small business owners in this country to make a living. When a small business owner, who is trying very hard to make a living, has a theft, it is a huge problem, and we have somebody who is trying to prevent that theft from happening and he is apprehended.

Bill C-60, unfortunately, went far beyond the scope of what the member for Trinity—Spadina had introduced in Bill C-565. I know the member for Windsor—Tecumseh has done a very good job of outlining the much broader scope of the bill and the challenges with it. I want to focus on one particular aspect of the bill, which is clause 3.

Clause 3 of the bill states:

3. (1) Subsection 494(2) of the Act is replaced by the following:

The owner or a person in lawful possession of property, or a person authorized by the owner or by a person in lawful possession of property, may arrest a person without a warrant if they find them committing a criminal offence on or in relation to that property and

they make the arrest at that time; or

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they make the arrest within a reasonable time after the offence is committed and they believe on reasonable grounds that it is not feasible in the circumstances for a peace officer to make the arrest.

One would wonder why the Conservative government did not simply take that one part of the bill and put it into a piece of legislation that this House could rapidly pass. That would have dealt with the situation at the Lucky Moose.

Instead of ensuring that the House could discuss it and refer it to committee and get it passed, the government has needlessly complicated the legislation. It could have introduced two separate bills: one to deal with the situation at the Lucky Moose and one to deal with the other issues that it has brought forward.

The member for Windsor—Tecumseh has talked about the fact that there could be unintended consequences and it is incumbent upon us in this House to study those consequences.

The Deputy Speaker: Order, please. The hon. member will have seven minutes to conclude her speech the next time this bill is before the House.

ADJOURNMENT PROCEEDINGS

A motion to adjourn the House under Standing Order 38 deemed to have been moved.

• (1830)

[*English*]

STATUS OF WOMEN

Ms. Irene Mathysen (London—Fanshawe, NDP): Mr. Speaker, the government pretends to care about ending the devastatingly high rates of violence that aboriginal face but Conservative actions prove otherwise.

Budget 2010 promised \$10 million to address the disturbingly high number of missing and aboriginal women. The government said that concrete actions would be taken so that law enforcement and the justice system meet the needs of aboriginal women and their families, but \$4 million of the \$10 million is going to help set up an RCMP missing persons database that will not be ready until 2013.

The government does not recognize the urgency. There are more than 600 missing and murdered aboriginal women. Action needs to be taken now. Sisters in Spirit was one project that was working and now is hobbled by a new name and restrictive conditions. Sisters in Spirit made headway where no other project did and although Evidence to Action (Phase 2) did receive funding, no research or advocacy activities are allowed. It was the research and advocacy that compelled the government to finally pay attention.

More than 600 women have been murdered or have gone missing and, incredibly, until Sisters in Spirit compiled the data, the Government of Canada did nothing to address this travesty. Sisters in Spirit gave families and friends of the victims a voice. It gave them hope that finally someone was listening.

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These women were mothers, daughters, grandmothers, sisters, aunts and nieces. Sisters in Spirit gave a voice to these families and now that voice has been taken away because the funding has ended. There will be a serious gap between the data collected by Sisters in Spirit and the RCMP database due to the three year delay and it is unclear how the RCMP database will capture the same data as Sisters in Spirit did. The Sisters in Spirit data was vital in illustrating the cross jurisdictional pattern of disappearances and murders and gave proof of the crisis that aboriginal women face in Canada.

I would ask that the minister and the Parliamentary Secretary for Status of Women advocate and push the government to continue to fund Sisters in Spirit so its important work to end violence against aboriginal women can continue. Aboriginal women in Canada have been waiting too long. Will the members opposite finally make it a priority and stop playing games with the lives of aboriginal women? Will the government fund Sisters in Spirit so it can continue its important work?

Aboriginal women need a government that is willing to give them a voice and to take action. They need a government that is willing to work to finally end the violence. Will the minister and the Parliamentary Secretary for Status of Women stand up for aboriginal women and advocate on their behalf in cabinet? Will they ask for funding so that Sisters in Spirit can continue its all important work?

[*Translation*]

Mrs. Sylvie Boucher (Parliamentary Secretary for Status of Women, CPC): Mr. Speaker, I would like to thank the hon. member opposite for once again giving me the opportunity to correct certain facts regarding the government's response to the important issue of missing aboriginal women. We have taken concrete action. As I have already said, victims are much too important an issue for us to be playing political games. Some young girls and women have paid with their lives and their families are now devastated by grief.

First, I would like to speak about the concrete action that is being financed with the \$10 million. On October 29, 2010, the Minister of Public Works and Government Services and the Minister for Status of Women reiterated our government's commitment to this important issue.

Practical measures have been put in place to improve law enforcement and the justice system and to help the organizations responsible respond better in cases involving missing and murdered aboriginal women. Here are a few examples.

Creation of a national police support centre for missing persons to help Canada's police forces coordinate missing persons investigations and provide specialized support.

Creation of a web site where the public can provide tips related to missing persons cases to help police services across Canada obtain more in-depth information.

Improvement of the Canadian Police Information Centre data base in order to input more data on missing persons.

Our government has said repeatedly that this is a complex matter and that we must work in close co-operation with our provincial and territorial partners, with agencies and most importantly, with

aboriginal communities, in order to develop appropriate solutions to better target the actions taken.

The final practical measure has been to identify changes to the Criminal Code to make it easier to get warrants and court orders for investigations.

Those are the concrete actions taken by a government that is very aware of the problems facing aboriginal women. This is the first time in the history of Canada that a government is implementing a system of this kind. No one has ever really taken care of aboriginal women before. This government is the one that apologized to the First Nations. We are working hard to make sure these women are acknowledged and taken care of.

● (1835)

[*English*]

Ms. Irene Mathysen: Mr. Speaker, I want to tell the House what the Native Women's Association has to say:

NWAC is concerned that the difficulties surrounding ongoing funding are not only curbing the success of the movement but also causing unnecessary pain to the families directly affected by this issue. NWAC hopes that the federal government will recognize this unique situation and work with the organization to make the right decision. NWAC looks forward to further collaboration with the government on new, ongoing and additional projects that will enable us to continue the work we began almost six years ago.

Unfortunately the government has no long-term national strategy to address violence against aboriginal women. The government needs to stop playing games and urgently begin to address the crisis aboriginal women are facing in their communities. Proper housing, shelters, child care, education, health care are good places to start.

Aboriginal women need a government that is willing to invest in their priorities.

[*Translation*]

Mrs. Sylvie Boucher: Mr. Speaker, that is false. In fact, the Native Women's Association of Canada called this a very significant investment. We have introduced new law enforcement databases to investigate missing and murdered aboriginal women. We have also included new funding to boost victim services and support the creation of community and educational aboriginal safety plans.

On this side of the House, we plan to work with everyone to ensure that aboriginal women are recognized. The NDP has always voted against this. I do not need to take any lectures from that member.

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[English]

PUBLIC SAFETY

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Mr. Speaker, the government likes to talk tough on crime and terrorism and it never loses an opportunity to advertise its trademark bravado. But I suspect, like in all things with the government, that when it comes to preventing terrorism, it spends relatively more time on photo ops and self-promotion than on action to guard against potential threats to our communities.

I was at a water conference in Montreal last fall where I heard a presentation by a British security expert who is involved in protecting Europe's drinking water systems from attack. Through a fascinating presentation he showed conference participants the water systems he and his professional colleagues have protected against tampering by terrorists or other criminals. When I asked him if Canada's municipal water systems were similarly protected almost 10 years after 9/11, he answered that Canada still has not taken the necessary steps to shield itself properly from those who might wish to wreak havoc by sabotaging drinking water sources.

I remind the House that the government has been in power going on six years now. Because I believe this is an important issue by which we can measure the government's accountability and foresight in protecting Canadians' safety, I asked about this security lapse in question period on December 3 last.

The least I can say is that I received a completely unsatisfactory answer from the House leader who took the question. In fact, I did not receive an answer at all, which is why I am rising in tonight's late show to afford the government a second chance to take this matter seriously and inform Canadians honestly about the security of their drinking water systems and what the government is or is not doing to protect these systems.

• (1840)

Mr. Dave MacKenzie (Parliamentary Secretary to the Minister of Public Safety, CPC): Mr. Speaker, I hope that the member for Lac-Saint-Louis listens to what I have to tell him here tonight.

I can assure the hon. member that this government is committed to protecting Canada's critical infrastructure, including our drinking water systems.

In keeping with this commitment, on May 28, 2010, together with the Ontario and Alberta governments, the Minister of Public Safety announced a national strategy and action plan for critical infrastructure. This strategy helps us to manage risks and respond swiftly when terrorist attacks and other disruptions occur.

I would like to point out that we have already achieved meaningful progress in this area. For example, in November 2010 Public Safety Canada published its "Risk Management Guide for Critical Infrastructure Sectors". This guide is based on an international standard and provides practical guidance to our critical infrastructure sectors on conducting risk management activities.

I would also like to assure the hon. member that Public Safety Canada and Environment Canada are actively working with our partners in the water sector, including the Canadian Water and

Wastewater Association, to protect our drinking water systems from terrorist attacks.

For example, on November 30, 2010 our water sector partners hosted a national water utilities security workshop. During this workshop representatives from industry and all levels of government discussed how we could build on our existing efforts to secure our drinking water systems. This workshop included a briefing from the RCMP on intentional threats to water utilities.

I would like to take a moment to talk briefly about the role of the public safety portfolio and our commitment to delivering a more coordinated and strategic approach to strengthening the resilience of Canada's critical infrastructure.

Public Safety Canada is responsible for exercising national leadership to protect critical infrastructure. The department undertakes its leadership activities as part of a team with our portfolio partners, which includes the RCMP, the Canadian Security Intelligence Service and the Canada Border Services Agency.

Public safety portfolio officials work together to develop and share critical infrastructure information, such as security briefings and intelligence products relating to our vital assets and systems.

The RCMP, for example, has a specific section dedicated to collecting and disseminating information and intelligence on threats to Canada's critical infrastructure.

This section of the RCMP has developed the suspicious incident reporting system, which is an online mechanism to receive information on suspicious incidents from critical infrastructure sectors.

This information contributes to the RCMP's national security criminal investigations and the development of analytical products. These products are shared with the private sector for its risk management activities.

The public safety portfolio approach reflects a team effort that forms the core of the Government of Canada's actions to strengthen the resilience of Canada's critical infrastructure.

Mr. Francis Scarpaleggia: Mr. Speaker, I thank the hon. member for that interesting answer.

Back in November I was at the conference here in Ottawa, that he mentioned, where there were discussions about matters of drinking water system security. At that conference I did speak to an RCMP official who delivered a presentation. I asked him about the situation. He mentioned that the suspicious incident reporting system which the hon. member mentioned had not received funding to apply that system to the drinking water sector.

I am interested in knowing if this system was applied, as the member seems to be suggesting, after I asked the question in the House.

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We talk about municipal water utilities being under provincial jurisdiction, but the federal government does have the power under the Canada Water Act to enter into agreements with provinces where there is a significant national issue in water management.

The Deputy Speaker: I am going to stop the member there. The hon. parliamentary secretary.

Mr. Dave MacKenzie: Mr. Speaker, this government is actively working with our water sector partners to share information and to address the threat of terrorist attacks.

A 2009 water sector survey conducted by Environment Canada and the Canadian Water and Wastewater Association shows that approximately half of the responding municipalities have conducted risk assessments. I would also like to point out that the survey shows that 92% of these municipalities have a plan in place to deal with emergencies, including terrorist attacks.

We will work with our partners in all levels of government and in the private sector to build on this progress, and continue implementing our national strategy and action plan for critical infrastructure.

This strategy recognizes secure critical infrastructure helps foster an environment that stimulates economic growth, attracts and retains business, and helps deliver on our commitment to build a safer and more resilient Canada.

•(1845)

NATIONAL DEFENCE

Hon. Bryon Wilfert (Richmond Hill, Lib.): Mr. Speaker, in November I asked the government a question with regard to the sole-source contract for the new fighter jets that the government seems bent on force feeding to Canadians.

Obviously when it comes to these aircraft, the government is breaking every Treasury Board guideline. We believe in competition. Competition is what the Treasury Board guidelines clearly indicate.

At the defence committee, companies have come forward to say that they could provide new fighter jets for the Canadian Forces.

We strongly believe in new jets for the Canadian Forces. No one is arguing that.

There has been some talk in government circles that the Liberals want to rip up the contract. Well, there is no contract to rip up. The Auditor General said the purchase of the F-35s at the moment could be risky business. It obviously is a concern for the Auditor General.

We are concerned that the rules that are in place for competition have not been followed.

My friend across the way has said before that in 1997 there was a multinational joint strike fighter program to look at the development of this type of aircraft. We participated in that but we were under no commitment to buy the aircraft.

We want to get the best value for the taxpayer. People are looking at rising food costs, rent costs, mortgages, and it would appear we want to borrow about \$9 billion-plus, maybe as much as \$16 billion or \$20 billion, for something which is not, in our view, appropriate at this time.

The government has already put the country into a \$56 billion hole. The government seems to be able to announce these things and talk about spending money.

I find it insulting to the taxpayer to suggest that somehow this is the only way to go, because the government knows best. This is utter nonsense.

The reality is that we want the best plane for the dollar, but this is not necessarily the way to go. The former assistant deputy minister of defence, Alan Williams, came to the committee. He was very much involved in this from the beginning. He indicated his concerns about it. Unfortunately there are some, including the parliamentary secretary, who have taken it upon themselves to question what Mr. Williams said. Of course it is his right to question, but I do not think it is his right to malign individuals who clearly have a different view.

Our view is not that we should not get new fighter jets. Our view is that there has to be an open, fair competition pursuant to Treasury Board guidelines. If we do not follow the guidelines on this, what else are we not going to follow?

This is clearly not the way to go. This is clearly not good for the taxpayer. After all, we are supposed to be guardians of the taxpayers' dollar.

A number of companies came to the defence committee and said that they could build an aircraft which would meet Canada's needs in the Arctic for sovereignty and for protection.

We owe it to the taxpayer and we certainly owe it to Canadians to be able to say that we went through a process.

If, at the end of the day, it turns out that the F-35 is the way to go, then we will accept that. However, we cannot accept a process which clearly has been skewed from the beginning. We have concerns about that. I know that my hon. friend will respond as he always does.

Hon. Laurie Hawn (Parliamentary Secretary to the Minister of National Defence, CPC): Mr. Speaker, I certainly will, but I would like to thank my hon. colleague for the question. What he said was mostly pure nonsense.

As stated in the Canada first defence strategy, the government is committed to replacing our aging CF-18 fleet, which will come to the end of its service life in 2020. Indeed, we cannot eliminate manned tactical air power from our toolbox of military capabilities.

The debate is not between spending and not spending on the replacement of this capability. It is a debate over which aircraft we should acquire and which procurement process we should adopt in order to provide our men and women in uniform with the right equipment while at the same time ensuring the best value for Canadian taxpayers.

Let me say that not a single Treasury Board guideline has been broken, and my hon. colleague is simply wrong in saying that and he knows it.

Adjournment Proceedings

The government's decision to purchase the F-35 reflects years of rigorous and extensive analysis by military professionals within the Canadian Forces and civilian experts within the Department of National Defence. Moreover, it mirrors the collective wisdom of experts in the other eight countries partnering on the joint strike fighter project, countries that have all committed to replacing their existing fighter fleets with the F-35. There is no coincidence there.

The reason for choosing the F-35s are indeed compelling. As an advanced, multi-role stealth fighter, the F-35 has the versatility necessary to carry out any mission we can foresee while providing superior protection for the pilot. As an aircraft with revolutionary data collection and sensor fusion technologies, the F-35 represents a step forward in intelligence, reconnaissance and surveillance capabilities. As a common aircraft also operated by our allies and partners, Canada's F-35s will be fully interoperable with those flown by our friends in coalition air operations.

In fact, of the several aircraft models examined by our experts, only the F-35 satisfied all of the mandatory criteria contained in the Canadian Forces' statement of operational requirements for the next generation fighter capability.

Given this stark truth, where is the logic in calling for a competition when there are no viable competitors to the F-35 and when we already know which aircraft will win? Such a competition would rightfully be considered an expensive sham and a waste of taxpayer money.

On this issue of the cost to taxpayers, those who call for a competition as a means to save money are actually advocating a procurement policy that, ironically, would end up costing us more than the direct method we have selected for the purchase of Canada's F-35s.

As a member of the joint strike fighter partnership and a signatory to the production, sustainment and follow-on development memorandum of understanding of 2006, Canada has the option to purchase F-35s under very favourable terms. Purchases made through the MOU are exempt from the foreign military sales fees and research and development recovery charges levied on purchases by non-partner nations. On Canada's purchase of 65 fighters, these exemptions amount to a saving of between \$850 million and \$900 million.

Every one of the signatories to the MOU agreed, however, that they would not apply industrial regional benefit policies to the purchases of the F-35s made through the MOU. Therefore, if we were to hold a competition and insist on guaranteed IRBs, we would not be able to buy aircraft through the MOU, which is the most cost-effective procurement method.

As the only aircraft that meets all of our mandatory requirements, we know that the F-35 would indeed win that competition. Therefore, the only effect of going through the motions of holding a competition, the result of which we already know, would be the purchase of the F-35 at a cost of nearly a billion extra taxpayer dollars.

The F-35 was chosen after years of rigorous analysis done by experts in Canada and eight other countries confirming the soundness of our decision to purchase the F-35. Let us add Israel

to that list of countries. It does not mess around when it buys military equipment.

With substantial savings to be realized by buying our aircraft directly through the joint strike fighter MOU and through economies of scale, and with the full suite of lucrative industrial participation plans in place to keep Canadian companies and their tens of thousands of employees on the cutting edge of the aerospace industry for decades to come, the government's F-35 decision minimizes the risks inherent in all military procurements while maximizing best value for Canadian taxpayers, economic opportunities for Canadian industry, and operational capability for our men and women in uniform.

This money is not borrowed. It will not start to be spent until about 2015 or 2016 and will be spread over 20 years, and it is all part of the Canada first defence strategy. It is all programmed, not borrowed. That is simply false and my colleague—

● (1850)

The Deputy Speaker: Order, please. The hon. member for Richmond Hill.

Hon. Bryon Wilfert: Mr. Speaker, my colleague would suggest that what I said was nonsense. Is it nonsense to follow procurement policies as outlined very clearly in the Treasury Board guidelines, which I had quoted another time to my hon. friend? Is it nonsense to want to save the taxpayer money? Is it nonsense in an ongoing recession to be looking at a situation where we are not getting the best value?

My colleague has not been able to produce one document showing why this is in fact the best airplane to go with.

It is not nonsense to say we should have a competition, because that is the cornerstone of what governments do in this country. They would look for the best aircraft in this case, not sole-sourced competition.

Again, we have not seen what led the government to this particular decision. It says, "Just trust us. Don't worry." I do worry for the taxpayer. I do worry for the forces. Again, if he says that the F-35 is the only fifth generation aircraft, then it is the only one. However, there are others on the market of a different generation that we may want to look at.

Hon. Laurie Hawn: Mr. Speaker, I will tell the member what is nonsense. It is nonsense to pretend that someone is doing something for altruistic reasons to get the men and women of the Canadian Forces the equipment they need at the best price for Canadian taxpayers and the best value for Canadian industry. It is absolute nonsense to do that for purely partisan political reasons and to mislead the Canadian public on when money has been spent and what work has gone into determining that this is the correct answer.

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The member has heard from members of the Canadian Forces and the Department of National Defence. They have laid out all the evidence that says why this airplane is the only one that will meet the requirements. Liberals just do not want to hear it because it does not fit their political agenda.

Anybody who comes before the committee of course will say that he or she has an airplane that will meet the requirements. That is why we have had people looking at this for almost the last 10 years, as have 9 other countries, including Israel. They have all come to the same conclusion that it is the F-35. That is not a coincidence. These people are motivated simply by the requirement to get the best

equipment and the best value for Canada, for our men and women in uniform and for Canadian taxpayers. That is what they have done, and the member should pay attention.

● (1855)

The Deputy Speaker: The motion to adjourn the House is now deemed to have been adopted. Accordingly the House stands adjourned until tomorrow at 10 a.m. pursuant to Standing Order 24(1).

(The House adjourned at 6:55 p.m.)

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