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OFFICIAL REPORT
(HANSARD)

Tuesday, April 24, 2012

—

Speaker: The Honourable Andrew Scheer

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HOUSE OF COMMONS

Tuesday, April 24, 2012

The House met at 10 a.m.

Prayers

ROUTINE PROCEEDINGS

• (1005)

[English]

INCREASING OFFENDERS' ACCOUNTABILITY FOR VICTIMS ACT

Hon. Peter Van Loan (for the Minister of Justice) moved for leave to introduce Bill C-37, An Act to amend the Criminal Code.

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

* * *

PETITIONS

SUICIDE PREVENTION

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Mr. Speaker, I have the honour to present two petitions today. The first one is from a number of people from New Brunswick and Alberta calling on the House of Commons to meet the public health challenges posed by suicides, to promote evidence based solutions to prevent suicide and its aftermath, and to define best practices for the prevention of suicide.

ABORTION

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Mr. Speaker, the second petition is from a number of constituents in my area relating to the issue of abortion.

The petitioners are pointing out that Canada, in the company of China and North Korea, is the only nation in the western world without any laws restricting abortion. They also point out that Canada's Supreme Court has said that it is Parliament's responsibility to enact abortion legislation.

Therefore, they call on the House of Commons to speedily enact legislation that restricts abortion to the greatest extent possible.

HUMAN TRAFFICKING

Mr. Mark Warawa (Langley, CPC): Mr. Speaker, I am honoured to presented three petitions. The first one deals with human trafficking.

The petitioners point out that the trafficking of women and children across international borders for the purpose of sexual exploitation should be condemned and that it is the duty of Parliament to protect the most vulnerable members of society from harm, those being the victims of human trafficking.

The petitioners are calling on the government to continue its work to combat trafficking of persons worldwide and to develop and implement a comprehensive national action plan to combat human trafficking.

RIGHTS OF THE UNBORN

Mr. Mark Warawa (Langley, CPC): Mr. Speaker, the second petition is in regard to the definition of a human being.

The petitioners point out that Canada's-400-year old definition of a human being says that a child does not become human until the moment of complete birth, contrary to 21st century medical evidence. They are calling upon Parliament to confirm that every human being is recognized by Canadian law as being human by amending section 223 of our Criminal Code in such a way as to reflect 21st century medical evidence.

CELL TOWERS

Mr. Mark Warawa (Langley, CPC): Mr. Speaker, the last petition is regarding a cell tower in my riding of Langley.

The petitioners are calling upon the House of Commons to deny this application when it is presented to Industry Canada and to enact legislation to control site placement of cell towers in environmentally sensitive areas.

SHARK FINS

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Mr. Speaker, I rise this morning to present two petitions. The first is from over 870 people, primarily from my riding of Saanich—Gulf Islands, from Sidney and from Saanich, although there are a number here from the Burlington, Ontario, area and a few from Calgary.

The petitioners seek the support of the House to deal with the critical threat to shark populations globally by taking action to ban the possession, trade and use of shark fins. The practice of removing just the fin of the shark is responsible for the deaths of at least 70 million sharks a year around the world.

Privilege

THE ENVIRONMENT

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Mr. Speaker, my second petition this morning is primarily from people in Ontario, particularly the Toronto area. I am grateful to these petitioners from Ontario because they are supporting an issue of paramount concern in my own riding of Saanich—Gulf Islands.

The petitioners ask that the Conservative members of the House consider closely the environmental impacts of the Enbridge pipeline project and that the joint review panel must be allowed to hear all witnesses and examine all evidence without the government prejudging that this risky supertanker scheme should get the go-ahead.

PATENT INFRINGEMENT

Mr. Fin Donnelly (New Westminster—Coquitlam, NDP): Mr. Speaker, I rise today to present petitions on behalf of several of my constituents and people in British Columbia.

The petition states that larger businesses, both foreign and domestic, use smaller and more innovative Canadian businesses and entrepreneurs as a form of free market research and product development. Knowing that small businesses cannot afford to protect their ideas, they duplicate and patent protected ideas.

The petitioners call upon Parliament to protect small business and entrepreneurs and to create legislation deeming wilful and/or international patent infringement a criminal offence.

* * *

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.

* * *

PRIVILEGE

NATIONAL DEFENCE

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): Mr. Speaker, it is a privilege to rise in this place on such an important question. I am sure that not only members of Parliament but those we seek to represent well in this place will be very interested in the conclusion you bring with respect to the breach of privilege that has been suggested by the member for Toronto Centre. We should begin with the conditions under which you will be deciding whether our privileges have actually been breached in this place by the Minister of National Defence in this particular case.

I will quote from the *House of Commons Procedure and Practice* just to remind us all of the context about which we are talking. Privilege has been broken if “Misleading a Minister or a Member has also been considered a form of obstruction and thus a prima facie breach of privilege.”

In Erskine May's *Parliamentary Practice* on page 111, it reads:

The Commons may treat the making of a deliberately misleading statement as a contempt.

Finally, Speaker Jerome's ruling from March of 1978 reads:

...has the Member an arguable point? If the Speaker feels any doubt on the question, he should, in my view, leave it to the House.

That is the question that has been put before us with respect to the statements by the Minister of National Defence in response to questions put by the opposition when we sought to understand in this particular case the full life costs of the F-35 purchase. Those are the particulars of the matter.

What we seek to rectify at this moment is whether members of Parliament were allowed and able to do our job, because, particularly in this case, our job is to put questions to the government to understand the true costs of the fighter jets to the taxpayers of Canada.

The context is very important because we are also in a budget year in which significant cuts have been made to services upon which Canadians rely. We have been raising those issues day to day in this place. We have talked about pensions. We have talked about protections to the environment. We have talked about health care cuts. In the context of the government choosing to not allocate funds to one thing and yet to another, it is important to understand what those costs are.

While there are particular details with respect to this purchase that frame the context of the question, I know, Mr. Speaker, you will be most interested in whether the minister committed a breach of privilege to this place. I would offer for members on the government benches that this is also critical for them to do their jobs and be accountable to their constituents.

In listening to the comments from my colleague across the way yesterday and previously, there seems to be two types of federal employees who work for the Government of Canada. When the government gives them credit or it feels they are doing a job the government agrees with they are called good civil servants. We could run through the list of quotations by parliamentary ministers and members of the Conservative Party about what great civil servants we have. When they are not doing so well, when they are presenting facts that the government disagrees with, even if those facts are blatantly true, they become bureaucrats and the bureaucrats get blamed.

There is an accountability link that is very important in this question of privilege. I will quote the government's own statements and documents to ensure everyone understands that this is its own agenda, its own set of guidelines that we are talking about in this context, not anything put forward by us as New Democrats.

We understand that when the government breaks the pact between itself and the Canadian people and the minister stands in his place and continues to repeat a misrepresentation of the facts, privilege has in fact been breached.

Privilege

Who is accountable? This was the question recently put to the Auditor General in his testimony both before committees and in the press conference in first releasing his report on the F-35. I will use the government's own conditions. This quotation is called "Accountable Government" and it was produced in 2011 by the Prime Minister's office. I want all members of Parliament to understand the context of our seeking accountability from the minister and his accountability to the House of Commons to not breach privilege. It reads:

Clear ministerial accountability to Parliament is fundamental to responsible government, and requires that Ministers provide Parliament with the information it needs to fulfill its roles of legislating, approving the appropriation of funds and holding the government to account. ... Under responsible government, Ministers exercise executive authority on the basis that they have the confidence of Parliament...which requires that they, and through them the officials under their management and direction, be accountable to Parliament for their actions.

● (1010)

That is on page 9 of a document written by the Prime Minister's Office entitled "Accountable Government: A Guide for Ministers and Ministers of State".

The government's accountability between the civil servants who provide the estimations—in this case for the multi-billion dollar fighter jet, which is one of the most significant purchases in Canadian history—and the executive accountability of the Minister of National Defence to us as parliamentarians is a clear link that the government itself understands to be true. Therefore, if we establish that link is true, then the accountability of the Minister of National Defence and all ministers of cabinet to this place is to represent the facts as they find them and provide Parliament with the information it needs to fulfill its role in legislating, approving the appropriation of funds and holding the government to account. This is a very basic, simple, yet critical component of the work we do as parliamentarians. For the people we represent, it is their dollars that we should cherish and hold with some esteem.

The Parliamentary Budget Officer, the Auditor General and other officers of Parliament attempted to do their jobs and help to ensure that the government was being properly scrutinized. The Parliamentary Budget Officer was appointed by the government. It is a role that the government created with support from New Democrats, and members will recall the Accountability Act and other acts. However, for almost two years, the Parliamentary Budget Officer, in trying to do his job, was consistently discredited here in this place and outside in press conferences for the numbers he was providing to Canadians on what the true cost might be for these jets. The government almost made it personal.

That is a separate matter and not a breach of privilege, but it is important in this context. The ability of members to do their job, which is to understand how the government is spending taxpayer money, is encumbered when we hear one report from the Parliamentary Budget Officer clearly laying out what the cost of the jets would be, but then time and again we hear from the Minister of National Defence, the Prime Minister and other ministers of cabinet that he is wrong and simply making up the numbers. Until we had the Auditor General's report in hand, it was a "he said, he said" scenario, I suppose. Who to believe?

Well, the Department of National Defence actually had the documents. If you remember, Mr. Speaker, there was some

controversy as to the Parliamentary Budget Officer gaining the documents from the Department of National Defence. It was difficult, and he made some public expression of how difficult it was.

That is not now the case. We now have the Auditor General's report, and he had access to all of those documents and all of those estimations that the minister was also using. Here is where we get to the point of privilege:

Misleading a Minister or a Member has also been considered a form of obstruction and thus a *prima facie* breach of privilege.

As well:

The Commons may treat the making of a deliberately misleading statement as a contempt.

The question for you, Mr. Speaker, is this: did the minister have the facts at his disposal to confirm some of the things that members of the opposition were requesting of him when it came to the full cost of these jets? We have shown through the Auditor General's report that in fact that was the case for a number of months, going back years.

In terms of accountability—and this is important for this breach of privilege—I will quote the Auditor General, who said that National Defence should start estimating full life-cycle costs in the options analysis phase of its project management process and present these costs to decision-makers at subsequent steps in the process. The basis of cost estimation should be included in approval of documents.

In response, the Minister of National Defence said that the AG "... has given us some recommendations, all of which I can assure the hon. member and the House have been accepted. These recommendations will be acted upon."

● (1015)

We are not talking about the F-35s in this case; we are talking about the Sea King purchase, which goes back two years. We are talking about the question before you, Mr. Speaker, in terms of what the minister knew as to his accountability and his responsibility in presenting the full costs. We have seen this movie before.

When the helicopters were being purchased, and purchased for a price that the government declared much lower than the actual purchase price, the Auditor General showed that to be a problem because the full cost was not accounted for. The Minister of National Defence, after reading the Auditor General's report of 2010, agreed. He said the government would do better, would make changes so that the full cost was there and would present that to Parliament in the future.

The very next significant purchase after the Sea Kings is the process the government is engaged in right now around the F-35s. It is the very next opportunity for the government to show truth in accounting.

Privilege

We cannot do our jobs effectively as members of Parliament if, after repeated omissions, after repeated and known errors in the way numbers are presented, the government continues to choose a path that is not truthful in the case of the actual cost. It is impossible for members of the opposition. It is also true for members of the government, who cannot knowingly go back to their constituents and say what the costs are for any project—never mind the jets or helicopters, but anything—if we cannot confirm that the budget estimates we are getting are truthful. It is impossible for us to do our jobs. One of the central roles of this place is to hold the government to account. That is not just the responsibility of the opposition; it is also the responsibility of members of the government.

The accounting discrepancy argument is not a sincere argument. This is not a divergence of opinions as to what things cost. The question was around full life-cycle costs. That was what we were asking for and that is what the Minister of National Defence was telling us he was giving us. The Auditor General has now told us that was not true. The break that the government is trying to make now is saying that it agrees with the Auditor General's full report while yet allowing the department to disagree with the fundamental aspects of the report.

Mr. Speaker, you cannot allow this argument, simply because it breaks the basic chain of accountability that I talked about before, the basic chain of accountability that the Prime Minister says is important and over which, under responsible government, ministers exercise executive authority on the basis that they have the confidence of Parliament, which requires that they, and through them the officials under their management and direction, be accountable to Parliament for their actions. That is the government's own directive.

In this case, the government is attempting to break that directive by saying that the department can disagree and say that the cost is \$10 billion less, while the government will present those numbers and have the privilege of agreeing with the Auditor General.

That simply does not pass muster. It does not let the government off the hook with respect to the privilege of members of Parliament being breached. That is the case in front of us now. We are seeking accountability; I would hope that members of the government also seek accountability.

We are talking about a very significant purchase. The government often talks about the need to support our troops, but we simply cannot do that if the government is fudging the numbers on purchases as significant as this one. It cannot be done, because other choices flow from that. If \$10 billion extra is going toward one thing and we as parliamentarians do not know about that, it will affect considerations down the line, not just for the military but for every other government purchase and spending decision that is made.

It is incumbent upon the government to tell the House the truth. Mr. Speaker, it is your role as Speaker to ensure that the government at all times keeps that link of accountability that the government itself has committed to. That is your job, Mr. Speaker. It is a difficult job at times, because we live in a political world and sometimes the facts can be politically inconvenient for a government when the suggestion of a \$20 billion fighter jet purchase just before an election may cause political consequence.

However, that is not the point here. The point is that this place remains a place in which we seek, as best we can, truth in accounting, truth from government, so that we can be accountable ourselves as members of Parliament to those who elected us to this place, to those we work for—not the Prime Minister's office, not the party hierarchy, but the people who put us here.

I have a final quote and then I will surmise on the breach of privilege. This is from the Auditor General:

National Defence did not exercise due diligence in managing the process to replace the CF-18 jets.

His report goes on to say:

Full life-cycle costs were understated in the estimates provided to support the government's 2010 decision to buy the F-35s. Some costs were not fully provided to parliamentarians. There was a lack of timely and complete documentation to support the procurement strategy decision.

● (1020)

He is saying that to this place. That is to you and to me as a member of Parliament. The Auditor General says that you and I and the members of this place did not get the full life-cycle costs of the Sea King helicopters, which in this case the government had committed to doing evermore. We had the next opportunity, and the government again chose not to do that. You, Mr. Speaker, and members of the House were unable to make an informed decision.

That raises the question of whether the Minister of National Defence also knew what the defence department knew. The government's own code of accountability requires that he know and that he be accountable for his actions, but the repetition of the false figures continued, thereby conducting a breach of privilege for members of Parliament who were trying to understand the decision before us, which is whether to go with this purchase or another.

Allow me to finish. As a previous Speaker put it, "Has the member an arguable point? If the Speaker feels any doubt on the question, he should, in my view, leave it to the House".

As well:

The Commons may treat the making of a deliberately misleading statement as a contempt.

We, as the official opposition, feel that the government and the minister in this particular case had the facts before him, first from the Parliamentary Budget Officer and later from the AG's report, which the minister received many months before members did. He saw the numbers, yet continued to misrepresent those facts and figures that are fundamental to this question. Misrepresenting facts and figures knowingly is a breach of privilege according to the rules of this place and the direction and directives of the government's own orders from the Prime Minister's Office and the Prime Minister.

*Government Orders***GOVERNMENT ORDERS****CITIZEN'S ARREST AND SELF-DEFENCE ACT**

If this is not a breach of privilege, if this is not a break in accountability, then the lesson that the government will learn from this is that it can continue to do it. The lesson that Canadians will take away from this is that whatever figures are presented cannot be trusted. That would be a further erosion of the work that we have to do, of the trust we have between ourselves and our constituents and for future generations. Many of these decisions will last not just the life of this election cycle or our terms as members of Parliament; many of these decisions extend to those who will have to pick up the pieces.

We are talking about billions of dollars. We are talking about our troops. We are talking about decisions that the defence minister made again and again. This is not one occasion: again and again, he knowingly had one set of much higher figures in his hands, at his disposal, and when questioned about them, he instead chose forms of character assassination on members of the opposition. He chose to attack the credibility and veracity of the Parliamentary Budget Officer, thereby eroding his own merit within the eyes of Canadians.

These are very selfish choices. These are choices made by a government looking to do something other than be accountable.

You have a difficult choice in front of you, Mr. Speaker. There is no more serious matter that Parliament could consider than when a minister of the crown knowingly breaches privilege of members of the House and knowingly misrepresents the facts, but that is the question before you.

I wish you well with your deliberations. We feel the facts have become increasingly clear and increasingly worrisome. We believe that the role of the opposition has been dramatically hindered and that our privilege has been dramatically breached, as it has for all members of the House. If all members of the House disagree on much, let us agree that our ability to hold the government of the day accountable to the Canadian people we seek to represent requires us to know that ministers will be held to account.

If the Prime Minister chooses not to do that in this case with his Minister of National Defence, that is his choice. The Speaker's choice is otherwise, which extends beyond any political cycle or any partisan considerations. This is the job that you have taken on, Mr. Speaker, and that we have elected you to take on, and it is a difficult one. I wish you well.

• (1025)

Hon. John McKay (Scarborough—Guildwood, Lib.): Mr. Speaker, I would note that at this point there has been a cycle of each party being represented. The Green Party, the Bloc Québécois and now the NDP have all wholly associated themselves with the intervention by the member for Toronto Centre. On behalf of the Liberal Party, I would like to reserve an opportunity to speak to this issue, and I hope to do so after question period this afternoon.

The Speaker: I will look forward to that further submission.

• (1030)

[English]

The House proceeded to the consideration of Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons), as reported (with amendments) from the committee.

The Speaker: There being no motions to propose at report stage on this bill, the House will now proceed without debate to the putting of the question of the motion to concur in the bill at report stage.

Hon. Peter Van Loan (for the Minister of Justice) moved that the bill be concurred in.

The Speaker: Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

Some hon. members: No.

The Speaker: All those in favour of the motion will please say yea.

Some hon. members: Yea.

The Speaker: All those opposed will please say nay.

Some hon. members: Nay.

The Speaker: In my opinion the yeas have it.

I declare the motion carried.

(Motion agreed to)

The Speaker: When shall the bill be read the third time? By leave, now?

Some hon. members: Agreed.

Hon. Peter Van Loan (for the Minister of Justice) moved that Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons), be read the third time and passed.

Mr. Robert Goguen (Parliamentary Secretary to the Minister of Justice, CPC): Madam Speaker, I am pleased to be able to speak once again to Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons).

I would like to begin by thanking the justice and human rights committee for its work in studying the bill. The committee held six sessions that heard more than 15 witnesses from outside government. The committee heard from a number of associations such as several pan-Canadian groups including, among others, the Canadian Bar Association, the Barreau du Québec, the Canadian Convenience Stores Association, the Canadian Police Association, the Canadian Association of Chiefs of Police, the Criminal Lawyers' Association and the Canadian Association of Elizabeth Fry Societies. The committee also heard from a number of individuals including David Chen, a local criminal defence lawyer and several law professors.

Government Orders

The diversity of witnesses who appeared at committee reflects the fact that the proposals in Bill C-26, though only a few pages long, touched a long range of issues that are important to Canadians. The committee no doubt benefited immensely from hearing the perspectives of specific populations such as police officers, small-business owners and their families, private security interests and victims of domestic violence. The committee undertook a thorough and profound analysis of the legislation, which has implications not just for special populations but for all Canadians.

I would especially like to thank the committee and the witnesses who testified for their commitment to balancing the needs of victims of crime to respond to emergency situations on the one hand and ensuring on the other hand that the law discourages vigilante responses to crime and the escalation of violence and the abusive exercise of arrest powers. This is always difficult to balance, but at the same time we believe that members on all sides of the House should wish to see this balance struck appropriately.

The committee made several modifications to the legislation, which I will address shortly. I believe these modifications improved the legislation, and I would like to once again express my appreciation for the serious and professional manner in which all committee members approached these important and sensitive issues.

Members will recall that Bill C-26 proposes a responsible expansion of the citizen's arrest power and also includes a long-overdue simplification and clarification of the law of self-defence and defence of property.

With respect to the power of citizen's arrest, the expansion proposed in Bill C-26 is modest and limited. No one disputes the fact that arrests are primarily the responsibility of the police. However, in recognition of the fact that police are not always present when a crime is committed, the Criminal Code has long authorized citizens to arrest other citizens in certain specifically defined situations including in relation to a property offence. The critical aspect of the existing law is that citizens may only arrest a person they find committing a property-related offence at that very moment. An arrest made at a point later is not a lawful arrest and the arresting persons are therefore potentially liable to be criminally prosecuted for any of their actions that otherwise constitute an offence, such as an assault against the suspect. We know that sometimes this is not possible and so to avoid the unfairness of the law in treating as criminal the citizen who arrests another shortly after the crime was observed, Bill C-26 would modify the current law to allow the arrest within a reasonable time of that offence.

I know the committee did consider several motions to amend the bill to add additional limitations intended to prevent this sort of conduct. The committee did not agree to these proposals. This does not mean our government does not share the concern. Rather, it means we are confident that the proposals and the bill would not be construed or applied in this manner. The extended time in which arrest can be made would not be unlimited. It must be reasonable. This would allow, and indeed require, the court to inquire into the many relevant considerations. Most important among these would be the reason for the delay. The court could also inquire as to whether the delay had any particular detrimental impact on the arrested person.

Another relevant consideration would be the purpose of the law itself. In this context, the courts would be mindful that this would be a novel extension of an arrest power that is currently very limited. In interpreting it contextually, the courts would be in a position to constrain the extension in a manner that accords with its purpose. Whenever the court would find that the reason for a delay in making an arrest was inappropriate or otherwise unreasonable or that the delay caused an injustice to the arrested person or that it did not accord with the purpose of the law, the arrest could be found to be unlawful.

● (1035)

Furthermore, our government's confidence is bolstered by a safeguard that accompanies the expanded arrest power, which will further serve to limit the potential for abuse. This safeguard is a requirement that before the citizen makes the arrest he or she must reasonably believe that it is not feasible in the circumstances for a peace officer to make the arrest instead.

In other words, if an arrest is intentionally delayed for some particular purpose, it will be much more likely that the police should be called to the scene and make the arrest. If the police are not called and the arrest is made later, that arrest may be found to be unlawful on the basis that the arresting person could not reasonably have believed that the police were not able to respond. Taken together, our government is confident that these are reasonable and responsible amendments and that they should not unduly jeopardize the safety of Canadians. We urge all members to support them.

I will now speak briefly on the issue of the defence of person and property.

While the citizen's arrest reforms are fairly straightforward, even if they are somewhat controversial, the changes to the defences of person and property are more fundamental in that they completely replace the existing legal provisions with new and simpler ones.

The necessity to reform these defences stems from the fact that they are currently worded in an extremely complex and convoluted manner. In particular, our self-defence laws have been subject to decades of criticism by the judiciary, including the Supreme Court of Canada, trial counsel, criminal law academics, bar associations and the law reform bodies. Criticism has focused on the fact that the existing law is confusing and difficult to apply in practice. It is fair to say that the reform in this area is long overdue.

When the laws that set out the rules for emergency defensive action are confusing, we fail in our responsibility to adequately inform Canadians of their rights. Unclear laws can obviously complicate and frustrate the charging decisions of the police, who themselves may have difficulty reading the Criminal Code and understanding what is permitted. It is also extremely important. Self-defence can be raised by a person charged with murder. Self-preservation is perhaps the most fundamental entitlement any citizen may have, even more fundamental than the protection of one's property. It is essential that Parliament gets law reform in this area right.

Government Orders

Bill C-26 proposes a single new self-defence and defence of property provision that would be much simpler than the existing law, which provides for multiple variations of each defence depending on slightly different circumstances. The proposed new defences would reduce the existing law into its most fundamental elements, which are consistent no matter what the particularities of the situation are. We no longer need different rules for different circumstances. We only need one rule that is capable of being understood and applied in all situations.

I will now speak briefly to the issue of the defence of the person.

According to the proposed new law for defence of the person, people would be protected from criminal responsibility if the following three conditions are met: they have reason to believe that they or another person are being threatened with force; they act for the purpose of defending themselves or other persons from that force; and their actions are reasonable in the circumstances.

These are clearly appropriate elements for a new self-defence law. First, to be exonerated from a crime, people should have a reasonable apprehension of some kind of force. Second, their actions should be motivated by a defensive purpose. Self-defence is not a disguise for what is really revenge, for instance. Third, whatever actions are taken, if they are taken for a defensive purpose and in response to a reasonable apprehension of force, those actions should be judged to fall within the range of what a reasonable person would have done.

Most cases likely succeed or fail on the question of whether the actions were reasonable in the circumstances. This determination would be guided by the unique facts and circumstances of each individual case.

However, without limiting the nature and scope of factors that could be taken into account, the legislation does try to set out some of the more familiar and important considerations in a non-exhaustive list of factors. This list accomplishes several purposes. It is intended to signal to the judges that existing jurisprudence should continue to apply even though the elements of self-defence have been simplified. It should also assist judges in their duty to instruct juries about how to apply the law in a given case.

One of the most important types of factors has to do with an abusive intimate relationship between the parties to a confrontation. The watershed Supreme Court of Canada decision in *Lavallee* in 1990 acknowledged the difficulties juries can have in finding the behaviour of a battered spouse to be reasonable.

● (1040)

In particular, juries may not understand how battered partners might stay in abusive relationships or how they might come to predict future violence based on past experiences. If the jury does not understand how people in abusive situations can come to view their options, the jury is more likely to find their actions unreasonable and deny them a defence.

However, in the *Lavallee* case, the Supreme Court of Canada held that expert evidence can be called to provide an explanation as to why an accused did not flee when he or she perceived his or her life to be in danger. In this way the evidence can also assist the jury in

assessing the reasonableness of the accused's belief about both the danger that he or she faced and the need to act as he or she did.

This type of case does not arrive often, but sensitivity to these situations is crucial. For this reason the history of the relationship between the parties, including whether there were prior acts of violence, is specified in the law as a relevant factor in the determination of whether the accused's actions were reasonable.

Other critical relevant factors include the nature of the threat and the response to it. For instance, whether the attacker threatened to break a finger or to kill; whether any weapons were present; and the relative physical abilities of the parties, such as their age, size and gender. So naturally, a petite elderly woman and a fit young man may have different options available to them to respond to the same threat.

As part of its comprehensive study of the bill, the justice and human rights committee found that the list of factors could be improved in certain ways. It agreed to several amendments to the subsection of the legislation, all of which our government is in agreement with.

The first change was to the opening words of the provision. The original words read, "In determining whether the act committed is reasonable in the circumstances, the court may consider, among other factors...". The committee agreed to changes to these opening words to say, "In determining whether the act committed is reasonable in the circumstances, the court shall consider the relevant circumstances of the person, the other parties and the act, including, but not limited to, the following factors".

This change has several effects. First, it makes it clear that it is obligatory, rather than permissible, for the court to consider all relevant circumstances. This is an improvement in clarity. Second, it highlights critical factors, namely the circumstances of the accused who is claiming self-defence, the other party and the act itself. Our government appreciates the additional clarity.

The committee made a change to the wording of one of the factors. Factor (e) originally identified the size, age and gender of the parties to the incident. The committee agreed that the relative size, age and gender of the parties may often be relevant in determining whether a person's actions in self-defence were reasonable. However, based on representations from the Canadian Bar Association, the committee concluded that these factors will not always be determinative of physical ability. In an effort to be more clear, it amended this factor so that it now reads: (e) the size, age and gender and physical capabilities of the parties to the incident. Once again, the government agrees with this additional clarity.

Government Orders

The committee made one final change to the list of factors. It agreed to add a new factor, namely, any history of interaction or communication between the parties to that incident. I have already spoken to the factor that refers to the history of any relationship between the parties. The committee felt that this factor could well be interpreted narrowly to apply to longstanding, intimate relationships and so might not capture interactions that are more casual or infrequent, or involve any single incident, such as a single threatening email. The committee added the new factor to address this type of situation.

On the issue of defence of property, the proposed new defence of property would adopt the same basic structure as self-defence. All of the existing provisions would be replaced with a single, general test for defence of property that captures its essential components, while maintaining the same level of protection as the current law.

There would be three essential elements of the defence of property. First, the defender must really perceive that someone else is about to do, or has just done, one of the following: enter the property without being legally entitled to; or take, damage, or destroy property. Second, the defender must act for the purpose of preventing or stopping the interference with property. Third, the actions taken must be reasonable in the circumstances.

● (1045)

A precondition for the defence is that the property must be in the peaceful possession of the person when the interference takes place.

This term is part of the current law and will be maintained in the new law. It has been interpreted by our courts to mean that the defender of the property must be in actual physical possession of, or have control over, the property at the time of the threat or interference, and that the possession itself must be unlikely to lead to a breach of the peace and is not contested by others. This is the way in which possession must be peaceful. It must not be contested or risk violence or public disorder.

In closing, Bill C-26 clarifies and expands certain provisions which authorize Canadian citizens to undertake actions that would otherwise be prohibited where there is a real emergency involving either threat to property they possess or to the safety of persons.

It strikes the right balance between discouraging crime and confrontation on the one hand and permitting Canadians to defend their basic interest where no other options are available.

I urge all members to support the bill. The reforms are long overdue and represent a principled and measured response to complex situations.

[*Translation*]

Ms. Françoise Boivin (Gatineau, NDP): Madam Speaker, I would like to thank the Parliamentary Secretary to the Minister of Justice.

I sit on the same committee as he does, and I must say that I have appreciated the way the various committee members work together.

I would like to ask this question. The Canadian Bar Association, the Barreau du Québec and various other stakeholders had some concerns about the balance between the objective and subjective criteria. Does the member believe that the amendments made and the

current wording of the bill address the issues raised by the various legal experts who testified at committee?

Mr. Robert Goguen: Madam Speaker, I would like to thank the hon. member for her question, which is quite relevant since she participated in the debate in committee.

On this side of the House, we are convinced that there is a good balance between the objective and subjective criteria. Clearly, no scenario is perfect.

The Canadian justice system is probably the most recognized and effective in the entire world. That is why we are convinced that the legal interpretation that will be done in these cases will ensure that good decisions are made and that the parties involved are protected.

[*English*]

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Madam Speaker, I believe the bill has fairly good support from members of the House, with the exception of a few.

There was some concern raised about the potential cost of implementation of the bill. In particular, I understand there was some concern from provinces. Could the member comment on the degree to which provincial jurisdictions were involved in discussions when the government brought forward the bill?

Mr. Robert Goguen: Madam Speaker, the issue of costs is always close to the government, obviously. However, it is our position that the costs with regard to the bill, if anything, will be diminished because, based on clear instructions to the jury, the number of possible prosecutions may be limited.

As the law now stands, many of the prosecutors and police officers who lay the charges are uncertain whether there should be charges. Rather than taking a chance on the law as it stands, they put the case before the court, and of course, this clogs the dockets. With the new amendments to the law, there will be much more clarity. For that reason, there will probably be fewer cases that go before the court as a result of uncertainty of the rules. The amendments help not only the citizens, but also prosecutors and the police. It is our feeling that, if anything, costs will be diminished because clarity of the law will unclog the dockets.

● (1050)

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Madam Speaker, I thank my hon. friend for his presentation of Bill C-26.

Some members of the House will know that I had hoped to present an amendment to the bill this morning to deal with the section dealing with citizen's arrest and creating the new possibility of arrest within a reasonable time. This is section 35.3 of Bill C-26, which would seek to amend the existing Criminal Code subsection 494(2).

My question is on this specific point. The concern shared by many, but particularly put forward to committee from the Canadian Bar Association, is that this opens the door to a potentially greater role for private security forces instead of the police and that it creates the opportunity for people to go after someone long after the event. How is the average citizen to know what a reasonable time is? This opens Bill C-26 to considerable abuse.

Government Orders

I would ask my hon. friend why it was that we could not have deleted this one section that opens the door to some mischief that is not necessary for the overall purpose of the act?

Mr. Robert Goguen: Madam Speaker, first and foremost, there has always been a concern with vigilantism.

The issue of reasonable time is there because in certain circumstances the police cannot react rapidly, because of distance or where the incidents happen or possibly because they are responding to other emergency situations. One has to remember the number one responder to crime situations will remain the police. No citizen's arrest will be deemed reasonable unless in the person's mind it was not possible for the police to respond in a timely fashion.

As I said before, we have probably the best judiciary in the world. It will certainly not struggle with the issue of what is reasonable time given the circumstances of one particular event.

[*Translation*]

Ms. Françoise Boivin (Gatineau, NDP): Madam Speaker, before beginning my speech on Bill C-26, I would like to mention that this is my first debate as the official opposition's new justice critic. I would therefore like to thank the leader of our party, the hon. member for Outremont, for the confidence he has placed in me.

I would particularly like to thank the hon. member for St. John's East, who has done absolutely extraordinary work on this file, as well as his entire team. Over the past few months, we examined Bill C-26 as a team.

I would also like to thank the hon. member for Trinity—Spadina. Those who have been following this issue know that she is behind Bill C-26. This bill addresses the famous Lucky Moose Food Mart case, which served as a wake-up call for members of Parliament who are now trying to determine how to resolve this problem.

I also extend my thanks to the Standing Committee on Justice and Human Rights, where we studied many bills, including Bill C-10 on law and order, which was very thick and had many amendments. I use the term “thick” in reference to the size of the bill and not the content. We also studied Bill C-19 on the registry. We looked at many files, but this was the first time, since I was elected on May 2, that I felt that there was co-operation and that the two parties and all the people around the table, no matter their political stripe, were truly trying to find intelligent solutions to the problems and serious issues raised.

This bill involves amending the Criminal Code, which has been in existence for quite some time and has been interpreted by the courts and the Supreme Court. It is not necessarily an easy task. The member from the Green Party pointed out a problem with citizen's arrest that was raised at the committee hearings. I will come back to that later in my speech.

Having said that, I hope that the members opposite will adopt this new way of doing things because the Standing Committee on Justice and Human Rights does not meet to engage in petty politics. We meet because we know that these laws will have a direct effect on the lives of Canadians. We discuss criminal acts that have an impact on the lives of people, whether they are the victims or the accused, who benefit from the presumption of innocence. As guardians of the

charter, we must ensure that the legal provisions and amendments to such laws are made properly.

Let us come back to Bill C-26. What is it all about? This bill amends a few sections of the Criminal Code, especially on self-defence, whether in relation to people or their personal or real property. It is the main purpose of this bill. The other part concerns citizen's arrest in a very specific context, which was the starting point for the private member's bill introduced by my colleague from Trinity—Spadina.

The first part on the lawful defence of property and persons, especially self-defence of persons, had been requested by the courts for a very long time. Finding a way to amend the Criminal Code was not easy. Earlier, I asked the hon. Parliamentary Secretary to the Minister of Justice a question about balancing the objective and subjective criteria with regard to the reasonable nature of the force that is used in self-defence. I think people understand what self-defence is. When we think we are being attacked and our lives are in danger or we are going to be seriously injured, we defend ourselves. That being said, it must be determined whether the act of self-defence was lawful or not, what the provocation was, whether necessary force was used and whether the context was appropriate.

● (1055)

It is not obvious. Over the years and decades, since the Criminal Code of Canada was created, the courts have realized that it is not always obvious. Over time, as things have developed, in certain cases defences based on scientific or medical reasons have been used. Take the battered woman syndrome for example.

I remember when I was hosting a radio show some years ago and there was a murder in my region, in Aylmer. A woman had killed her husband with a gun. The entire region was outraged simply because for most people a murder is a murder. We finally learned the facts in the case and found out what had happened. The woman had been terrorized day after day by an abusive husband who beat her and sometimes held a gun to her head. It was atrocious. Nevertheless, people said that did not matter. To them, all the woman had to do was leave home, get out of there and her life would not be in danger, but can we really judge another person's circumstances?

The courts began to develop certain plausible, allowable defences and to extrapolate the criteria mentioned in the Criminal Code, but every time, they came back to us and said that it was up to us as legislators to clarify and tidy this up a bit. This has not always been easy, especially when talking about defence and provocation.

Government Orders

I practised a little criminal law early in my career. One day, a man walked into my office. I am not revealing anything, since no one could ever guess his identity. He was a rather short man and he had been beaten by a woman who was taller than him. He pleaded self-defence, while she maintained that he had provoked her. This gives you some idea of the cases that go before criminal courts. In that particular context, only the gender criterion might have been considered. Basically, we sometimes have an impression, a preconceived notion, that because he is a man, he cannot be abused, or that because a woman is very tall, she cannot be abused by someone shorter than her, and so on.

The courts were often frustrated by these kinds of situations. It was important that the criteria not be too stringent. That is more or less what the Canadian Bar Association and the Barreau du Québec said in committee. As the parliamentary secretary said, we heard from several groups, such as the Barreau du Québec, the Canadian Convenience Stores Association, the Canadian Association of Elizabeth Fry Societies, the Association of Professional Security Agencies—I will come back to this group, the Canadian Bar Association, the Canadian Police Association, as well as universities, lawyers and other groups.

What came up again and again, especially concerning self-defence and the criteria mentioned in section 34 of the Criminal Code, was the importance of striking a balance. There was some concern about the government's wording of some of the clauses and amendments to Bill C-26 concerning a better balance between these subjective and objective elements. For example, the Canadian Bar Association agreed with me in committee that this balance appeared to be lacking, which is dangerous. The bill seemed to emphasize the objective criteria, which could jeopardize defences such as self-defence based on battered woman syndrome, for example.

I want to point out right away that the official opposition did propose seven amendments to ensure a balanced approach. We proposed objective and subjective criteria to enable the trial judge who hears the facts of the case to determine whether actions were provoked, assess what happened between the two parties and analyze the whole thing.

We did not succeed in getting all of the amendments included even though they would have made the provisions much clearer. But we will see. People will have to adjust. We are hearing that a lot these days, particularly in Quebec. We will see how the courts interpret all of this and whether the bill is balanced. I am reasonably confident that the amendments my colleague talked about earlier will ensure that balance.

• (1100)

I want to make it clear that section 34 of the Criminal Code, as amended by the bill, starts out by saying that a person is not guilty:

34. (1) A person is not guilty of an offence if

[This means that all of the criteria must apply.]

(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; and

(c) the act committed is reasonable in the circumstances.

[This one, (c), is often problematic.]

(2) In determining whether the act committed is reasonable in the circumstances, the court shall consider the relevant circumstances of the person, the other parties and the act, including, but not limited to, the following factors:

A list of factors follows. We appreciate that the government agreed to include our amendment. We want to ensure that offences are analyzed based on the perspective of the person directly involved rather than on that of someone who was not involved at all. Sometimes, it is by putting ourselves in someone else's shoes that we come to know what that person saw and we can really understand the impact of his action.

The physical capabilities of the parties to the incident were added. As I mentioned earlier, to look only at size, age and gender could cause confusion. I know people who are only 5' 2" who have black belts in karate and, let me tell you, they could do some damage to someone who is a sturdy 6' 4" but who has never played a sport in his life. We therefore wanted to avoid this type of prejudice.

Paragraph 34(2)(f.1) refers to the history of interaction or communication between the parties to the incident. Some people have difficulty understanding what that means, but those who are very active users of social networking sites, who are involved in blogging and who talk to different people understand what this means.

I once had a written conversation with people I did not know. I did not even know where they lived. I must say that, at the end of that conversation, I had the willies. I hoped that those people did not live nearby because I was seriously concerned.

Since we have new technologies, we have to adapt to this type of situation. Sometimes, people can be terrorized by means of written messages or threats delivered in other ways.

Given the amendments that were made in this regard, I am confident that we have managed to find a balance. The courts will still have access to the committee's work and to the report, and they will be able to make informed decisions when they are called upon to interpret the new clauses on the protection of property, clauses 34 and 35. At least that is what I hope.

As I told my clients, those who came to see me, if we had a perfect knowledge of law and wrote perfect legal provisions, there would be no need for lawyers. Since laws are often drafted by lawyers, to date, I have yet to see a provision that is so clear and straightforward that there is no room for any interpretation. Likely, down the line, we will discover additional factors that should be added to clause 34.

With regard to the legitimate defence of property, as was expected by the legal community and the courts, no distinction is made between personal and real property. An attack on real property was always considered to be of greater consequence. If a person suffered an assault in their home or something like that, the courts tended to be a bit more strict in their assessment of the factors, when the person claimed self-defence.

• (1105)

In the case of the theft of a cassette from a car, we might say that self-defence was not necessary. We must always look at the concept of necessity.

Government Orders

I would now like to examine the most difficult part of the bill to understand: the amendments proposed by the government. I would like to point out that what I find the most worrisome is that the government has not accepted any suggested amendments at all.

The comment or the point I would like to make is as follows. Section 494(2) of the Criminal Code deals with citizen's arrest, which was the reason for Bill C-26. That is why we cannot withdraw clause 3 of Bill C-26, because it would completely gut the bill.

I am fully aware of the fact that there was the political will to amend the bill because of what Mr. Chen went through in Toronto.

These are the facts as we heard them. Mr. Chen was working at his convenience store when the store was robbed. A short time later, the shoplifter had the nerve to return to Mr. Chen's store. However, Mr. Chen recognized the shoplifter and stopped him before he had a chance to commit a second theft. The store owner, Mr. Chen, tied up the shoplifter and put him in a van—the only place he could keep him until the police arrived. Believe it or not, it was the store owner who was charged with forcible confinement, among other things. The justice system amazes me sometimes.

I worked in the media long enough to know how sensational this type of story can become across the country. The story made it all the way to Gatineau. That being said, legal experts have told us that notwithstanding Mr. Chen's case, the Criminal Code, as currently drafted, should have given plenty of latitude to the police, who could have chosen not to arrest Mr. Chen. This could have been resolved without charges being laid against Mr. Chen.

To ensure that this does not happen again, the government introduced Bill C-26. At the time, my colleague from Trinity—Spadina also introduced a very similar bill. I will read the proposed subclause 3(2):

(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

(a) they make the arrest at that time; or

(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.

I am sure that the infamous reasonable grounds are going to be interpreted in all kinds of ways.

I have a few problems with this clause because when it says “or a person authorized by the owner”, it obviously refers to security guards, and that bothers me.

In committee, we heard from witnesses from security agencies. An entire sector of the economy collectively jumped for joy over this new opportunity. The guards said it was finally their turn to shine.

To their credit, I must say, they are already working in stores, but not in small convenience stores. It is not the Mr. Chens of the world who will benefit from this, but rather superstores like Walmart and Target.

What worries me is that some of them like to pretend they are police officers, as though they are replacing the police. However, the defendant must be able to demonstrate that no peace officer was available to make the arrest. We were told that, quite often, it was

hard for police officers to respond immediately to a call concerning shoplifting, because it was not necessarily a priority for them.

We also need to think about rural communities. Personally, I am a city girl. We often forget that many people live in rural settings, where there is not necessarily a police officer posted on every street corner.

That is all I have to say about the notion of a reasonable time.

• (1110)

However, we were definitely convinced that defining the notion of a reasonable time would prevent the court or the judge from using their own judgment in that regard. With that in mind, even though we have some reservations and we are anxious to see what will happen with all of that, the NDP plans to support Bill C-26. In its current state, it already answers many questions people had, which the courts often referred back to us as legislators. In that context, we hope this will do what it is meant to do.

In closing, regarding section 494 and citizen's arrest, one thing is clear: the government committed to ensuring that convenience store managers know that it is not open season for them to start making arrests left, right and centre, without thinking carefully first. No one is asking or recommending that they do so. We must leave this up to the professionals, the people who have been trained to do so. Otherwise, there could be serious consequences, especially if someone makes an illegal arrest. That is all I have to say, and I now welcome questions.

[*English*]

Mr. Ryan Leef (Yukon, CPC): Madam Speaker, my colleague raises some excellent points, and we heard this in previous debate, about Canadian corporations and people working in the security industries, perhaps wanting to take advantage of what they might view as expanded authority under this legislation and ending up with some unintended consequences or doing things that we as legislators do not want them to do.

Would my colleague comment on whether she sees it as our role, as members of Parliament and the people who create legislation, to send the message to Canadians that this is expanded protection instead of expanded authority and that we differentiate between the two so we do not have the concerns that she highlighted in her speech?

• (1115)

[*Translation*]

Ms. Françoise Boivin: Madam Speaker, I appreciate the question and the comment. I agree that that is the message we need to send. My concern is mainly that a representative of the association of security agencies lobbied the committee. I found that somewhat inappropriate, because it was not specifically about powers mentioned in section 494 of the Criminal Code. It was about increasing those powers because there is a shortage of police officers. If I could say one thing to the government, I would suggest that if it really wants to stand up for victims and justice and the rule of law, maybe there should be more police officers instead of more penalties.

Government Orders

That is what the police association told us. The police would like to respond to calls about shoplifting and so on. But they do not have the resources, so they have to decide which crime is more serious. That sometimes puts individuals in the position of having to arrest people themselves, which should not be recommended. I hope that this will not be a growth industry because the government decides to leave it to individuals instead of trained police officers who receive ongoing training, who know what do to in such situations, who know the laws and the charters and who know how to carry out arrests.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Madam Speaker, I thank my colleague from Gatineau for her excellent speech. I share all of her concerns. I cannot support this bill because I find that it creates a system with serious problems with respect to citizen's arrest.

However, I do agree that the amendments improve things. The bill as it is now is better than it was at first reading, but I now have more concerns. I cannot support this bill because of citizen's arrest.

Why does my colleague now think that she can agree to this bill?

Ms. Françoise Boivin: Madam Speaker, I had this thought: it is perhaps because I have had the benefit of participating in all the committee meetings, listening to all the witnesses, thinking things through, knowing what the Criminal Code looked like before, and seeing what has become of subsection 494(2). When I say that I am reasonably satisfied, it is because the bill does not make things worse.

If I had one comment to make to my colleague, who is also a lawyer, it would be to tell her to think of the bill in this light: it does not make section 494(2) worse in terms of citizen's arrest. It creates a number of criteria to which I have no fundamental objection. I do not think that it is awful; it is simply a little vague.

What does the bill mean where it says, “make the arrest within a reasonable time”? For a government that wants to replace judges more often than not, it is again a case of leaving it up to the court to decide what a reasonable time is and believing, on reasonable grounds, that arrest by a peace officer was not possible.

The wording is, notwithstanding, sufficiently serious given the types of cases that will arise and considering the fact that it has been confirmed that these are not situations that occur frequently. The fact that the bill also refers to “a person authorized by the owner” indicates that it cannot be just any old person. Once again, the other criteria must be met.

If we vote against Bill C-26 because it is not perfect, we will be depriving ourselves of an extremely important tool. I would like my colleague to think about that before it comes time to vote.

• (1120)

[English]

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Madam Speaker, this is an interesting debate. I have looked at the provisions and I wonder if the hon. member could speak to the kinds of issues I see.

The first one would be how the government will convey these new provisions to the public. If we look at the recent sad incident in the

United States, where a youth was killed and late in the day, only because of public pressure, charges were brought against the person, presumably on reasonable grounds, for attacking somebody for going on the person's property. It will be very important to convey this to the public. Would the member agree with me that this is not a provision that would now specifically empowers ordinary citizens to intervene? It simply would provide additional defences for people who were charged for supposedly using inappropriate undue force and for detaining someone too long.

I also wonder what implications these provisions might have for good Samaritans. There was an incident in my riding recently where one of my constituents was attacked by a man. She went into a shop and the shop owner and others then managed to remove the man and called the police. The police did not come until several days later. She does not know if the guy is still at large and is suffering psychologically. Both may have implications for potential civil actions against others who do not detain or intervene.

[Translation]

Ms. Françoise Boivin: Madam Speaker, those are excellent questions. Indeed, these are the kinds of debates that occur when it comes to amending the Criminal Code.

On the first point, it comes back to what I said in committee. The government members who sit on the committee have assured us that steps will be taken—I do hope that we will see this soon, once the bill is passed—to ensure that people understand that it is not open season and that they cannot make arrests willy-nilly, for example, in the corner store, if they come across somebody who looks a bit suspicious and may have stolen from them yesterday, or something along those lines.

There is still a charter and rights that apply. You cannot detain someone without due cause in just any old way. It is not something that we are recommending that people do. Instead of putting advertisements on television every half an hour about Canada, *Action Plan Canada on TV*, the government should perhaps screen some public service announcements like these.

The impact when it comes to good Samaritans has not really been addressed here. Could this have an impact? Once again, it might be more likely to have an impact in the case of self-defence, for example, if something happened when someone helped someone else. My colleague referred specifically to something that I often heard when I was on the radio, which is that people no longer even want to stop when there is an accident because they are too worried about the consequences. This will not have any impact on that type of situation. This is still a problem that is not clear in the context of the existing legislation, and this bill will not change things overnight.

[English]

Hon. Irwin Cotler (Mount Royal, Lib.): Madam Speaker, I welcome the member for Gatineau as justice critic for the New Democratic Party. We have worked together in committee on this bill and on other matters of common concern. I welcome her expertise and experience in this regard.

Government Orders

I am pleased to participate in the debate on Bill C-26 at third reading. While I have often taken issue with the government's approach to criminal justice, I do support the principle behind the bill, which would simplify and update the Criminal Code both with respect to self-defence and defence of property.

As I noted during debate on the bill previously, the current Criminal Code provisions on these matters are complex and judges have noted that the law at present is as confusing as it is confounding.

In particular, the Criminal Code contains four provisions on the issue of self-defence and six defence of property provisions. The legislation we are debating today would simplify these provisions into two Criminal Code sections, one on self-defence and one with respect to defence of property.

I am a long-time supporter of law reform, and during the period that I was minister of justice and attorney general I called for a comprehensive and principled approach to law reform in our country. We need a comprehensive review and simplification of the entire Criminal Code, which is long overdue, and I have stood in this place before to regret the fact that we have yet to embark on such a comprehensive and principled approach to law reform.

Some of the government's actions have taken us away from an approach to principled and comprehensive law reform. I refer, among other things, to doing away with the Law Commission of Canada, which was a principled instrument that assisted the House and me when I was minister of justice and attorney general of Canada with regard to a principled approach to criminal law reform, as well as, regrettably, the elimination of the court challenges program. That program supported access to justice and representation on matters, including those that dealt with principled approaches to criminal law reform. We are missing that instrumentality as well.

Therefore, I hope the bill signals a perspective shift in the government's approach to criminal law, namely that it will support sensible approaches to criminal law reform and to the simplification of the criminal law and move us away from what has been an ill-founded focus not only on punitive and incarcerative approaches to criminal justice, but in a legislative approach that is organized around an ad hoc response to the criminal justice case du jour rather than, as I said, a comprehensive and principled approach to the overall issues of criminal law reform. This would allow us to revisit the notion of the introduction of newer mandatory minimums or enhancing existing mandatory minimums, notwithstanding the fact that the evidence has been clear with respect to the fact that such mandatory minimums do not serve as a deterrent, are ineffective, end up being prejudicial and have a disproportionate prejudicial impact on vulnerable groups in our country, let alone the manner in which they may end up prospectively in breach of rights protected under the Charter of Rights and Freedoms, the 30th anniversary of which we celebrated just last week.

• (1125)

Bill C-26 would be a useful addition to the criminal law in the manner in which I indicated before, and will proceed again to elaborate upon. It would provide greater clarity for prosecutors, judges and juries presented with cases that involve self-defence or defence of property. It would also help private citizens understand

the situation in which they may defend their person or property. In this regard, I look forward to the government's plan to educate citizens on this area of the law in an effort to ensure that vigilantism, of which concern has been expressed in debate this morning and heretofore, is not encouraged by the passage of this legislation.

Certainly there might be some who may see this bill as an opportunity to take the law into their own hands. Again, I reiterate that citizens should always seek the assistance of our trained and uniformed emergency services personnel when possible, rather than risk their own personal safety or engage in ill-advised approaches in vigilantism.

One thing that should be made clear to Canadians is that it is not as though without this bill there would be no right of self-defence or the right to make a citizen's arrest. Both exist as a matter of the common law. Self-defence has existed in that regard for centuries. Both have now been codified as statute. Indeed, even if we did not have a statutory basis for these elements of our criminal law, we could nonetheless embark upon the legislative reforms before us today.

As we are now at third reading, I would like to address three particular issues with respect to this bill. The first is that of private security firms, which took up a good deal of necessary discussion and debate before our Standing Committee on Justice and Human Rights. The second is with respect to the bill's use of "gender". The third is the amendment proposed by my colleague, the member for Saanich—Gulf Islands.

Simply put, with respect to the first issue, that of private security firms, the concern is that these individuals are private citizens who by virtue of their employment often take on police-like functions. Arguably, the bill can serve to enhance their powers and this may not necessarily have positive consequences in that regard.

As the Canadian Bar Association stated in its submission:

We believe that anything which could unnecessarily expand the (perceived) mandate of private security officers and ordinary citizens to make arrests should be avoided.

Indeed, the CBA goes on to express its concern that the legislation might "encourage unjustified arrest by private security personnel, not subject to public oversight", noting that:

Such personnel often lack the necessary range of equipment or adequate training to safely and lawfully make arrests in a manner proportionate to the circumstances, in the regular course of their duties.

This was a recurring issue during our committee hearing. I do believe the government should be quite mindful of this issue, both in terms of its efforts to educate individuals about the ramifications of this bill but also with respect to the potential introduction of legislation specific to security personnel, such as to ensure proper training and understanding of the law.

I noted earlier in my remarks with respect to the anniversary of the Canadian Charter of Rights and Freedoms that we must ensure that these security personnel are well-versed in the protections inherent in the charter and court pronouncements in relation to such protections, such as to minimize the risk of their violation in respect of persons believed to have engaged in criminal acts.

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As a final point in this regard, the concern was raised by two law professors who appeared before the committee that a consequence of the bill would be to make security guards, to use their words, “de facto police officers” by allowing them to delay before making an arrest. This too is a point that I will address more specifically in a moment within this context and the related context in matters of delay.

The second issue I want to address briefly is that of gender, which has been addressed as well in debate this morning, which this bill lists as a factor that can be considered by a judge in assessing the reasonableness of a self-defence action.

● (1130)

At committee it became clear that one of the things this legislation was meant to address was the problem of battered spouses syndrome, a defence linked to the current provisions of the Criminal Code. In this regard, I am pleased that all parties joined in accepting my amendment before committee to create a specific factor “any history of interaction or communication between the parties to the incident”, which, as my colleague for Gatineau pointed out, may also help victims of cyberstalking and cyberbullying.

While I am hopeful this will be enough to ensure that battered spouses are protected, I must reiterate what I said during previous debate about the inclusion of gender in criminal law legislation, namely that it opens the door to the resurgence of a series of myths and stereotypes, which have, regrettably, sometimes undermined our criminal law in areas such as sexual assault. Simply put, I am hopeful that no attorney or judge will advance any arguments that rely on inappropriate or prejudicial gender stereotypes, be it the weak, defenceless woman or the overpowering man, to determine the reasonableness of an action thereby suggesting that a woman should not have fought back or that a man should have fought back harder. Put another way, its continued presence in the statute implies that there is some fundamental difference between capacities of men and women to protect themselves, and I am not persuaded that gender is the determinative factor as opposed to other factors in the statute such as physical capacity or whether the person was armed.

The final issue I would like to address, and with this I draw to a close in the matter of substantive critique of this legislation, is the issue of allowing for a delay before an arrest is made. This point is indeed problematic, as evidenced by the many proposed NDP amendments at committee and indeed the proposed amendment by the Green Party this morning. I sincerely hope this issue can and will be taken up by the Senate as it is not immediately evident that the current language of the bill that one “make the arrest within a reasonable time after the offence is committed” is sufficient to guard against arbitrary detention or other situations whereby, for example, someone is followed across town by a security guard attempting to effectuate an arrest.

As Professor George Rigakos of Carleton University put it:

Bill C-26 therefore will create de facto private police officers, not in name, but in function, as they will use discretion, investigate, and build a case based on their new-found authority to delay arrest. I'm quite confident that this is not the intent of the committee.

Certainly this would not reflect my own intent and I am hopeful that this will be addressed in the other place. Indeed, the Barreau du Québec's submission on this point was quite instructive. It noted:

● (1135)

[*Translation*]

...the fact that a citizen's arrest must be made “within a reasonable time” after the commission of the alleged offence leaves the way open for a possible abuse of power. Any arrest includes elements of unforeseeability arising from the use of the force that is needed in order to make an arrest, peaceful though it may be. By definition, an arrest implies the use of force: a person who makes an arrest must physically control the person and restrict their movements and, if necessary, may use reasonable force to compel the person to submit to their authority. When the police make an arrest, they are identified by their uniform or otherwise, and persons arrested by police know that the police are entitled to make arrests, even if they believe the police are in error in their case, and police are required to inform the person arrested of the grounds for the arrest and of their rights. The police are trained to make arrests, and even with their training and skills, arrests sometimes go wrong, even where the persons involved are not criminals. A member of the public does not have the training and resources available to police forces. The power of arrest is an important power that must be exercised in accordance with the law, and the rights of a person who is arrested must be respected.

[*English*]

Again here we see the issue of constitutional rights, potentially and prospectively violated by those making use of this section without being fully aware of the juridical context in which citizen's arrest properly operates. I hope this matter will be addressed in the other place.

Another issue that can be addressed in the other place, and with which the committee had difficulty as well, was how to balance objective and subjective factors in the determination of the reasonableness of a self-defence action. Certainly in the circumstances of a criminal act, one may perceive the situation differently from the clarity that is afforded by hindsight. I am not persuaded that this bill often strikes the right balance in this regard. I appreciate the submissions from numerous groups that raised this concern. I trust that needed refinements can be made in the other House.

While I have not addressed much of the defence of property provisions in this legislation, I do support the principles behind them. We are all aware of the Toronto incident, to which reference has been made during the debate this morning, that gave rise to this bill. Generally, while it is not advisable to legislate on one particular case, and we have sometimes burdened our criminal law by legislating only as a result of one particular case, the overall principles behind this bill are reasonably acceptable and serve the overall aims of prospective law reform.

While I do still have some reservations, as I have outlined in the course of the discussion and my remarks this morning, and while I still hope some modifications may be made in the other place, I look forward to the simplification and reform of what are now overly complex and cumbersome Criminal Code provisions, with respect to both self-defence and defence of property. I hope that this might herald a comprehensive approach to a principled criminal law reform of other cumbersome and complex provisions in our Criminal Code, which we continue to amend on an ad hoc basis in response to a particular cause du jour, but which need a comprehensive and principled approach, not only for the simplification of our criminal law but to making it into a more principled approach that could be better understood by all actors in the criminal justice system.

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• (1140)

Ms. Jinny Jogindera Sims (Newton—North Delta, NDP): Madam Speaker, I want to thank my colleague for his very thoughtful review of the piece of legislation that lies before us today. I share some of his concerns around the issue of what is reasonable.

What kind of checks and balances could the member see that the other place might make that would address his concerns in this legislation?

Hon. Irwin Cotler: Madam Speaker, the amendment that was proposed by the Green Party, which did not move forward in the House, should be addressed in the other place. I might add that both the Canadian Bar Association and the Quebec Bar Association supported the proposed amendment. While we did not move forward with it in this House, we should address in the other chamber.

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 the public peace, nor properly trained to apprehend suspected criminals. In most cases an arrest consists of either seizing or touching a person's body in an effort to detain them, or the person submitting to the arrest. A citizen's arrest that is made without careful consideration of the risk factors may have serious unintended consequences for those involved. When deciding whether to make a citizen's arrest, a person should be aware of the current law and consider the following: the person's safety, or the safety of others; reporting the information to the police, which is usually the best course of action instead of taking action on one's own; and ensuring that the person has correctly identified the suspect and the suspect's criminal conduct.

These and other considerations need to be properly communicated and understood so they can be properly acted upon. Another consideration that we might look at in the House is an educational campaign to have a full appreciation of the law.

• (1145)

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Madam Speaker, I would like to thank the hon. member for his, as ever, cogent speech on this matter.

He raised the issue of the education of the public on this provision. Most of the examples that have been given on this bill have related to incidents where people are coming into someone's shop, or stealing things from someone's shop, or perhaps entering someone's farm property and stealing equipment. However, in the province I come from, Alberta, there have been a number of incidents where there could arise difficulties with the interpretation of these provisions. Those include where leases are issued for oil and gas activity in the wild land areas of Alberta. Gates are put up, thereby leaseholders think they can prohibit public who simply want to go hike, look at wildlife and birds, and so forth. Also, there are areas where there are grazing leases. There have been a lot of confrontations between people who want to make recreational use of the land and those who think they have much broader entitlements because they have a lease for a specific purpose.

I wonder if the member could speak to that? With the changing of these provisions, it will be all the more important that we clarify to

the leaseholders of lands the limitation of their rights to stop people, or take any kind of action when people enter those lands.

Hon. Irwin Cotler: Madam Speaker, the question reflects a broader concern that needs to be addressed. We will have to take it up in the other place. However, it reflects the broader concern that sometimes we legislate in response to a particular ad hoc situation. This legislation grew out of a particular ad hoc situation. The legislation is warranted. We have been able to take that ad hoc situation and address legislation which is problematic in the complexity and the cumbersome nature of its provision with respect to property and self-defence.

However, because we had that particular frame in mind when we approached the legislation we did not take up the different possibilities and contingencies in the matters of leaseholders and the like that have just been referred to by my hon. colleague. Those will have to be addressed.

I still believe that the action of private security firms may be one of the more difficult concerns to address. While that was not the phenomenon that gave rise to the legislation, it will very much be addressed in and by this legislation.

Ms. Kerry-Lynne D. Findlay (Parliamentary Secretary to the Minister of Justice, CPC): Madam Speaker, I will be splitting my time with the member for Portage—Lisgar.

I am pleased to speak to Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons). Bill C-26 addresses a number of distinct but interrelated measures that give Canadians the power to respond to immediate threats to property and to persons, where the police are not able to be there.

In urgent situations where property or the safety of persons is being deliberately threatened, citizens may act to defeat the threat, including by resorting to actions that might otherwise amount to criminal conduct. The criminal law must recognize the ability of Canadians to take reasonable and measured actions to defend against criminal threats. More specifically, Bill C-26 addresses the law of citizen's arrest and the defence of person and property.

These three measures already exist in our law, depending on the circumstances and motivations of the person in any given case. They operate to shield individuals from liability for any of their actions that are otherwise criminal, precisely because in the particular context those actions are aimed at defending vital interests or apprehending wrongdoers.

However, all three sets of laws are in an imperfect state. Bill C-26 aims to improve each of the powers to ensure that Canadians and the justice system itself can more easily and more fairly assess the appropriateness of defensive emergency actions. The better the law sets out the conditions for legal emergency action, the fewer Canadians will find themselves charged and prosecuted for defending themselves against true criminals.

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Today the defences of self-defence and defence of property are set out over nine provisions, with each defence having multiple variations that apply in slightly different circumstances. There is no need for variations covering different cases when they are all based on the same general principles. Further, the variations cause immense problems in court. Even before that, they complicate the ability of police who arrive at the scene to determine whether charges should be laid.

Parliament's duty is to ensure that laws are clear and simple. That is what Bill C-26 does for self-defence and defence of property. The new laws can be summarized quite simply. In the case of defence of property, a person should not be held responsible for a criminal offence he or she commits if it is a reasonable response taken for the purpose of protecting property in his or her possession from a reasonably perceived threat of it being taken, damaged, destroyed or trespassed upon. In the case of self-defence, a person should not be held responsible for a criminal offence he or she commits if it was a reasonable action taken for the purpose of protecting himself or herself or another person from a reasonably perceived attack by another person.

The proposed new defences in Bill C-26 will capture the essence of the current laws but in a much simpler way. The new laws will clearly and simply set out the conditions for defensive action. Self-defence is particularly important. It arises much more frequently than the defence of property, and it can provide a defence to murder. Because of the central place of self-defence in our criminal laws and reduction in the detail that is now present in the law, Bill C-26 goes an extra step. It proposes a list of factors that the courts must consider in determining whether the actions a person took, assuming that he or she reasonably feared an attack and acted for defensive purposes, were reasonable in the circumstances.

What is reasonable in one case may not be reasonable in another. Everything comes down to the facts and circumstances of each case. For instance, shooting someone in the leg may be a reasonable reaction if the person were threatening to kill someone, but it would not be reasonable if the person were threatening only to step on someone's toe. This criteria must therefore be determined flexibly.

However, a number of factors are common to many self-defence cases. The bill refers to some of these in a non-exhaustive list which is designed both to provide guidance to judges and juries, and to signal to the courts that they should continue to apply existing case law.

Factors on the list include whether any party had a weapon, the nature of the threat the person was facing, and whether the individuals involved had a pre-existing relationship, especially one that involved violence or threats. Proportionality between the threat that was averted and the harm that was caused is always going to be a relevant factor, and so is also on the list.

• (1150)

Following the testimony of a number of witnesses, the committee made several changes to enhance and expand the list. One such change modified the opening words of the clause to make it clear that the judge "shall", not simply "may", consider all relevant factors. The committee also clarified the factor that speaks to the

size, age and gender of the parties by adding a more general idea of physical capabilities.

Finally, a new factor was added that refers to any previous communication or interaction between the parties, which is broader than the factor that speaks about a relationship between the parties.

The new defences are drafted so as to be easy for Canadians to understand, and so they should also be relatively easy for police to assess and juries as well, if charges are in fact appropriate. Canadians would understand that they would only be protected from liability where they genuinely act to protect property or person. Taking revenge against someone for past actions would not be excused.

They appreciate that they are not free to cause unlimited harm just because there is a threat. On the contrary, they must stick within socially acceptable standards of behaviour. With the passage of Bill C-26, the law would finally come to reflect these fundamental rules that Canadians already know.

Bill C-26 also would make a modest extension of the existing power of citizen's arrest in cases of property crime. Right now people can only arrest others if they find them committing an offence. This means that an arrest would be unlawful if it were committed just a few hours after the crime was witnessed, even where arrest at the time the crime was committed was not possible or was unsuccessful, for instance, because the suspect successfully got away.

The current law is too limited. Allowing people to arrest within a reasonable time of having witnessed the crime seems more practical. Law-abiding citizens and business owners should not become criminals just because their attempt to bring someone to justice was a little bit late.

To address this problem, Bill C-26 allows for arrest to be made not just when the crime is found in progress but also within a reasonable time afterwards. It would still be necessary for the arresting person to have observed enough of the crime to be confident that it was committed. In addition, if the arrest were made later, the arresting person would have to turn his or her mind to the possibility of the police making the arrest instead. In every citizen's arrest situation, the arrested person must be turned over to the police as soon as possible.

All these requirements give our government confidence that this modest extension would not result in vigilante or other inappropriate or abusive behaviour.

Those who commit crimes against property should know that they are at risk of arrest, not just on the spot but also within a reasonable time of their offence, and those who have property stolen from them or have been otherwise criminally damaged should know they are entitled to participate in bringing those who wronged them to justice where the police are not able to do so.

I urge all members to support these important law reforms.

Government Orders

• (1155)

Ms. Candice Hoepfner (Parliamentary Secretary to the Minister of Public Safety, CPC): Mr. Speaker, I am pleased to speak to Bill C-26, which amends the Criminal Code to address the issues of citizen's arrest, defence of property and defence of persons.

In relation to the power of a citizen to arrest a person found committing a property-related offence, Bill C-26 would expand the permitted time frame for making an arrest. The existing power of arrest for the private citizen arises where the citizen finds someone committing an offence on or in relation to property. In other words, the person must be found actually in the process of committing an offence for a private arrest to be lawful. This is a limited power. The law does not permit an arrest even a short while after the offence was detected.

Business owners and other Canadians are right to be concerned with the narrowness of the power, the result of which is that citizens face prosecution for arrests they made even just shortly after they witnessed the crimes taking place. Bill C-26 addresses the limited nature of the power by expanding the existing rule to permit property owners or their agents to arrest persons they have observed committing property offences within a reasonable time after the offences were committed. The government is confident that the expansion of the citizen's arrest power would be interpreted and applied fairly and with due consideration for the various competing interests at play in an arrest situation.

Bill C-26 would also simplify the law relating to defence of property and defence of persons, which are in need of clarification. It is not the case that the law fails to give Canadians the authority they need to protect themselves. Rather, the problem is with the way the law is written. It is terribly confusing and difficult to understand what the parameters are for acting in defence of person or property. Briefly, Bill C-26 would simplify both defences so that Canadians could understand the rules that govern their ability to defend themselves, their families and their property. The police would also be better able to understand and apply the law at the scene of the crime and, as a result, would be better able to judge whether charges are warranted or not.

Canadians are rightly concerned about many reported incidents of charges being laid against Canadians who were doing nothing other than trying to defend themselves, their homes and their property. Our government is equally concerned. However, charging and prosecuting decisions are a matter of responsibility for provincial governments, not the federal government. The most Parliament can do is simplify and clarify the law of these defences, so the police and provincial crown attorneys can more easily and fairly apply them, and that is precisely what Bill C-26 would do.

The main component of the proposed new defences can be simply stated. In the case of defence of a person, did the defender reasonably perceive that he or she or another person was being threatened with force or actually being assaulted? In the case of defence of property, did the defender reasonably perceive the property he or she peaceably possessed was or was about to be interfered with, such as by someone taking, damaging, destroying or entering property without legal entitlement? In both types of cases, did the defender respond for the purpose of protecting him or herself

or another person from force or for the purpose of protecting the property in question from interference? Finally, in both types of cases, did the defender act reasonably in the circumstance?

The justice and human rights committee passed a number of amendments to the self-defence provision. All the amendments modified the subsection of the defence that provides a list of factors for the court or jury to take into account in determining whether the actions of the accused were reasonable in the circumstance. One amendment clarifies and expands the opening words of the subsection. Another adds the notion of physical capabilities to the factor that speaks of the relative age, size and gender of the parties. The third adds a new factor that concerns any history of communication or interaction between the parties. Overall, each of these changes improves the proposed new defence.

I trust that all members will support this bill, which makes the defences more simple and clear and modestly expands the citizen's arrest law to provide flexibility for variations in the circumstances. Where a situation calls upon Canadians to take necessary and reasonable steps to stop crime and protect people and property, the law must clearly protect them from a liability.

• (1200)

I also want to note that, for instance, the expanded power we are talking about would come with its own special safeguards. For the arrest to be lawful, the person making the arrest must reasonably believe it was not feasible for the police to make the arrest themselves. This limitation would prevent what some may think are instances of private security agents deliberately delaying an arrest for illegitimate purposes, such as to collect additional evidence against a suspect. The existing duty upon any citizen who arrests another person to deliver that person as soon as possible to the police will also prevent vigilantism and abuse.

The concept of reasonable time also contains its own internal limitations. Whether an arrest was made in a reasonable time after an offence would be determined based on all the relevant facts and circumstances in each case. From case law that interprets similar phrases in other criminal law contexts, we can safely anticipate that these facts and circumstances are likely to be relevant to such a determination, including the length of delay, the reason for the delay, and whether the delay resulted in some kind of unfairness to the arrested person.

Again, this is a necessary bill that would clarify the act and make it a positive step forward for all Canadians. Therefore I urge all members to support this important legislation.

[*Translation*]

Ms. Francine Raynault (Joliette, NDP): Mr. Speaker, I would like to thank my colleague for her speech. When this bill is studied in committee, will citizen's arrests, self-defence and defence of property really be studied in depth to make sure things do not get out of hand?

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[English]

Ms. Candice Hoepfner: Mr. Speaker, as this bill was drafted, we wanted to make sure it was a clear bill and that necessary changes were made so Canadians could protect themselves and their property. So far we have all been trying to work together on all sides to make sure this is a bill that would not only close loopholes that need to be closed but also cover all the necessary angles.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Speaker, I am wondering if the hon. member could expand on her comments. She made reference to the conditions in which an arrest could be made. I believe she used the example that one could not make an arrest if in fact there were reasonable grounds to believe there was a possibility of a police agency getting involved in order to make that arrest.

Could the hon. member pick up on that point? I think it is an important point to get across.

• (1205)

Ms. Candice Hoepfner: Mr. Speaker, yes, there are safeguards that would be in place.

As I said, in order for the arrest to be lawful, the person making the arrest must reasonably believe that it was not feasible for the police to make the arrest themselves. Again, that would be in the context of the timing, of when the offence happened. The short period of time has been the limitation for individuals. Now they would have an expanded time, but also at the same time not believe that the police were imminent and able to make that arrest themselves.

[Translation]

Mr. Jean Rousseau (Compton—Stanstead, NDP): Mr. Speaker, I would first like to say that we are going to support this bill, as most of my colleagues stated earlier.

I would like to know what my colleague opposite thinks. There are a number of observers of criminal activities who believe that this kind of bill is rather lacking in clarity in certain places, with regard to individuals, necessary force and all that.

Some observers believe that there might be an increase in the number of vigilantes, people who want to take justice into their own hands for reasons that are not always acceptable, and that there may also be an increase in the use of firearms. What does she think about that?

[English]

Ms. Candice Hoepfner: Mr. Speaker, I think all hon. members share the concern that we would never want something like this to lead to vigilantism. Instead, we want Canadians to know they would be able to protect themselves against criminal acts and that the justice system would be behind them.

It is good to know that the NDP will be supporting this. As we continue to work together on this bill, we need to make sure it is working most effectively for law-abiding Canadians, who are not interested in anything other than being able to protect their property.

Ideally, police do their job to help enforce laws, but law-abiding Canadians need to know we and the justice system are behind them.

Ms. Jinny Jogindera Sims (Newton—North Delta, NDP): Mr. Speaker, it is my pleasure today to speak in support of this legislation.

I want to acknowledge the work done on this file because it was originally introduced by my colleague from Trinity—Spadina as a result of events that happened in her riding. I know it is not the only cause but sometimes we, as legislators, need an event to make us aware of issues that we need to address here in the hallowed Houses of Parliament. It was as a result of a break-in at a general store. Somebody tried to steal something, the consequent holding of or keeping the person detained until the police could get there and the charges that ensued against the shopkeeper. All of that led to the need for us, as legislators, to clarify existing language so that the judicial system, when it proceeds, can actually follow that. I thank my colleague from Trinity—Spadina for spearheading this and for giving us all an opportunity to address this area. Whatever she takes on, whether it is in her riding or in her transportation critic role, she does it with all the passion, vim and vigour that she can bring to that task.

I was looking through the legislation and listening to the people who had concerns about the words that exist. I will read a quote from *Regina v. McIntosh*. Chief Justice Lamer stated:

...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.

I am sure it is with some sense of relief that the judicial system is looking at all of this and is pleased to see that we are trying to address that language. As we said earlier, we are pleased that at least some of the amendments put forward by the official opposition were adopted. We would have been happier if a few more had been but there is always a chance for other people to address these at a later time.

When we look at what is being addressed in this legislation, it is really not the right of citizens to make a citizen's arrest based on a huge number of issues. It only applies to one's own property and one's personal safety. Sometimes we can go to the far extreme. I can remember when I first started teaching the kind of discretion that existed for teachers as *loco parentis*. If a parent could not be accessed, I could get a phone call at 10 o'clock at night to say that a young person who happened to be one of my students had been picked up by the police and I would be asked if I would like to pick him or her up. As much as members may think that was a bit unreasonable, there was a certain amount of common sense in that. Whenever I did that, it was always with a great deal of respect for the role of the parent but also the need not to see the young person having to stay overnight in detention. There are some things in our society that are common sense issues and sometimes we take them to the extreme.

In the case that happened in Trinity—Spadina, it concerned David Chen, the owner of the Lucky Moose Food Mart in Toronto. When he apprehended the guy who tried to steal from his store, it was all the charges that ensued. On the other hand, did he do the right thing? I was not there so I do not really want to comment on that or the lawsuit itself.

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•(1210)

However, I urge that we clarify that if someone is on our property trying to steal from us that we can make a citizen's arrest but not mete out punishment. This is not vigilante behaviour. This is not to beat the person up or use any weapons. It is simply to make an arrest. When we are making that arrest, we also hope that the person who we are arresting will have enough respect for the citizen's arrest concept that he or she will actually honour that.

I am not that naive to not accept the fact that some people will not stick around to be subjected to a citizen's arrest. Some will take off. In those cases, we would never tell people to chase them down or wrestle them to the ground. When I talk about a citizen's arrest, I would ask the person to stop doing what he or she is doing. I would then say whatever it is one would say when making a citizen's arrest. We need some education with respect to this as well. One of the niggling doubts in my mind is whether people will realize it is an arrest, not a punishment, and that once the person has been arrested the police come and then it is in the hands of our judiciary and our enforcement officers.

When we clarify language like this, there is always the headlines and then the educating of our citizenry. I am hoping the government will give some consideration to educating citizens about the changes that we are making, because we would not want people to misread the intent of this legislation.

I was looking at self-defence issues. Members may not know this but I have a black belt in judo. I have taught judo and have accidentally hurt a person very close to me because he insisted that I show him how it is done. He did not have the sense to fall when I asked him to fall. During a citizen's arrest, people need to know that they must be very careful. I would not want us to be in a position where everyday citizens turn to using undue force that could lead to escalations of violence, which then becomes more like vigilante behaviour than a citizen's arrest. All of these issues become very important.

I am proud that one of the things we teach our children is to not hit back if they are hit. We teach them to use words and find other ways to communicate. In the same way, when this legislation goes through, we need to take the time to stress that when people make a citizen's arrest, they are not to use violence. We are talking about a citizen's arrest in a common sense way. It is an arrest, not a punishment or a judgment.

The many legal experts who presented at committee were very supportive of the proposed changes to the self-defence and defence of property sections of the Criminal Code. They all acknowledged that this clarification was necessary.

As parliamentarians, when we hear those who practise law and the judiciary that there is a problem with the legislation or with what it is that we are asking them to act upon, it behooves us to examine it and make the necessary changes. Also, once we have made the necessary changes, we need to ensure we do our homework to ensure that citizens understand what it means.

•(1215)

When I first looked at the legislation I was a bit worried about some aspects of it. I kept thinking that I would hate for people to

think that, if they have a gun at home or something like that, it is okay to use it. That is not what this legislation is about. It is about carrying out a citizen's arrest when the police are not around. Now there is the latitude to do a citizen's arrest if it is 10 minutes later.

I often wonder how many citizen's arrests are actually made across the country under the current rules. I only want to know this out of curiosity because I do not have this information. From the kind of publicity it gets, I would say that it is probably not too many. I do not see that this change in wording to give clarity will lead to a huge number of people chasing criminals and wrestling them to the ground in order to make a citizen's arrest. Most citizens are peace-loving people. They will not want to do this. My tendency would be to pick up the phone and dial for help as quickly as possible. Despite the fact that I have a black belt in judo, I still would not want to be tackling any of these situations myself.

Thankfully, nowadays almost everybody has a cellphone on them which makes it much quicker and easier to contact the police and call for help. I would tell people who might contemplate making a citizen's arrest to have their phone on and ensure they connect with people straightaway. I would tell them not to use any kind of violence, either verbal or physical, to make the arrest. They should not put their own safety at risk. That is not the intent of this legislation.

Just as we teach our children not to hit back, in the same way the role of our citizens when they make arrest is to use normal language, make the arrest and do not get into anything else. If someone tries to run away, people should take a quick picture with a cell phone. They should not try to chase the person down the street but should try to talk to the person instead.

I have heard in the debate today that there are some other amendments that would narrow the self-defence actions that some people have had concerns about. I am sure that when the bill hits the other chamber those people may want to take a look at those.

I support this legislation as it is right now for the simple reason that we need to give some rights to individuals when it comes to self-defence and defence of property. We do not want to tell people to just stand there if they are being physically attacked. If people are watching that, then we want them to have the authority to do an arrest, which might be enough to stop whatever altercation is happening.

I do agree with my esteemed colleague down the way who said that we need to take a look at the Criminal Code in a more comprehensive way. We have been debating a number of bills in the House that would protect our communities.

I had a meeting with a mayor in my riding. People there are pleased that the crime rate is actually going down. However, I would say that we have a lot of work to do when it comes to proactive prevention work. Our best attack to fighting many of the small level crimes that happen in our communities is to have preventive programs from a very early age.

Government Orders

●(1220)

I love the programs that exist, or that used to exist before all the budget cuts, in some of our elementary schools. They worked on self-esteem and communication skills and would also teach students how to use words instead of hitting back, how to take on bullies and how to speak out when they saw something happening that was not right.

Also, we need to invest. We need to work with our provincial partners to invest quite heavily in secondary education to make sure we have the kind of proactive preventative programs that will raise awareness among youth, give them other tools, work on their self-esteem, work on their communication skills and work on major social challenges facing them so that they are not tempted to look at other ways or to turn to crime in order to make a quick buck or feed a habit.

All of those kinds of prevention programs are really important. In our communities, even for those who have left school, proactive prevention programs are still the best way to go.

Often people say that if we could spend just one dollar on prevention, we could save about \$100 on punishment later. This is another area to consider when we are looking at crime in our communities and how to take it on. Instead of a huge prison-building agenda or putting more people in prison, we could put more money into proactive preventative programs that actually get to the root causes of crime. I think that is really critical.

We have to look at some of the social impacts of poverty. We have a very high child poverty rate; how do we address that? How do we address some of the addiction issues that exist in our community that lead to more violence in our communities and the use of guns?

As a high school counsellor, one of the things I learned is that making really strict laws does very little to reduce crime. It actually pushes a lot of stuff underground, and everybody becomes more sophisticated. What actually does reduce crime is a proactive prevention program that tackles the root causes.

One of the biggest things I found when I worked with high school students was the area of self-esteem. Another was finding productive activities in the communities that youth can participate in, activities that give them a sense of belonging and allow them to work on those issues instead of being tempted into some other arenas.

When it comes to self-defence, I noticed at the committee stage that there was a lot of discussion about victims of abuse and how they will react in a situation.

I have worked with refugee students, students who have come here from very violent countries and from refugee camps where they even have to fight for food. I was called into a classroom where a student had hit a teacher and literally knocked him out. That was totally unacceptable, but working with the student, what we found out when we looked at how he had lived his life—how he had had to fight for food—was that when the teacher made a certain movement, the student thought he was going to be hit. He went back to being a refugee on the run and was in self-defence mode. Once the teacher understood that, it led to reconciliation between the two. They developed a really good working relationship.

In the same way, when we are looking at some of the abuse against women in our communities, let us take a look at prevention programs and education programs.

One of the key issues I want to stress once again is that this is citizen's arrest, not citizen's punishment or citizens passing judgment.

●(1225)

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Mr. Speaker, I thank my hon. colleague for Newton—North Delta. I think she put very well the concerns one would have in looking at a bill that expands the access to citizen's arrest. As a matter of fact, she made a point that I had previously made at second reading, which was that the most appropriate response in our technological society to most events when one feels at risk or sees a criminal event is to take pictures or videos on cellphones and get them to law enforcement authorities, but not try to intervene in a situation that could become violent. We have too many innocent bystanders who have intervened in criminal activities and have ended up injured or worse.

Although some amendments were accepted, I think we have to be mindful that earlier in this session of Parliament, the routine for bills from first reading to third reading was that no amendments were acceptable. However, we have certainly seen a maturing in the committee process for some amendments, such as the one from the hon. member for Mount Royal, which significantly improves the criteria on the self-defence side of the act.

With regard to the acceptability of Bill C-26, I would ask if the hon. member for Newton—North Delta agrees that it would have been preferable to follow the advice of the Canadian Bar Association and leave subsection 494(2) of the Criminal Code alone.

Ms. Jinny Jogindera Sims: Mr. Speaker, as legislators in Parliament, whenever we see legislation before us, we want to tweak it or change it totally, and sometimes we oppose things from one side of the room or the other. However, at this time the NDP is supporting this legislation. We feel that it goes a long way in giving clarity to our judiciary and will help in the process.

As my esteemed colleague has said, she did want one particular element left out. I would be hesitant to comment on that at this stage, simply because I have not had the opportunity to examine it in detail.

●(1230)

[*Translation*]

Mrs. Sadia Groguhé (Saint-Lambert, NDP): Mr. Speaker, I would like to thank my colleague for her speech.

Self-defence has been mentioned. We know that this element most frequently involves very subjective criteria. In the current bill, we worked, we put emphasis on a balance between subjective criteria and more objective criteria.

As we seek this balance, could my colleague give us her opinion about the impact that this will have on the judicial interpretation?

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[English]

Ms. Jinny Jogindera Sims: Mr. Speaker, I would say that we have to take a common sense approach with a lot of the stuff that we look at. To say that citizens could not protect themselves at all would be the other extreme, but is one just supposed to stand there and watch a person being harmed physically and not say anything?

This is a little step. It is a kind of compromise and balance. It leaves us able to make a citizen's arrest to stop what is happening for a moment until police officers get there. To deny this right to any group and further restrict it would not be acceptable. I think that within this piece of legislation there is a balancing of both the crime being committed and the role the everyday citizen can play when it comes to addressing violence.

Mr. Ryan Leef (Yukon, CPC): Mr. Speaker, I would like to thank my hon. colleague from Newton—North Delta on her speech. I thought it was great. Her focus on education and prevention was fantastic. I am also impressed and intrigued by the fact that she has a black belt in judo and would like to invite her to join me in the mixed martial arts caucus, which has a fundamental focus on education, youth communication, self-esteem development and positive relationships.

From that point of view, she called upon the government to do a little more on this legislation in terms of education, and I agree that is a step we could take. However, I am wondering if she could comment on her feelings—because I know what mine are—in terms of the role we need to play as members of Parliament when we speak to the media about this kind of legislation and when we address the concerns we have and how we could deal with it appropriately with our communities. I would see this legislation as expanded protection for Canadians versus expanded authority. If we message it like that, in my opinion we will move away from any fear of the vigilantism that has been raised as an issue.

Could she comment on the role we can play when we talk to the media of what we can do in our own communities? In her speech she talked about roles that need to be played in educating people in communities. In a vast and rural riding like the Yukon, one thing I do as a member of Parliament is promote positive relationships and the kind of education vein that she was going down, which I congratulate her for.

Ms. Jinny Jogindera Sims: Mr. Speaker, I am rather intrigued by the caucus that he just informed me about, so I will do some exploration.

Absolutely, we have a role as parliamentarians. When I am in my riding, such as in January when school was in session, I visit schools. I have community meetings. I am always having town hall meetings and I send out emails. We as parliamentarians have a huge role to play in our communities when it comes to education and prevention, but also in engaging people in the democratic process.

Last week I had the pleasure of visiting elementary schools. I met with students in grades 4, 5, 6 and 7, and they are very smart. They asked questions that would have floored most parliamentarians. They had done their homework before I got to my meetings with them. One little girl had a book with questions written down in it. They asked really smart questions. They asked questions about crime and what they can do.

Young people are very willing to be engaged, and that is where the prevention and proactive stuff starts. We would be foolish if we did not take advantage of whatever we can do as parliamentarians to give our own communities more security and knowledge, engage them in what is happening and build strong communities where they live.

•(1235)

Mr. Fin Donnelly (New Westminster—Coquitlam, NDP): Mr. Speaker, I want to provide a bit of background before I ask my question.

On May 23, 2009, David Chen, the owner of the Lucky Moose Food Mart in Toronto, apprehended Anthony Bennett, who stole from the store. After Bennett was initially caught on security footage stealing from the store, he returned to the store an hour later, at which time Chen, the owner, and two employees tied the man up and locked him up in the back of a delivery van.

When the police arrived, they charged Chen with kidnapping and carrying a dangerous weapon—which was a box cutter that most grocery store workers would normally have on their persons—assault and forcible confinement. The crown prosecutors later dropped the kidnapping and weapons charges, but proceeded with the charges of forcible confinement and assault.

According to the Criminal Code as it is currently written, a property owner can only make a citizen's arrest if the alleged wrongdoer is caught in the act. Chen and his two co-accused were found not guilty of the charges of forcible confinement and assault in October 2010. Anthony Bennett pleaded guilty in August 2009 to stealing from the store and was sentenced to 30 days in jail.

This bill seeks to clarify sections of the Criminal Code pertaining to self-defence and defence of property. After careful review of the bill and after hearing from expert witnesses at committee, it was determined that the changes do in fact provide legislation—

The Acting Speaker (Mr. Bruce Stanton): Order, please. I am sorry the time is limited here. We need to give time for the hon. member for Newton—North Delta to answer the question.

Ms. Jinny Jogindera Sims: Mr. Speaker, as my esteemed colleague did such a wonderful job of giving us a backdrop of what led to the legislation, I will keep my answer very brief.

Yes, the judiciary was concerned. It raised it, and parliamentarians are trying to address it.

Ms. Olivia Chow (Trinity—Spadina, NDP): Mr. Speaker, hard-working store owners trying to protect their own property should never be punished as criminals and the Criminal Code should not provide opportunities for that.

Since the David Chen Lucky Moose case, which I will go into a bit more, there was another instance in my riding. On Bloor Street, close to Euclid Avenue, there is a very nice restaurant called Maroli, which is owned by Mr. Naveen Polapady. Recently he faced multiple assault charges after confronting an apparent thief trying to steal his property.

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I will not go into long detail as to what occurred during this incident, but his restaurant had been repeatedly broken into. He had called police. That did not have much impact. He felt the police had not been able to protect him. In the instance there was a struggle between he and the apparent thief and a noxious substance was thrown at the thief. It was a spice called masala. Some of my colleagues may know this noxious substance. It makes very good chicken. It is quite unbelievable that this spice could be called a noxious substance. Mr. Polapady was charged with assault.

Obviously, the law needs to be clarified and changed. Hard-working restaurant owners, such as in this case, should not be punished for trying to protect their restaurants.

The case of David Chen, owner of the Lucky Moose, occurred on May 23, 2009. He had been robbed quite a few times. The Lucky Moose is in my riding in Chinatown in downtown Toronto. His store is a very popular place where a lot of people shop.

A security camera showed that Anthony Bennett, a thief with a 32-year criminal record dating back to 1976, stole \$60 worth of plants, which are called money plants, from Mr. Chen's store. Because the thief was not able to carry as many plants as he could, he came back an hour later to try to steal some more. He admitted that was what he wanted to do. Four or five were not enough. He wanted more.

Mr. Chen, after calling the police many times that past year, finally had it. He gave chase, caught the fellow and held him in a van. One could see bruises on Mr. Chen's body because Anthony Bennett had punched him. He was held and then police arrived four minutes later. Mr. Chen was charged with four charges: assault, kidnapping, forcible confinement and possession of a concealed weapon.

What was the concealed weapon? It was a box cutter, which any grocery store owner would have. They have to cut open cardboard boxes in order to get to the apples and oranges in those boxes. He carries a box cutter with him. He never used it and was not prepared to use it. He just had it because he was a grocery store owner. He was charged with possession of a concealed weapon.

● (1240)

As for forcible confinement, he wanted to ensure the police would come and arrest this person. Citizen's arrest is all about that. However, he was charged with kidnapping and forcible confinement.

The RCMP claimed that Robert Dziekanski had a stapler and that was an offensive weapon also. However, I digress.

Crown prosecutor, Colleen Hepburn, then offered to drop the kidnapping and assault charges if Chen pleaded guilty to forcible confinement and possession of a weapon. For this, he would receive an 18-month suspended sentence and a criminal record. Mr. Chen refused, and I am glad he did. The kidnapping and possession charges were dropped anyway. One of the reasons I suspect they were dropped was because it entitled the defendants to a jury.

By the way, Mr. Chen was not the only one charged. His cousin and his nephew, who assisted him, were also charged. It caused a tremendous amount of grief in the extended family. Mr. Chen spent a night in jail. His wife was worried sick.

The kidnapping charge was dropped. I think maybe the prosecutor was a bit worried that if there were a jury trial, Chen's peers would do the sensible thing and find everyone not guilty. Therefore, the two remaining charges were supposed to be heard in October by a judge sitting alone.

One might ask, what happened to Anthony Bennett? He received 90 days' jail time, reduced to 30 days on the condition that he testify against David Chen, which he did.

What actually happened? The Criminal Code allows a citizen to arrest someone if caught committing a crime. It is a law that goes back to ancient times. Since then, surveillance cameras have been invented, so instead of a storekeeper standing guard all day, we have security cameras.

I have been in the Lucky Moose many times. Mr. Chen had installed large numbers of security cameras. Any reasonable judge would modernize the concept of citizen's arrest, including in Chen's situation, and accept camera evidence as sufficient grounds for later arrest. However, the act now states that one must arrest a person while he or she is committing a crime. If people are arrested inside the store, they have not actually committed the crime yet because they could say they were about to pay. If they do not pay at the cash register, which is right by the door, and leave the store, by that time they are outside, which means the owner would have to give chase. This is what David Chen did. However, because it was after the actual crime being committed, the Criminal Code allowed police to arrest him.

The result was a lot of emotional and financial hardship. The case finally went to trial after a long time. By October 29, 2010, a year and a half later, the judge finally found David Chen, his cousin and his nephew not guilty. However, this was after a huge amount of money was spent on lawyer fees.

Given that the profit margins in these stores are extremely slim, David Chen did not ask for it, but the community came together, had fundraising banquets and drives to help him pay his lawyer fees. The community also said that the law did not protect hard-working store owners and that it must be changed. There was a petition with 10,000 signatures on it.

● (1245)

The Minister of Citizenship, Immigration and Multiculturalism promised some time in 2009 that the Conservative government would take action. One year later, nothing happened. I then introduced a private member's bill, which I termed as the Lucky Moose bill. Actually the moose was not that lucky on May 23, but I called it the Lucky Moose bill. The bill would have allowed for a flexible interpretation that, as long as the citizen's arrests were done within a reasonable amount of time, the store owners would be entitled to make them.

Unfortunately, nothing happened in the fall of 2010. I tried to push my private member's bill forward. It was on February 17, 2011, that the Prime Minister promised to introduce a government bill.

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It is unfortunate it has taken so long. The bill passed first and second reading, but died when the election was called. Therefore, I am quite happy that another version of it, Bill C-26, which is very similar to my original Lucky Moose private member's bill, is now before the House at third reading. I hope in a few days the bill will pass the House of Commons into the Senate for approval and become law. It cannot happen soon enough.

Amending the Criminal Code would only assist in a certain way. To a certain extent it would clarify the law. At the justice committee, there was a diverse group of witnesses, including the Canadian Convenience Store Association, the Elizabeth Fry society, the Association of Professional Security Agencies, Quebec law association, the Canadian Bar Association and the Canadian Police Association. They all agreed that this bill was good, but there were some flaws in it.

Our critic introduced nine amendments. Two of the amendments were successful and seven, unfortunately, were not. I really regret that. We did manage to get a related amendment passed, which would require a court to consider the relevant circumstances of the person, the other parties and the act. The second amendment would place a greater onus on the courts to consider the history of the relationship between individuals.

There is a great need for different sections of the Criminal Code to be updated. Even though at the end of the day seven of the amendments of the New Democrats were defeated, we still believe the bill will give an adequate update to legislation and that is why we support it.

My colleague is right in that we should also look at other issues connected to the case. We need better community-based policing. A store owner should not have to wait so long for the police to arrive. There needs to be much faster response time by police officers and they need to know their own community so they are familiar with the challenges some of the smaller store owners face. They also need to understand who are the regulars in the community who commit these crimes over and over again.

• (1250)

If we have community-based policing, then there would be a regular number of police who would become familiar with the neighbourhood. By and large, a lot of the people who are stealing are from the neighbourhood. The store owners who suffer from these kinds of offences and are victimized have by and large been in the community for a long time. They own small shops and cannot afford to hire private security guards, which is why they occasionally, unfortunately, resort to citizen's arrest or self-defence.

If the police had a much faster response time, then people like David Chen would not have to take the law into their own hands. When the charges were finally dropped and he was asked by the media whether he would do it again, give chase and perform a citizen's arrest, had he known what would happen, Mr. Chen said, "No, I would probably wait for the police to come".

I think 99% of store owners would probably give that kind of response. They would rather have the police come to deal with a criminal offence. The problem is that there is not a faster police response time.

On the other side, we have a person like Bennett, who was living in the community and is not anymore. He was not able to get into treatment programs initially, maybe in the late 1970s or early 1980s when he started committing crimes because he was addicted to drugs.

I do not know whether he has any mental health issues, but I do know that a lot of these criminals who commit theft and break and enter are addicted to drugs, and others have mental health issues, and yet we have a system in Canada where we do not have sufficient mental health treatment programs, especially within the communities.

If people have access to drug treatment or mental health programs, they can get clean and are able to start again. However, once they come back to the community, because there is not a community-based program to support them where they live, some of these folks end up reoffending, end up being hooked on drugs again and end up committing petty theft, victimizing the local store owners.

That is why the NDP believes that aside from amending the Criminal Code, aside from helping hard-working store owners to protect their own property, we really need to be smart on crime. We need to find some ways to have better community-based policing. We must have community-based treatment programs, drug treatment and mental health support, because if we do not do that we will end up throwing a lot of people in jail who will come out and reoffend over and over again. People like Naveen Polapady, a restaurant owner, and David Chen, a grocery store owner, will continue to be victimized.

To conclude, I am very happy this bill is finally in front of us for third reading. I hope it will pass without any problems and that the Senate approves it, so that at the end of the day David Chen and others can feel that justice is on their side, not against them.

• (1255)

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Speaker, the member is right in the sense that we do anticipate passing this bill today. It has fairly widespread support within the chamber.

In her comments, she made reference to something that is a bit off topic but is quite relevant in terms of communities' needs as they try to deal with crime issues, and that is community policing, for which I have always been a strong advocate.

Would the member share with members her thoughts on community policing and its potential to have some role in providing education in commercial strips, where there is a greater likelihood of a citizen's arrest being made? Often through community policing there is a strong educational component. I would suggest to the House that, through community policing, people can help better educate our community as a whole on the role of citizen's arrest.

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Ms. Olivia Chow: Mr. Speaker, the concept of community-based policing started in the Prairies, interestingly enough. I believe the Edmonton police and others piloted it. It means that in a certain district, depending on the size, the same four or six police officers would patrol an area regularly. They would have regular meetings with the store owners and the residents in the area. They would work with them to find ways to improve on safety. Sometimes it is the design of the community. It could be lighting or shrubs or a neighbourhood watch program, which the police officers would assist in setting up.

However, the problem with policing in big cities is that the scheduling means that different officers rotate in and out of the neighbourhood at different times of day. That means that sometimes officers who patrol the areas would not know their neighbourhood as well, so they are not familiar with the history of what is occurring in a store. Anyone who regularly patrols that area in Chinatown would know David Chen and the Lucky Moose store and would know he had been victimized by petty thefts over and over again. In this case, I am not sure the officers who came to arrest him knew the history of what occurred.

• (1300)

[Translation]

Mr. Jean Rousseau (Compton—Stanstead, NDP): Mr. Speaker, I would like to congratulate my colleague on her excellent speech. I will continue to speak on the same issue, that is, community-based policing.

Over the past few years, particularly in Quebec, we have been coping with the new issue. There are fewer and fewer services provided by the Sûreté du Québec in the regions. In some small communities, there are no police services.

I would like to ask my colleague to tell us a little bit more about the consequences that this might have in certain areas that are far away from major centres, neighbourhoods that more often experience crime precisely because of this, including resort areas near rivers and lakes, summer cottages and so on. More and more people are left to their own devices and have to defend their property and sometimes their lives.

[English]

Ms. Olivia Chow: Mr. Speaker, that is a concern. If there were less police coverage, no matter what level of policing, there would be more opportunities for break-ins at cottages, for example, or small stores. In some ways, people whose places have been broken into feel personally violated. It is not even about the property loss. It could be the loss of a very special ring or a memento from a grandfather or grandmother. These kinds of items can have a lot of sentimental value. They might not get a lot of money on the market, but it is devastating emotionally for the person who loses that item.

If the police get too busy dealing with more serious crimes, they may not have enough time to deal with break and enter crimes and theft, and that would be unfortunate.

[Translation]

Mr. Denis Blanchette (Louis-Hébert, NDP): Mr. Speaker, I would like to thank my colleague for her speech. In passing this bill, of course, we are opening the door to the possibility of overdoing it.

I would appreciate it if my colleague would tell us what the government should do to place safeguards around the bill—to make sure that, on the one hand, we reach the bill's objectives, and on the other, that we do not go over the top with it.

• (1305)

[English]

Ms. Olivia Chow: Mr. Speaker, it is critically important that we do not encourage vigilante justice. We do not want to encourage people to put their own personal safety at risk. We want to be very clear that if a crime is occurring, people should call the police. People should not get involved. That is the top priority.

There are already sections under the existing Criminal Code that deal with citizen's arrest, self-defence and defence of property. These three concepts already exist in the Criminal Code. The amendments we are doing here would only modify already-entrenched aspects of our current laws and do not really introduce any kind of radical new concepts.

I want to be very clear that we do not want people to take justice into their own hands. We believe that, if people do so, sometimes they put their personal safety at risk. The top priority is to call the police and leave the situation, if possible, if facing danger.

[Translation]

Mr. Jonathan Tremblay (Montmorency—Charlevoix—Haute-Côte-Nord, NDP): Mr. Speaker, I thank my colleague for her very eloquent speech, which proves that it takes more than one measure to advance security in Canada. I am often in touch with community organizations and street workers in my riding, who often work outside the established order, if I can put it that way.

The NDP supports the current bill. We will study it in committee to ensure that it does not lead to abuses. I would like to expand the current debate somewhat to say that this type of bill is not enough to prevent crime.

Could my colleague give us some more details about that? What other solutions could we bring forward? These days, it seems that the current government is somewhat less interested in prevention. What solutions can we suggest to reduce crime in Canada?

[English]

Ms. Olivia Chow: Mr. Speaker, there is a disturbing trend. One of the fastest growing populations in prisons is women. Often they are in jail because they are stealing, and they are stealing because of deep poverty. I know of a person who stole diapers because she just did not have the money to buy them for her daughter, I believe. She was caught and put in jail. In some cases, especially for women, poverty is the root cause of some of their criminal activities. As legislators, we need to look at that and see if we could do something to make poverty history.

[Translation]

Ms. Ève Pécelet (La Pointe-de-l'Île, NDP): Mr. Speaker, I wish to inform you that I will be sharing my time with my colleague from Compton—Stanstead.

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This bill would amend the Criminal Code, in particular subsection 494(2) on citizen's arrest, self-defence and the protection of property. My speech will mainly focus on citizen's arrest and self-defence.

The amendments would make the legislation more flexible. For example, they would allow a person to arrest someone without a warrant within a reasonable time. Often, as in the case of a number of the examples provided today, a person is attacked, may not necessarily fight back immediately, but may do so subsequently. It will be up to the courts to decide what is a reasonable time based on the circumstances. The legislation provides the courts with a framework for making decisions.

The second part concerns self-defence. In committee, the NDP proposed nine amendments to the bill; only two were accepted and seven were rejected. Even though the NDP would have preferred that all nine amendments be accepted, it recognizes that the law needs to be amended and that the bill addresses certain shortcomings and updates the legislation. For that reason, the NDP members support Bill C-26.

It is important to mention—in case the government is listening—that the NDP had proposed an amendment in order to add a subjective aspect to self-defence and to include situations of spousal abuse. This amendment not only included spousal abuse, but also cases of 18-year-olds who still live with their parents and who are abused by one of their parents or a member of the family and have been for many years. This might include any situation where a person has a history of violence.

Battered woman syndrome often comes up in the courts. However, this syndrome is not necessarily recognized. A person who has been a victim of repeated acts of violence might perceive matters incorrectly when in a violent situation. Their reaction to their attacker might be unpredictable.

It is important to know, when we are talking about spousal abuse, that the attacker—the spouse, the husband, or whoever—will not necessarily expect that reaction. I am also thinking about the situation where an 18-year-old might want to protect his mother from being attacked by his father. Someone who is raised in a violent setting might have an unexpected reaction to a relative or loved one who commits an act of violence.

The proposed amendment asked that the court assess whether, in the person's eyes, the person's actions were reasonable in the circumstances. In some situations, the court might take into account this type of history. Including this in the legislation provides a framework for this type of situation. This principle was created through jurisprudence and might differ from one province to another or one judge to another.

● (1310)

Hence, the interpretation is really based instead on evidence and testimony. In certain cases, the fact that it is not included in the legislation may, perhaps, be damaging to certain victims. In fact, I am talking about victims. On several occasions, women who have simply sought to defend themselves against their spouses have themselves been accused of assault. As the member for Gatineau mentioned, we have even seen cases where people no longer wish to intervene. I remember a case in Quebec, for example, where a person

dove into the river to save somebody. However, the person who was rescued got injured in the process of being removed from the river and sued the rescuer for assault and battery.

Simply including this in the legislation will give victims of crimes and people seeking to defend themselves the assurance that they themselves will not be prosecuted for battery or assault.

In fact, an historical context is really important here because in several sections of the Criminal Code, there is an objective component that deals not only with assault and battery, but also the intention to hurt somebody. In the case of assault causing bodily harm, the person must have had the intention of causing bodily harm. Bodily harm is identified, but so too is the intention behind it. In self-defence, the issue of intention is not relevant. For example, a victim of domestic violence who takes a pot and hits her attacker on the head with it did not intend to inflict a wound, but rather to defend herself.

I think that this is really important. There are several organizations that share this opinion, one being the Canadian Bar Association. I read in its recommendations, which were based on its review of the bill, that it proposes that the clause be amended to read “the act committed is reasonable in the circumstances as perceived by the accused”. Perception therefore plays a very important role.

The government's amendment is slightly different to ours. The NDP nevertheless succeeded in having an amendment passed that requires the court to consider the personal situation of the person who used self-defence. The wording is, however, not as precise as what the NDP proposed.

For example, in a situation where two men fight, self-defence is often more difficult to prove. However, let us consider someone who is 18—I often use this example—and has grown up in a violent household. Every day, he sees his father beat his mother and one day he decides to stand up to him, because his mother refuses to defend herself.

In my opinion—and I hope that the government hears this—it is important to be precise about this kind of amendment. Often, the courts need legislators to guide them in the decision-making process. Legislators must take their role seriously and provide a legal framework for these kinds of situations.

I am not criticizing the bill. I am simply proposing some potential improvements. It is a step in the right direction. We proposed nine amendments. We will amend the Criminal Code in the hope that we might continue to improve it in the years to come.

● (1315)

Mr. Jean Rousseau (Compton—Stanstead, NDP): Mr. Speaker, I would like to congratulate my colleague on her excellent speech.

Could my colleague suggest restrictions and parameters that could be imposed on a bill of this kind in terms of the concept of self-defence?

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Ms. Ève Pécelet: Mr. Speaker, the section that was in the Criminal Code before—I do not have it with me—was quite complicated because there were a number of quite similar situations that followed one another. It was often difficult to apply the section to a specific situation because it was quite unclear, and that is why the section was amended. I can say that there are a number of situations. The bill includes a number of criteria that the court can take into consideration. For instance, it talks about the nature of the force. If someone is attacked with a knife, what is the nature of the force? Would a person who responds with a gunshot be acting in self-defence?

As a person who will soon be receiving a law degree, I must say that it is left to the discretion of the court to judge according to the guidelines provided by the legislator. There are a number of criteria such as size, age, gender, history and subjectivity. Once again, determining whether or not someone was acting in self-defence is up to the court.

• (1320)

[*English*]

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Mr. Speaker, our party is moving in favour of this particular bill because there has been some movement toward improving the bill. However, what concerns me as a former environmental enforcer is that when we come forward with new laws, it is important that the government also come forward with a compliance strategy. That may be particularly important in this case.

There have been a number of questions raised by members in the House about exactly how people would determine what reasonable force is and about how reasonably close to the incident they are in intervening in order to seize and detain the person. When it is made known that this new measure will be in place, does the member think it might be useful for the government to come forward with an enforcement and compliance strategy to inform shop owners or property owners of the limited extent to which they may detain persons, as well as to inform school children, youth and so forth that there may be the potential for a shop owner or some property owner to move to detain?

[*Translation*]

Ms. Ève Pécelet: Mr. Speaker, as I said to my colleague, with regard to the way of determining what reasonable force is, it is very important that the legislator provide the courts with the clearest possible guidance. I was speaking of the subjective element in the bill in relation to domestic violence but also in relation to people with a history of violence. Force that may be considered an unreasonable response in one situation might well be considered reasonable if there is a history of violence. It is therefore the role of the government, as my colleague said, to inform the people but also to provide guidance to the courts with clear and stable guidelines that will make it possible for everyone to be judged on an equal footing. It is important that there be no inequality in one situation or another.

With regard to self-defence and citizen's arrests in corner stores, in the case of young people, I must mention that the Criminal Code does not necessarily apply the same way to children as it does to adults. For instance, a minor may commit a crime. I will not get into a debate about the imposition of adult sentences on children. I have already said my piece about that. I believe that young people are

considered under domestic and international law as people who should not be judged as adults. It would therefore be up to the legislator to decide what must be done.

Mr. Jean Rousseau (Compton—Stanstead, NDP): Mr. Speaker, this is a serious subject. We have said repeatedly that we will support the bill. I am by no means an expert in law and I would like to tackle this from another angle. In the few classes and courses I took in law, I remember being told something repeatedly about creating legislation, whether a law or regulations. Even if a law is being only partially amended, we must take into consideration everything about its environment, about how it is applied on the ground and in the courts, and about the repercussions it can have from coast to coast.

First of all, I would be remiss if I did not state my personal position on this bill's intention. In my opinion, peace cannot be achieved through messages of hostility and distrust towards others. Peace and harmony in the world and in our modern society begin with the principles of co-operation and non-violence. Nevertheless, this does not take anything away from the principles of self-defence, the protection of property and mutual aid, which are also among our fundamental values of self-determination.

However, when a government's economic policies prevent it from providing the people with an adequate income and social fabric, it may have missed the point. A strong social fabric creates harmony within a community or society. It fosters hope within society, among people, and it very often prevents people from doing bad things.

The same idea applies to employment. Once again, I am not saying that we should not make laws governing citizen's arrest and self-defence. However, if we cannot create an environment of social and economic prosperity for all of the people of this great land so that all Canadians can reach their full potential and live without worrying about the future, we have failed.

Our great nation must focus on helping vulnerable communities and the poorest members of society, and on creating an environment in which social tensions are, for all practical purposes, non-existent. I know that sounds utopian. Still, it is our job to eliminate bad deeds from our society.

Often, geography and demographics are an indication of the poverty in which people are living in various regions of Canada. Canadians must clamour for changes to occur as quickly as possible because the social and economic environment is the responsibility of the federal government.

I like to think that love, hope and optimism are much easier to envisage and achieve, and that they carry hope for our future. I must pay tribute here to the man who inspired these lines, the late Mr. Jack Layton. I like to think that the future belongs to us and that it is in our hands. We, as elected decision makers in this democratic parliament, if there is anything left of it, are the bearers of this message of hope for our fellow Canadians.

Government Orders

I would therefore like to continue this debate and consider the notion of citizen's arrest, which is tolerated in most of the modern day world. It is worth exploring this notion before making any decision regarding this legislation which, as my colleagues have mentioned, the NDP is going to support.

The arrest of a citizen or a wrongdoer by a person who is not a law enforcement officer goes back to the medieval era in Great Britain. At that time, it was more common to seek justice for oneself because the state did not really concern itself with the safety of commoners, and protection of the public was reserved more for the upper classes, the elite.

This is also seen in some modern-day industrialized societies. With the industrialization of civilization and life increasingly organized around an economic society, governments have attempted to make our environment safe. Since the 20th century, in most countries that use common law, citizen's arrest is not only recognized as quite an exploit, it is written into law.

The first subsection of section 25 of the Criminal Code states:

• (1325)

25. (1) Every one who is required or authorized by law to do anything in the administration or enforcement of the law

(a) as a private person,

What does "private person" mean? I would have liked a better definition of the word "private person" and "necessary force". Will the use of firearms be authorized or condoned? I would have liked to see these terms better defined, especially when the emphasis is placed on citizen involvement, which is the very basis of this bill.

Clause 3 also amends subsection 494(2) of the Criminal Code:

3. (1) Subsection 494(2) of the Act is replaced by the following:

(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

(a) they make the arrest at that time; or

(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.

The notion of "reasonable time" during which an arrest may be made is also problematic, in my opinion. This highly subjective and inevitably biased concept will require some time before it is suitably defined by the courts.

The notions of urgency, survival and a number of other important factors also have to be defined in order to examine what a "reasonable time" is.

The border also figures in cases in my riding. There are borders in Stanstead and in a number of other small communities, where people crossing the border illegally sometimes commit crimes against farmers. The farmers are always wondering what they can do about it. Most of the time, they leave them alone. However, on occasion the farmers have taken matters into their own hands and unfortunate things have happened. No one has died, but some farmers have ended up in terrible situations just the same.

If we leave it up to the judges to dictate the rules to be followed, it will mean that, once again, we as legislators have not performed our

duties as we should have. This is a very sad state of affairs, and it has also become the reality in this 41st Parliament.

I acknowledge that the legislation in this particular area of crime must be improved, but should we be asking instead why we have to do this?

As I said, the social fabric of a society is extremely important, because it allows each and every one of us to develop and contribute to it. The belief that that we all can contribute to the country's development is invaluable. Many different types of crime can be overcome this way.

Taking the law into one's own hands inevitably means putting one's self in danger specifically in order to stop a crime, whether public or private. Many people think that interacting with the perpetrator or perpetrators of a crime is a challenge.

I am aware of the case of one man who really did take things into his own hands. The result was the appalling death of a young teenager: the man was chasing him, only wanting to catch him, and he just drove right over the teen. These are horrifying incidents. We do not want these situations to happen and we do not want to see, as is happening with our neighbours to the south, these deplorable actions committed by citizens in situations that supposedly involve self-defence. Earlier I asked my colleague to define "self-defence" and "we are protecting our country, our property, our lives".

We have to consider our culture of respect for the courts and legislation and our traditions of peaceful life in our communities, in order to fine-tune the legislation and to make it suitable for use in the field.

In conclusion, Canada has always been a great country to live in, and one where people are used to a peaceful life, a democratic society, a stable economy, a low crime rate and a sense of mutual support and compassion.

Although many of these aspects of our society are in jeopardy and a New Democratic government would quickly handle them, the Conservative government is doing nothing to change the socio-economic situation, especially in the regions. In some regions of Quebec there is no public safety. We have to think about the civil society we want to pass on to our children, because they are the ones who will have to make decisions about the future and accustom themselves to the kind of country we will be leaving to them.

• (1330)

Mrs. Sadia Groguhé (Saint-Lambert, NDP): Mr. Speaker, I would like to commend the hon. member on his speech.

Since this debate began, we have seen that citizen's arrest must be an exception and that calling upon law enforcement must be a priority. In this regard, can my colleague comment on the importance of educating and informing the public and civil society in the event that this bill is passed?

Government Orders

•(1335)

Mr. Jean Rousseau: Mr. Speaker, that is a very good question. It is very important to inform the public when we correct laws, particularly when changes are made to the Criminal Code. This can be done through education, training and especially through the dissemination of information. This is extremely important because, as I said, from coast to coast to coast, people's lives could be in danger and could change as a result of the application of such a bill, particularly in light of the actions some people may take to protect their property. This is a very important aspect, which, unfortunately, is often overlooked by this government.

Mr. Denis Blanchette (Louis-Hébert, NDP): Mr. Speaker, I thank my colleague for his passionate speech. I liked his speech for a number of reasons, including the fact that he talked about our responsibility as a parliament and as legislators. It is important to strike a balance between the judiciary and the legislature. We have seen responsibility sliding more and more towards the judiciary and away from legislators.

In addition to these very important considerations, I would like to know what parameters my colleague would like to see in rural communities so that this bill could be properly implemented in those areas, given that security is sometimes very different in rural and urban communities?

Mr. Jean Rousseau: Mr. Speaker, I would like to thank my colleague for her excellent question. When we change a law, we have to be aware of its repercussions and implementation on the ground. In more rural, agricultural regions, where there are more self-employed workers and small and medium-sized businesses, and in resort areas, implementation can be quite different, particularly in Quebec.

I would like to focus on the situation in Quebec because the Sûreté du Québec was restructured a few years ago. A number of municipalities, including some in my riding, have met with me to say that it cannot even be implemented because the Sûreté du Québec is not even there. Even if an arrest were to happen within a reasonable period of time, it would not be possible because it would take the Sûreté du Québec half an hour, an hour or even an hour and a half to get there. What would happen to citizens making such an arrest?

Implementing such measures will be very difficult in some regions, not just in Quebec but across Canada. We might have to make sure that laws we pass in the future are clear enough for judges to do their job so that they do not have to come back to us and tell us to do our job.

The Acting Speaker (Mr. Bruce Stanton): We have enough time for a quick question and a quick answer. The hon. member for Laval—Les Îles.

Mr. François Pilon (Laval—Les Îles, NDP): Mr. Speaker, I want to thank the hon. member for his fine speech.

Knowing that the Conservative Party has abolished the firearms registry, is my colleague not concerned that certain store owners might be tempted to keep a gun on their premises at all times, even if we vote in favour of this bill?

Mr. Jean Rousseau: Mr. Speaker, I want to thank the hon. member for his question. That is always the NDP's concern. How are

storekeepers and people who own small businesses and vacation spots supposed to protect their property? That question remains unanswered. There is no answer for that.

Nonetheless, there is a risk, especially when some people watch the news on TV and see that in the United States people use weapons to defend themselves without much regard for the consequences to others. Vigilante justice would be unpleasant and absolutely unacceptable.

[*English*]

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Speaker, as I have listened to the debate over the last couple of hours, what I have found of most interest is the way in which members are conducting themselves, and the types of speeches we are hearing.

It has been interesting to compare Bill C-26 to another crime bill that the government had, Bill C-10. There is a significant difference. I would suggest that with this bill there is fairly widespread support. Support for this bill is not only here in the House of Commons. I would suggest that a vast majority of Canadians would be quite pleased to see not only the debate that is occurring but more importantly what Bill C-26 is proposing to do.

We can compare that to Bill C-10. All of the opposition parties were quite critical of the government. The government was not prepared to listen to the opposition parties. It was a very controversial debate. The government even had to bring in time allocation. If we reflect on what the public was thinking about Bill C-10, on the crime file, we will find that there was quite a difference of opinion and a different way of dealing with crime.

There was a philosophy talked about that was, in essence, taken from the Deep South of the U.S., a philosophy of building more prisons and putting people in jails, a policy that has not worked as opposed to a policy that favoured trying to prevent crimes from taking place.

I look at today's bill as a bill that ultimately will pass. The government will not need time allocation for Bill C-26. There is a sense of co-operation. There is a sense that this is indeed a bill that deserves passage. I suspect it is only a question of a couple more hours, a few more speakers, and we will see Bill C-26 pass.

Most Canadians believe that citizen's arrest is pretty straightforward and that they could do that today. In certain situations, yes, they could do that today. However, we have heard examples of just how much misunderstanding there is around that.

Let us look at the example of a citizen's arrest in a poor environment. An individual walks into a store, grabs some merchandise, then walks out. Halfway down the block, the thief is apprehended by the store owner or an employee of the store. The store owner or employee is putting himself or herself at risk of numerous charges. The way the system is set up, the store owner is in fact potentially going to be a double victim. He or she was victimized when the property was stolen from the business. There is a very strong likelihood that charges will be laid against the store owner or employee because in apprehending the thief a half-block away from the store, and not in the store, he or she could be charged with unlawful arrest.

Government Orders

However, one member explained earlier that if the individual was in the store when the citizen's arrest was made, that individual would be able to say that he or she had not left the store and intended to purchase the merchandise. There is a great deal of clarity needed on this issue.

This particular bill reminds me of a provincial bill passed a number of years ago in the Manitoba legislature. It was called the good Samaritan bill.

● (1340)

I was the seconder of the bill. It was a Liberal Party initiative by Liberal leader Jon Gerrard, something he had advocated for a number of years, and we were ultimately able to get it passed.

I say that because a lot of people would make the assumption that if there is a vehicle accident and a good Samaritan assists an individual involved in this emergency situation, by trying to help someone, that good Samaritan could be sued. That particular bill tried to provide clarity. Much like Bill C-26, which would provide clarity.

It does make some changes, much like the good Samaritan bill. Ultimately it reinforces the idea that politicians are listening to what the people are saying and living up to the public's expectations. I think we will find a great deal of support for Bill C-26. In good part, it just makes sense.

I would like to make reference to a few stories. In Winnipeg North, the area I represent, crime and feeling safe on our streets is likely the number one issue, very close to health care. People want to feel safe. People have a right to feel safe and secure in their communities, their streets and their homes.

Like many members of the House, while knocking on doors during election campaigns, quite often I would hear examples of a citizen who felt threatened. We hear on the news about an individual store owner who has tried to protect himself or herself or the merchandise.

I wanted to reflect on stories I have heard and which connected with me because of the manner in which they came about. One of them was from a woman who lived in a house around Arlington Street, one of the core areas of Winnipeg North. She indicated to me that when the sun goes down, she does not feel safe to leave her own home. She does not feel safe to open the door and go outside to her own yard. The way in which that woman expressed herself stuck with me.

When I was in a 55-plus seniors' block after a town hall meeting, a gentleman asked me if I had ever heard of the concept of walking around with two wallets. When I asked him to explain, he said that in case an individual were mugged, the individual would hand over one wallet, and the other wallet would contain his or her identification and money.

When I reflect on those two incidents, it highlights how important it is for me as an elected official to ensure that we do what we can to provide that very basic level of comfort for the citizens of Canada to feel safe in their own communities. I would like to think that people should feel comfortable enough, no matter what their age, to walk out of their homes, no matter at what time of the day. That is a

feeling that many generations have experienced. It is a fundamental right we need to work toward.

● (1345)

Individuals should not have to feel that they are going to be mugged when they go for a walk down a commercial or residential street. That raises a flag for me. I take it on as an issue of great importance because we want to try to make a difference.

Two other stories come to mind. This is where public opinion comes in. People will say, "Yes, that's a wonderful story". This one involves someone I know personally. He is now 70 years old. At the time of the incident he may have been 68 or 69. He was out for a walk in the community of Maples where he does quite a bit of walking. He was approached by two rather large individuals in their late 20s or early 30s. As they got closer, he could tell there was some sort of substance, drugs or alcohol, involved. They approached him very aggressively. They started to rush at him and he believed that he was going to be mugged. This wonderful gentleman grabbed the one individual and lifted his one leg to propel the other individual. I guess he squeezed too tight which caused the individual in his arms to pass out. Then he faced the other individual, who looked at him, saw the other guy on the ground, and turned around and took off. I have heard the gentleman tell that story on several occasions, one to one and in a mall. It made a lot of people feel good that we have a senior with the ability to protect himself.

Another story was in regard to a local store owner. This gets right to the bill itself. This store owner was robbed. She was asked to help out with some ice cream and as she bent over to pick it up, she was stabbed in the neck. Fortunately, it was not fatal. As they were youth, instead of trying to chase them, she knew who they were and she went to the local police. She was able to ensure that those individuals were arrested.

I talk about those latter two stories because we have to be able to use common sense. When we pass Bill C-26, an important part of that bill is the issue of being reasonable. We have to recognize that it is very dangerous, if we are conducting a citizen's arrest, to confront someone who has committed a criminal action. We do not know to what degree the individual is going to respond. I have had many discussions with law enforcement officers. They say that if we are being robbed we should surrender whatever it is that is being asked of us. By doing that, we are decreasing the likelihood of incurring personal harm.

I have had the opportunity to talk to individuals who have been robbed at knifepoint, when a knife was put to their throat. One individual was very candid. He was scared because he thought the individual who had the knife was completely losing it and was going to cut his throat because he did not know where he was and just wanted to see money. He could see panic and fear in the individual who was robbing him.

● (1350)

Fortunately, the criminal left the scene after the person handed over the money. However, this person had the common sense to evaluate, much like the lady who was robbed in the store. In all cases, people have to use common sense and not feel they have to be heroes in order to protect property. That is one of the concerns that we have with regard to this particular bill.

Statements by Members

We passed the legislation and want people to feel comfortable in knowing that they can conduct citizen's arrests. I gave the example of the individual who leaves the store and halfway down the block the store owner catches up. This bill would enable that store owner to recover the property, conduct a citizen's arrest and not worry about being charged. That is a positive aspect of the bill.

The concern that many individuals have with this bill, whether it is members of the chamber or law enforcement officers, is that we are not trying to tell the citizens of Canada that this is something they have to do. What they have to do is use discretion. Police officers are well-trained individuals and know how to conduct an arrest. They can anticipate the type of reaction they are going to get if they make an arrest. For the most part, average people do not know what is going to happen if they approach someone and say, "You have taken merchandise from my store, and I want you to give it back" or if they attempt to conduct a citizen's arrest. They do not know if in fact the individual has a concealed weapon, for example, and how they would react to that. When a store is robbed or someone is assaulted, most people would like the victim not to be made a victim again by attempting to do something that maybe he or she should not do.

That said, when circumstances allow someone to conduct a citizen's arrest, whether it is because of a robbery or in defence of someone who is being attacked or something of that nature, it is most appropriate to have a law that protects that individual. It is important that we protect individuals' rights to defend themselves. To that degree, Bill C-26 provides clarity for our courts and judicial system so that when people are being threatened with bodily harm, they have to have the right to protect themselves with reasonable force. They have to have the right to protect themselves. This is where Bill C-26 has great value, because it provides clarity to our judicial system. It tells our courts that under certain circumstances a person has the right to protect himself or herself from bodily harm or to protect his or her property from being taken or damaged.

For the most part, that legislation has a common sense approach in dealing with these issues. Because of that, we see that it has the support of the public as a whole and of political parties, generally speaking. I understand there are some concerns, but for the most part I believe members will vote for the bill. The Liberal Party's position has been to support the bill.

• (1355)

The Acting Speaker (Mr. Bruce Stanton): The hon. member for Winnipeg North will have 10 minutes remaining for questions and comments when the House next returns to debate on the question.

STATEMENTS BY MEMBERS

• (1400)

[*Translation*]

NATIONAL VICTIMS OF CRIME AWARENESS WEEK

Mrs. Maria Mourani (Ahuntsic, BQ): Mr. Speaker, on the occasion of National Victims of Crime Awareness Week, we must remember that the priority must be the victims and, as Ms. O'Sullivan, the Federal Ombudsman for Victims of Crime, said so well, the time has come to shift the conversation so that the focus is

no longer on the management of offenders, but rather on the direct problems faced by victims today.

Yet, after years of waiting, the Conservative government is making do with half measures to assist but a fraction of the families of victims of crime, and only as of January 2013. However, victim assistance groups want access to employment insurance benefits of up to \$485 per week for one year for the families of both victims of crime and children who have committed suicide.

To the families of victims, I say: remain hopeful and know that the government's current proposal is but a start. One day, in Quebec, Quebecers will be able to make all their own laws—the Criminal Code and employment insurance—to at last combat crime and help victims as we should.

* * *

[*English*]

BUCKLAND CUP HOCKEY CHAMPIONSHIP

Mr. Paul Calandra (Oak Ridges—Markham, CPC): Mr. Speaker, I rise today to talk about wonderful spring in my riding and my hometown of Stouffville.

The Stouffville Spirit has just won the Buckland Cup. The hockey arena in Stouffville was packed to the rafters for every single game of this year's hockey finals.

I feel somewhat sorry for the member for Newmarket—Aurora, because she had to taste bitter defeat at the hands of the Stouffville Spirit not once but twice, as the Stouffville Spirit rolled over Newmarket and then rolled over Aurora. The team then took on Georgetown, wiped it off the map and practised absolutely no austerity when it took on the Whitby Fury and demolished it to win the first ever Buckland Cup.

I am very proud of my home team, the Stouffville Spirit. I congratulate the team on an extraordinary hockey run and on a great final victory. I know my good friend Herb Hoover, a Stouffville Spirit fan who died just before the final game, is very proud and was watching down as the team won its first ever championship for my hometown.

I congratulate the Stouffville Spirit.

* * *

[*Translation*]

DOMINIQUE MALTAIS

Mr. Jonathan Tremblay (Montmorency—Charlevoix—Haute-Côte-Nord, NDP): Mr. Speaker, allow me to take a moment to congratulate an athlete from Charlevoix who stands out year after year. I am referring to Dominique Maltais, a snowboarder and snowboard cross specialist.

Since her bronze medal in the Turin Olympic Games in 2006, Dominique Maltais, now aged 31, continues to impress with her rigour, talent and perseverance. For the third time in her career, she has received the Crystal Globe, this time for her achievements in the 2011–12 season. The Crystal Globe is awarded to the athlete who has achieved the best results in the World Cup season.

Statements by Members

Ms. Maltais, who had her first snowboarding experience at her doorstep in the Massif de Petite-Rivière-Saint-François, is now preparing for next season. Her goal is still the same: when she leaves the starting blocks, she expects to win.

Once again, congratulations to Dominique Maltais.

The entire region of Charlevoix is behind you and is very proud her.

* * *

[English]

LYNNE'S LEGACY RUN

Mr. Mike Wallace (Burlington, CPC): Mr. Speaker, I would like all of Canada to be acquainted with Lynne McTaggart of Burlington. She is a true local hero. Through Reach Forth Sports Ministry, she improved the physical and spiritual health of many youth and families in our community.

She continues to give back through Lynne's Legacy Run. This annual five-kilometre run raises awareness and funds in the fight against cancer.

Lynne is battling cancer. She continues to strive every day to build her own personal positive legacy. Her actions are making a difference. Her decisions reflect her care for others. The run recognizes Lynne's profound and lifelong commitment to Reach Forth ministries, to her running, and to her faith.

On May 21 at Churchill Park in Hamilton, Lynne's Legacy Run will be held once again. The run will not only raise money for the fight against cancer but also honour Lynne McTaggart, a true Canadian hero.

I would like to thank Lynne for her legacy. God bless.

* * *

CANADIAN UNITY

Hon. Stéphane Dion (Saint-Laurent—Cartierville, Lib.): Mr. Speaker, I rise today to celebrate Canada. To be Canadian is one of the best gifts life gives to us.

There are many views and lively debates on how our nation could be improved. One example is my recent proposal for a new way to elect members of Parliament, but we should never doubt that our diversity is a strength for co-operation and a better life for all, from coast to coast to coast.

● (1405)

[Translation]

And even though Canadian unity should never be taken for granted, it is important to always remain hopeful. Some predict that our country will break up because it is too centralized and others because it is too decentralized.

Meanwhile, millions and millions of people across the world dream of being Canadian. We have built an admirable country, thanks in part to the major contribution made by Quebecers. Together, we must continue to improve Canada and show the world that a big, diverse country can still strive to realize the aspirations and dreams shared by people of good faith.

Long live Quebec and long live a united Canada.

* * *

[English]

HEALTH

Mr. Terence Young (Oakville, CPC): Mr. Speaker, in February, the FDA issued a warning that Lipitor and other statins cause memory loss and that one out of 200 patients taking statins will develop diabetes, meaning that 20,000 Canadians are at risk. One statin, Baycol, has already been pulled off the market for causing rhabdomyolysis, leading to kidney failure and death.

Other serious adverse effects from statins include cataracts and irreversible neurological damage. Are these risks worth it?

Eighty percent of statins, worth \$16 billion a year, are taken by patients who have never had a heart attack and where there is no evidence that the benefits outweighed the risks. That is good for the drug companies and bad for patients.

Most patients can lower their cholesterol with diet change and exercise without the risk of serious adverse effects from statin drugs. Since doctors generally ignore safety warnings from regulators, patients should get the best available evidence on statins from their pharmacists and by doing their own research.

* * *

GOVERNMENT PROGRAMS

Mr. Fin Donnelly (New Westminster—Coquitlam, NDP): Mr. Speaker, I rise today to speak to the short-sighted cuts by the Conservative government to public institutions that inform social policy in Canada.

We know that the Conservatives have scrapped the long form census, which provided facts and information. Now they have gone a step further by eliminating funding for the National Council of Welfare. This organization has informed social policy since 1969 by reporting on poverty rates.

My constituents are becoming increasingly concerned that the Conservative government is no longer relying on scientific or factual information. I urge it to reconsider its ill-conceived cuts.

On a positive note, I would like to acknowledge two recent victories for the B.C. NDP. I congratulate Joe Trasolini, the MLA elect for Port Moody—Coquitlam, and Gwen O'Mahoney, MLA elect for Chilliwack—Hope who both won elections in B.C.. This is a good sign that a positive change next year is about to happen.

*Statements by Members***PUROLATOR**

Mr. Dean Allison (Niagara West—Glanbrook, CPC): Mr. Speaker, I rise today to recognize and commend the hard work of the over 12,000 employees of Purolator for their contribution to economic development in Canada. Purolator employs over 250 in my riding and has its main hub at Hamilton airport, which ties into its delivery network for facilities in 111 ridings all across Canada. The partnership of Purolator and Hamilton airport in this economic activity has been vital for Canadian and international businesses that rely on integrated distribution services.

Since his arrival at Purolator in September 2010, Mr. Tom Schmitt has been an exceptional president and CEO who has worked hard to develop sustaining and mutually beneficial partnerships.

Mr. Schmitt and, indeed, all employees have made Purolator a fine example of a Canadian business that puts Canada first. I know all members of Parliament will want to join me today in congratulating Purolator on its more than 50 years of commitment to Canada.

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[Translation]

TOBIQUE-MACTAQUAC VOLUNTEER FIREFIGHTERS

Mr. Mike Allen (Tobique—Mactaquac, CPC): Mr. Speaker, over the last few weeks, I have had an opportunity to attend fundraising campaigns and presentations celebrating the long years of service of volunteer fire brigades in the community of Tobique—Mactaquac.

[English]

Volunteer firefighters provide tremendous protection for our rural communities. On a regular basis, they hold fundraisers to purchase new equipment and, in some cases, including this past weekend in Meductic, to help their own in dealing with challenging life situations.

I want to thank each and every one of these brave individuals for their long-term dedication to public safety and to their families whose thoughts and prayers travel with them each time they are called upon for an emergency.

It was a tremendous honour as a member of Parliament to present the Governor General's long service awards for 20 years and 30 years of service and see the pride in the faces of these long-time volunteers, not to mention the incentive of this recognition along with initiatives like the volunteer firefighter tax credit provided to young volunteers.

These folks are true heroes. I know that all members in the House will join with me in commending our volunteer firefighters for helping to make our rural communities dynamic and strong.

* * *

● (1410)

[Translation]

EARTH DAY

Ms. Ruth Ellen Brousseau (Berthier—Maskinongé, NDP): Mr. Speaker, last weekend, I was in Montreal for Earth Day. I was accompanied by at least 150,000 people who met peacefully to

condemn the irresponsible development of our resources and the government's inaction on climate change.

During the march, I met a number of people from Berthier—Maskinongé who made the trip in order to join the green movement. People of all ages walked together in solidarity so that future generations can live on a healthy planet.

We cannot go on ignoring the environment without leaving an enormous liability for future generations. Our region is doing its part, and we are working together for the environment. Businesses are adopting environmentally responsible and sustainable principles. I hope the government will hear the message that Quebeckers delivered on Sunday. It is time to take action for the environment and for future generations.

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[English]

VAISAKHI

Mr. Devinder Shory (Calgary Northeast, CPC): Mr. Speaker, on April 13, millions of South Asians from multiple faiths celebrated Vaisakhi. A long-time celebration of harvest, Vaisakhi also carries social and religious significance for people of various faiths.

Tonight, I am pleased to be co-hosting our annual Vaisakhi on the Hill celebrations with my Conservative colleagues right here in Centre Block, and I invite all members to attend.

I also thank President Jarnail Singh Nijjar of the Dashmesh Culture Centre in Calgary Northeast for taking the lead in organizing our annual Calgary Vaisakhi parade scheduled for Saturday, May 12.

As Mr. Nijjar told me, Vaisakhi celebrates equality, freedom and justice for all, and reminds us to engage and address the challenges that exist in our society, regardless of caste, creed, gender, religion, age or affiliation.

Those wonderful goals have my full support and, of course, without any doubt, support from all sides of the House. I wish everyone a happy Vaisakhi.

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[Translation]

ARMENIA

Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP): Mr. Speaker, almost a century ago, the world remained silent when more than 1.5 million Armenians were killed. Eight years ago, this House passed a motion to “acknowledge the Armenian genocide of 1915 and condemn this act as a crime against humanity”.

This grim and tragic historical event must not be forgotten. The brutal words of Hitler, when he was planning the Holocaust, disturb us still. That monster said, “Who today remembers the extermination of the Armenians?”

This is why we must remember the fate of the Armenians—men, women and children—in the 1915 tragedy. This is why we must commit ourselves to protecting human rights and dignity for all people around the world.

Statements by Members

Today, we join with more than 50,000 Canadians of Armenian origin in order to remember the victims of this tragedy. We are also celebrating Armenia's 20 years of independence and we sincerely hope that we are seeing on the horizon the emergence of a future of peace, mutual respect and reconciliation in that part of the world.

On April 24, *yerpek tchenk mornal*. We will never forget.

* * *

[English]

METROPOLITAN ANDREY SHEPTYTSKY

Mr. Ted Opitz (Etobicoke Centre, CPC): Mr. Speaker, during the darkest period of Europe's history, as Nazi Germany sought to exterminate Jews in their eastern European homelands, we learned of those who chose to speak out against the slaughter and do what is righteous. Among them was Metropolitan Andrey Sheptytsky, the head of the Ukrainian Catholic Church, who risked his life and those of his fellow clergy to shelter and rescue Jews from certain death. Thanks to his sacrifice, Metropolitan Sheptytsky saved over 160 Jewish lives.

Leaders of the Ukrainian Council of Churches and religious organizations representing the Christian, Jewish and Muslim faiths join us in Ottawa today to honour the courageous actions of Metropolitan Sheptytsky. They are hosted by the Canadian branch of the Ukrainian Jewish Encounter, which has done amazing work to build bridges of mutual understanding between these two communities.

Metropolitan Sheptytsky lived as a model to the world. Let his actions serve as an example to all of us that we should never shrink away from our obligations to stand up against evil and do what is right.

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HEALTHY SCHOOLS DAY

Hon. Geoff Regan (Halifax West, Lib.): Mr. Speaker, today is Healthy Schools Day in Canada. Students, teachers, parents and others in our school communities are focused today on improving the indoor environmental quality in school buildings.

Healthy Schools Day was established by Canadians for a Safe Learning Environment in Halifax West and partner organizations across Canada. This group has been very successful in helping to improve the condition of school buildings and raising awareness of products and practices used in schools. This means that students and staff have a safer and healthier place to learn and work.

I ask the House to join me in congratulating CASLE on its work. I encourage all members to join me in promoting Healthy Schools Day.

* * *

● (1415)

LIBERAL PARTY OF CANADA

Mr. Brad Butt (Mississauga—Streetsville, CPC): Mr. Speaker, when Liberal dirty trickster Adam Carroll was caught circulating the divorce files of a member of this House, he lost his job. Today, after

trying to avoid accountability for months, Parliament finally had a chance to question him. Here is what we learned.

First, the Liberal research bureau keeps copies of divorce files of members of the House in cabinet files in its office. This is an abuse of taxpayer money. The Liberal leader needs to explain why the taxpayer-funded Liberal research bureau is paying for this.

Second, we learned that Mr. Carroll may have received a massive payoff from the Liberals. After admitting that he was fired for his actions, Mr. Carroll was asked if he was collecting a severance, and he refused to answer.

In any workplace other than the Liberal Party, when one is fired for cause, one does not collect severance. Why does the Liberal Party act differently for its own staff with taxpayer money?

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NEW DEMOCRATIC PARTY OF ALBERTA

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Mr. Speaker, I wish to congratulate Alberta's New Democrats on their excellent showing in last night's election.

New Democrats placed second in Edmonton, earning over 22% of the total vote. Brian Mason and Rachel Notley are returning to the legislature to continue the principled, progressive opposition on behalf of Albertans. They will be joined by two more Edmontonians, public health advocate David Eggen and education advocate Deron Bilous.

The NDP increased its share of the popular vote and had strong showings in well-known NDP hotbeds like Lethbridge.

The results of the election will disappoint social conservatives, including those across the way who publicly endorsed the Wildrose Party. Albertans roundly rejected the Wildrose climate change deniers who wished to build a firewall around our province.

I am confident that this strengthened New Democratic Party caucus will hold the premier elect accountable to deliver on her promises to improve environmental protection and access to public health care.

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NEW DEMOCRATIC PARTY OF CANADA

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Mr. Speaker, the NDP leader has a new shadow cabinet. His team believes Canadians need higher taxes, bigger deficits and fewer jobs. His new team consistently puts the rights of criminals ahead of victims and actually travelled to the United States to lobby against Canada developing and selling its own resources.

The new NDP House leader, the hon. member for Skeena—Bulkley Valley, has repeatedly called on the government to restrict natural resource development. He strongly opposes an efficient streamlining of the review process for major economic projects. These changes will ensure timely and fair hearings in the best interest of Canadians without unnecessary delays driven by foreign-funded special interest groups.

Oral Questions

It is time for the NDP to stop trying to hurt Canada and to stick up for Canadian jobs, workers and families. Will the NDP please join us today and in the future as our Conservative government works hard for Canadians, for economic growth and for prosperity for today and for the future?

budgets that are also accounted for. The government has been expending money on development costs with the strong support not only of the Royal Canadian Air Force but also of the aviation industry based in this country.

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ORAL QUESTIONS*[Translation]***NATIONAL DEFENCE**

Mr. Thomas Mulcair (Leader of the Opposition, NDP): Mr. Speaker, I would like to ask the Prime Minister a very simple question.

Does he think it is acceptable for one of his ministers to knowingly mislead Parliament in the performance of his duties?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, I am not sure what this question is about but, obviously, I expect the ministers to always tell the truth.

[English]

Mr. Thomas Mulcair (Leader of the Opposition, NDP): Mr. Speaker, on April 5 in this House the Minister of National Defence said about the F-35, and I quote, "No money has been spent on this file".

That is completely, utterly false. The government has disbursed over \$335 million on the F-35 program. More is committed. The Prime Minister knows it; the Minister of National Defence knows it. Does the Prime Minister believe it was acceptable for his minister to mislead Parliament?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, the Leader of the Opposition knows full well that the Minister of National Defence was referring to acquisition costs for the airplane. The government, in fact, has not bought any aircraft. It has not yet signed a contract. It has not yet acquired any aircraft.

The government has spent money as part of an international consortium on the development of the aircraft, and there are more than 60 Canadian companies with contracts developing the F-35, as I have said repeatedly in the House.

• (1420)

Mr. Thomas Mulcair (Leader of the Opposition, NDP): Mr. Speaker, pilot training is a key life-cycle cost, one that seems to be left out of the Conservative's creative accounting on the F-35. The air force is categorical: under the Conservative's plan it cannot even afford to train the pilots.

Life-cycle costs have to be considered in every military equipment purchase; Treasury Board guidelines require it. The Minister of National Defence ignored the guidelines and misled Parliament on this as well. Is the defence minister's repeat contempt for Parliament acceptable to the Prime Minister, yes or no?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, of course, the minister has done no such thing. I think we have been very clear on this. We said specifically that the minister was referring, of course, and the record is very clear on this, to acquisition costs. There are other costs obviously involved in our

*[Translation]***PENSIONS**

Ms. Peggy Nash (Parkdale—High Park, NDP): Mr. Speaker, scandals are unacceptable to the NDP, just as they should be to the Conservatives. Changes to old age security are also unacceptable. Even though the Conservatives never talked about pension reform during the election campaign, they are now proposing to raise the eligibility age to 67. The Minister of Finance says that this will save money, but he does not specify how much.

The question is simple: how much money will they save?

Hon. Diane Finley (Minister of Human Resources and Skills Development, CPC): Mr. Speaker, we promised Canadians that we would ensure the sustainability of the old age security system, and that is exactly what we will do. This is not about the how much money will be saved, but about long-term sustainability in order to ensure that the system will be there when future generations need it.

[English]

Ms. Peggy Nash (Parkdale—High Park, NDP): Mr. Speaker, once again we have excuses and evasions, but they still refuse to give us the figures. The minister can dance around the facts all she likes, but Canadians deserve a real answer, Canadians who rely on OAS.

While the government claims this cut is necessary, most experts and economists disagree. Why is the government refusing to back up its claim with real evidence, and why will it not just tell us exactly how much it expects to save by raising the OAS age? It is a pretty simple question.

Hon. Diane Finley (Minister of Human Resources and Skills Development, CPC): Mr. Speaker, we are joining leading countries around the world like England, Australia, the United States and others in recognizing that the population is aging, that we are going to have fewer working Canadians supporting a dramatic increase in the number of seniors who will be relying on OAS. The changes that we are proposing are going to ensure that the OAS system is there for seniors of future generations when they need it and when they expect it.

Oral Questions

[Translation]

NATIONAL DEFENCE

Hon. Bob Rae (Toronto Centre, Lib.): Mr. Speaker, according to the Auditor General, the government did not clearly state what the cost would be to replace the jets, nor did it indicate the upgrading costs, the weapons costs, the maintenance costs or the training costs.

Just yesterday, the government had to admit that the training costs would exceed the government's original estimate by more than \$2.3 billion.

How can the government continue to claim that it did not mislead Parliament when all of these facts were flatly denied by this government, by the Minister of National Defence and by the Prime Minister himself?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, the Auditor General asked the government to re-examine the numbers concerning the F-35 and the government is committed to doing just that. We will go through all the necessary steps before we acquire this aircraft. Our commitment in that regard is very clear.

[English]

Hon. Bob Rae (Toronto Centre, Lib.): Mr. Speaker, the Auditor General concluded that the government gave Parliament information that was inaccurate and insufficient.

The Auditor General found that the government did not take into account the cost of getting new planes in case of attrition, did not take into account the fact that there is a maintenance cost that is higher for an F-35 than it is for an F-18. All of these things are clearly laid out in the Auditor General's report.

The government has said it accepts the conclusions of the Auditor General's report. It accepts his findings, all of them.

Why will the government not admit that in fact it has been misleading Parliament by giving us information that is neither accurate nor complete? Why will it not finally admit that?

• (1425)

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, as the Auditor General said, the Auditor General questioned the reliability and the completeness of information that the department had provided on these costs.

That is why the government has committed explicitly to re-examining those numbers, as suggested by the Auditor General, before we move forward. That was the Auditor General's suggestion. The government, of course, is acting on that and doing much more, putting in a process of increased supervision before we in fact spend any money to acquire new aircraft.

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ETHICS

Hon. Bob Rae (Toronto Centre, Lib.): Mr. Speaker, while the minister is swanning around London in a \$1,000-a-day limousine, many of her employees are receiving this letter:

We regret to inform you that your position is affected under the Government of Canada Workforce adjustment measures.

In other words, these workers at CIDA are being fired.

How does the government justify the discrepancy in behaviour? The minister of the crown is going around buying \$16 orange juice and staying in rooms that are unaffordable. How does the minister possibly justify this kind of an expense, this kind of an abuse? She has not paid back for the limousine.

Can the Prime Minister please tell us how—

The Speaker: The hon. Minister of International Cooperation.

Hon. Bev Oda (Minister of International Cooperation, CPC): Mr. Speaker, the expenses are unacceptable, should never have been charged to taxpayers. I have repaid the costs associated with the changing of hotels, and I unreservedly apologize.

Mr. Charlie Angus (Timmins—James Bay, NDP): Mr. Speaker, I will get to my question, but first I will have to wade through the crocodile tears. The data that we are seeing—

Some hon. members: Oh, oh!

The Speaker: Order. The hon. member for Timmins—James Bay has the floor.

Mr. Charlie Angus: Mr. Speaker, yesterday we were hoping to hear an answer on why the Minister of International Cooperation felt that a five-star hotel was not posh enough for her.

She has apologized for that, but we did not get an answer or an apology for the \$1,000 limo rides that she dinged the taxpayers for. I called the hotel and it turns out that they offer luxury free shuttles. This is about choices. This is about a minister who charged Canadian taxpayers \$5,000 to joyride at the Junos.

Will she stand up and pay that—

The Speaker: The hon. government House leader.

Hon. Peter Van Loan (Leader of the Government in the House of Commons, CPC): Mr. Speaker, the minister has repaid the costs associated with the change in hotels. Of course we have all just heard the minister apologize here in the House.

Our government has always believed that ministers should conduct their affairs with the greatest of respect for taxpayers. That is what we have done throughout the whole period of our government, and that is reflected in the fact that our costs for hospitality and travel are significantly below those of our Liberal predecessors.

* * *

ELECTIONS CANADA

Mr. Charlie Angus (Timmins—James Bay, NDP): Mr. Speaker, we are talking about a widespread pattern of her proclivity for luxury on the backs of the taxpayers. I did not hear that she is going to pay back that \$1,000 limo ride. When will we hear that answer from the minister?

Oral Questions

It is about the credibility of the government and the fact that issues now on the widespread voter fraud are becoming clear. We see that there is new data that shows thousands of misleading calls were made in key ridings against New Democrats and Liberals. Are they ready to tell us who supplied the scripts and who ran that from the Conservative war room?

Mr. Dean Del Mastro (Parliamentary Secretary to the Prime Minister and to the Minister of Intergovernmental Affairs, CPC): Mr. Speaker, when the Chief Electoral Officer appeared before committee, he stated that he finds it troubling to hear all of the sweeping allegations of wrongdoing with no facts to support them. I guess what the Chief Electoral Officer is saying is that he is troubled every time this member stands to speak because all of his sweeping allegations have no facts to support them.

* * *

• (1430)

[Translation]

ETHICS

Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP): Mr. Speaker, apologies are touching, but being paid \$237,000 a year to learn about ethics is a bit rich.

The Minister of International Cooperation was caught red-handed, and that is the only reason she paid back part of the money. Since yesterday, the Conservatives have been telling us that there is nothing going on and that there is not a problem, but the minister never proactively disclosed her lavish stay at the Savoy, despite the regulations.

So, instead of making cuts to international co-operation, to CIDA, or to Rights and Democracy, could the minister commit to reducing her orange juice consumption and her use of limousines?

Hon. Peter Van Loan (Leader of the Government in the House of Commons, CPC): Mr. Speaker, as I already said, the minister has repaid the costs associated with the change in hotels and she has apologized. Our government expects ministers to respect taxpayers' money, and that is reflected in the fact that our costs for hospitality and travel are significantly below those of our Liberal predecessors.

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41ST GENERAL ELECTION

Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP): Mr. Speaker, in connection with another of the many Conservative scandals, a recent poll conducted in the ridings most affected by allegations of election fraud reveals that it was voters who supported anyone but the Conservatives who were sent to bogus polling stations.

Perhaps the Conservatives are nostalgic for the good old days when hockey players did not wear helmets.

But Canadians do not like these scandals and these attacks against their fundamental rights. When will the government tell Canadians the truth?

Mr. Pierre Poilievre (Parliamentary Secretary to the Minister of Transport, Infrastructure and Communities and for the Federal Economic Development Agency for Southern Ontario, CPC): Mr. Speaker, just because a Liberal poll tells us the opposite

does not mean that we can forget about the election outcome. The Conservatives won because Canadians chose us to govern the country.

The hon. member should acknowledge that his party has already had to apologize for making false allegations in this regard. He should rise in the House and repeat the apology given by his NDP colleague. I invite him to do so right now.

* * *

ETHICS

Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP): Mr. Speaker, on another matter, I am starting to get concerned about the ethics commissioner's health. The minister of conflict of interest is giving her so much work to do that she is at risk of burnout.

First there was the Rahim Jaffer favouritism affair, strike one; then there was the matter of transferring the employment insurance processing centre from Rimouski to Thetford Mines, strike two; and now there is the investigation into the minister's hunting trips, strike three. If this were a baseball game, the minister would have struck out.

A few weeks ago, the commissioner said herself that she did not remember ever having to conduct so many investigations involving a single individual.

Will the hon. member for Mégantic—L'Érable accept the fact that he has made too many serious mistakes to keep his position?

Hon. Peter Van Loan (Leader of the Government in the House of Commons, CPC): Mr. Speaker, the minister has already answered those questions, and there is nothing new in this story. I understand that the Liberals have filed a complaint with the commissioner. The minister will present all the facts to the commissioner, including the fact that he paid his own expenses.

Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP): Mr. Speaker, the hon. member for Mégantic—L'Érable has already been found guilty of conflict of interest once and he is currently the subject of two other investigations.

In the most recent case, having to do with the hunting camp, the minister tried to get out of it by saying that he brought his own sleeping bag, but it was clear to the commissioner that in this whole hunting camp story, the colour of the sleeping bag was not important. The thing that counts is that there is an apparent conflict of interest in this situation and that this particular commissioner is investigating the minister again.

Is there anyone in this government who still believes in accountability and who will show this unrepentant individual the door?

[English]

Hon. Peter Van Loan (Leader of the Government in the House of Commons, CPC): Mr. Speaker, as I said, the minister has answered these questions several times. There is absolutely nothing new in this story.

Oral Questions

I understand that the Liberal Party has filed a complaint or raised issues in a letter to the ethics commissioner. The minister will provide the commissioner with everything she needs in order to be able to respond to that letter from the Liberals and that will include the fact that he did pay for all of his own expenses in this case.

Mr. Peter Julian (Burnaby—New Westminster, NDP): Mr. Speaker, all the excuses in the world for their ethical failures will not hide the fact that Canadians expect and deserve better than what they are getting from the government.

The Prime Minister does not seem to understand that these many ethical scandals popping up all over the place cast a shadow over the entire government. The ethics commissioner has now opened a third inquiry into the dealings of the Minister of Industry. “Three strikes, you’re out”.

For goodness' sake, how many inquiries does it take before the Prime Minister does the right thing and kicks the Minister of Industry out of cabinet?

• (1435)

Hon. Peter Van Loan (Leader of the Government in the House of Commons, CPC): Mr. Speaker, the minister, as I said, has answered all these questions. We will fully assist the ethics commissioner in responding to the letter that she has received from the Liberals.

The reason we are so proud of the Minister of Industry is because of his strong performance. In fact, in Canada, with his leadership and that of the Prime Minister, we have seen close to 700,000 net new jobs since the economic downturn. It is a demonstration of the fact that with his policies and the leadership of this government, what we have done to set the right environment for the economy is paying off, and Canadians are getting jobs and economic growth as a result.

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ROYAL CANADIAN MOUNTED POLICE

Ms. Niki Ashton (Churchill, NDP): Mr. Speaker, yesterday in committee RCMP Commissioner Paulson made some strong statements about the abuse that women were facing in the RCMP. For too long, women officers have suffered unimaginable abuse at the hands of their co-workers, while senior officials have looked away. The commissioner seems committed to dealing with what has come forward in terms of harassment and abuse.

What steps will the government take in order to stand by the RCMP and ensure that an end is put to the harassment and abuse women are facing?

Hon. Vic Toews (Minister of Public Safety, CPC): Mr. Speaker, I congratulate the member on her new position.

Like all Canadians, I am extremely troubled by these reports. I indicated this several months ago in the House already. RCMP members must be free to face the daily challenges of protecting our streets and communities without the fear of harassment or intimidation. That is why, in consultation with the commissioner, I have referred this matter to the Commission for Public Complaints Against the RCMP.

As there is pending litigation as well at this time, it would be inappropriate to comment further.

Ms. Niki Ashton (Churchill, NDP): Mr. Speaker, these cases are urgent and the scope is grand. We want to see the minister and his government act immediately.

Women in the RCMP have suffered harassment and abuse because they are women, something that is unacceptable in any workforce across the country. We are talking about a broader culture in the RCMP, and without the resources and the public commitment of the minister today, nothing will change.

Will the government take a tough stand and show some real action to end the harassment and abuse women face in the RCMP?

Hon. Vic Toews (Minister of Public Safety, CPC): Mr. Speaker, as I indicated several months ago on this file, we are extremely concerned about the troubling reports of sexual harassment in the RCMP. That is why we took the steps we did. We asked the Commission for Public Complaints Against the RCMP to investigate allegations of systemic failure to deal appropriately with sexual harassment within the force.

It is imperative, as I have indicated, that RCMP officers be in a position to conduct their jobs in keeping Canadians safe without concern about harassment. I am very pleased that the commissioner has taken this issue very seriously.

* * *

ETHICS

Hon. Mark Eyking (Sydney—Victoria, Lib.): Mr. Speaker, as the minister of CIDA fires employees, throws NGOs over the cliff and cuts \$380 million of foreign aid, she is off blowing \$5,000 on luxury rooms and chauffeurs. Think about what that money could do for someone surviving on \$1 a day.

This is not the first time the posh minister has been caught, and Canadians know she is a repeat offender. How many times does a minister have to get caught before the Prime Minister fires her?

Hon. Peter Van Loan (Leader of the Government in the House of Commons, CPC): Mr. Speaker, the minister has repaid the costs associated with the change in hotels and apologized to the House earlier today.

It is interesting that I am getting a question like this from the Liberals. If there is anyone who defines travelling in style, it was the Liberal Party. Since we became government, we have insisted that ministers show respect for taxpayer dollars in all of their travel. That is why under our government travel costs have gone down by 15% compared with the Liberal government. Even though the cost of travel has gone up, we are actually spending 15% less than the Liberals did.

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41ST GENERAL ELECTION

Ms. Joyce Murray (Vancouver Quadra, Lib.): Mr. Speaker, today's shocking news of the extent and nature of the election fraud scandal was released by Ekos, a non-partisan polling firm the government—

Oral Questions

Some hon. members: Oh, oh!

The Speaker: Order, please. The hon. member for Vancouver Quadra has the floor.

The hon. member for Vancouver Quadra.

• (1440)

Ms. Joyce Murray: Mr. Speaker, were the members opposite laughing when their own government contracted Ekos to the tune of \$10 million in research?

In just the seven ridings it has examined, Ekos said that up to 50,000 non-Conservative voters were targeted by this widespread fraud. When will that disgraced government stop its ethically corrupt denials and excuses and call a royal commission?

Mr. Dean Del Mastro (Parliamentary Secretary to the Prime Minister and to the Minister of Intergovernmental Affairs, CPC): Mr. Speaker, the polling firm mentioned by the member has a startling record in the last number of months. We do not comment on polls, but I think its research speaks for itself. Specifically, one need look no further than the election.

However, I would point to the comments of the Chief Electoral Officer who said, "I find it troubling, all of the sweeping allegations of wrongdoing without evidence to support it". We know the Liberals did make some illegal robocalls in the last election. They were caught doing that: illegal calls, phony numbers, phony messages. That is what the Liberals did.

We also know they have made these phony allegations, sweeping allegations with no evidence to support it. That is what the member has done. She is troubling the Chief Electoral Officer by doing it.

* * *

[Translation]

SEARCH AND RESCUE

Hon. Stéphane Dion (Saint-Laurent—Cartierville, Lib.): Mr. Speaker, the Commissioner of Official Languages confirmed our fears about the closure of the Quebec City rescue centre. Personnel in Halifax and Trenton will not provide 24/7 bilingual service. The staff will not be able to cover the large number of French-language distress calls. Bilingual capacity is scandalously inadequate. The language of work will continue to be English. Bilingual staff will have to translate everything into English.

Will the minister change his mind about this poorly conceived, dangerous plan?

[English]

Hon. Keith Ashfield (Minister of Fisheries and Oceans and Minister for the Atlantic Gateway, CPC): Mr. Speaker, again, the member opposite is wrong. As I stated many times before, the change does not affect the availability of search and rescue resources. Nor does it affect the availability of officially bilingual personnel in those locations.

We in fact have delayed the transfer of the Quebec office to Trenton to such time as we have the bilingual capacity to ensure the safety of mariners.

RAIL TRANSPORTATION

Ms. Olivia Chow (Trinity—Spadina, NDP): Mr. Speaker, since the 1990s, Canada has lost 10,000 kilometres of railway tracks, and the Liberals and the Conservatives are both responsible.

After cutting a third of VIA Rail's funding earlier this year, the latest Conservative budget chopped another \$20 million a year from VIA Rail.

While the rest of the world is encouraging trains and the use of them, the Conservative government is starving the Canadian rail service to death. Why?

[Translation]

Hon. Denis Lebel (Minister of Transport, Infrastructure and Communities and Minister of the Economic Development Agency of Canada for the Regions of Quebec, CPC): Mr. Speaker, in the preface to her question, the member made statements that are all wrong.

The last phase of Canada's economic action plan changed funding levels for previously planned infrastructure programs of known duration. We have invested \$72 million in additional funding over five years, with another \$15 million per year to ensure rail transportation safety in Canada. We will keep going. We have invested \$923 million in the Windsor-Quebec City corridor to enhance VIA Rail services. That party voted against it. They do not have a leg to stand on.

[English]

Ms. Olivia Chow (Trinity—Spadina, NDP): Mr. Speaker, in the eighties, Conservatives deregulated the rail industry and rural communities suffered.

In the nineties, Liberals sold CN and the service suffered again. With CN controlling the tracks, VIA Rail's service to Canadians also suffered.

With those out-of-touch Conservatives, who claim trains are only for the elite, rail services are again under attack.

Will the minister promise not to sell off any part of VIA Rail, now or later, yes or no?

Hon. Denis Lebel (Minister of Transport, Infrastructure and Communities and Minister of the Economic Development Agency of Canada for the Regions of Quebec, CPC): Mr. Speaker, we do not cut. That is aim of the economic action plan. We changed the numbers and we did not cut that.

My colleague is referring to the cut. We invested \$923 million in VIA Rail in 2009 through the economic action plan. Surprisingly, the NDP did not support this investment.

We will continue to support Canadian railways.

*Oral Questions***PUBLIC SAFETY**

Mr. Brian Masse (Windsor West, NDP): Mr. Speaker, the government has its priorities backward. By recklessly cutting \$143 million to the CBSA budget, the government will cost business and weaken border safety.

Instead of encouraging trade and tackling organized crime, the government has decided to give a break to smugglers. How much is the government going to save by allowing more illegal guns and drugs into Canada?

Why is the government turning its back on the public safety of Canadians for ideological cuts? Where is the logic in this?

• (1445)

Hon. Vic Toews (Minister of Public Safety, CPC): Mr. Speaker, I find it surprising that the member would be criticizing the decisions of the government when his party voted against increases to the CBSA. Our government increased front-line officers by 26% since we have come into office.

Mr. Brian Masse (Windsor West, NDP): Mr. Speaker, we voted against it because it was a bad budget that did not serve Canadians. That is what we voted against.

Canadians do not want cuts to front-line services that are designed to ensure public safety, but the Conservatives are not listening. Not only have they cut border guards, they are also cutting one-quarter of Canada's sniffer dogs. Taking away this effective detection will make smuggling easier. All of this as the minister authorized himself a lavish executive retreat in Montreal last week, costing taxpayers thousands of dollars.

How does the minister justify this spending when the government is cutting so much that even the dogs are getting pink slips?

Hon. Vic Toews (Minister of Public Safety, CPC): Mr. Speaker, as I indicated, our government has increased front-line border officer positions by 26% since coming into office.

It strikes me as somewhat unusual that the member is concerned about drugs coming into our country when he consistently votes in favour of laws that would not increase the drug penalties against those individuals. There is an individual who does not walk the walk when he is asked to.

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FOREIGN AFFAIRS

Mr. Dean Allison (Niagara West—Glanbrook, CPC): Mr. Speaker, Canada has long called for democratic reform in Burma. We have over the years imposed some of the world's toughest sanctions against Burma and its military leaders.

Our government has followed events closely, and in March the Minister of Foreign Affairs was the first Canadian foreign minister to ever visit Burma and see first-hand progress.

Would the minister please update the House on the steps Canada is taking to support democratic reform efforts in Burma?

Hon. John Baird (Minister of Foreign Affairs, CPC): Mr. Speaker, we are very pleased with the reforms taking place in Burma. The slow transition to democracy has been awaited for a

long time. We are pleased with the by-election that took place on April 1.

Today I am pleased to announce the suspension of our sanctions against Burma to signal our support for the reforms. We will watch the situation very closely, and if any reform is abandoned, we will certainly change course.

We want to work with the Burmese government, with the Burmese parliament and with Aung San Suu Kyi on democratic development to ensure the people of Burma can enjoy the same freedoms that we are blessed to enjoy in Canada.

* * *

THE ENVIRONMENT

Ms. Megan Leslie (Halifax, NDP): Mr. Speaker, yesterday when asked why the government sent meddling overseers to the International Polar Year Conference, the minister said that muzzling scientists was "established practice", but scientists disagree. A senior Environment Canada expert called the new media guidelines unethical and enormously embarrassing to our country on the world stage.

Will the minister explain how interfering in media access to our scientists fits in with the government's so-called open government approach?

Hon. Peter Kent (Minister of the Environment, CPC): Mr. Speaker, I think it is fair to say that is an outrageous misquote.

We at Environment Canada are very proud of our scientists. We make them available for many hundreds of interviews every year, and they are available even today in Montreal at the polar conference.

My friend should know that communications management is a widely respected and essential tool of any large organization. Our scientists are free to address questions regarding science. My friend should remember that when it comes to policy issues, ministers speak for the department.

[Translation]

Ms. Anne Minh-Thu Quach (Beauharnois—Salaberry, NDP): Mr. Speaker, this government is cutting budgets and firing scientists. It lacks openness.

Every week, more and more researchers are receiving layoff notices. In this context, overseers and Conservative propagandists are being sent to record every word uttered by our scientists during the IPY 2012 conference. This is an act of intimidation designed to censor our experts.

Is the minister so afraid of the facts that he wants to do away with the scientific dimension of environmental protection in the Arctic?

Oral Questions

Hon. Peter Kent (Minister of the Environment, CPC): Mr. Speaker, the premise of that question is false.

• (1450)

[English]

Our scientists in Montreal at the polar conference are spreading the good news of the policies of our government, both with regard to mitigation of climate change within the United Nations Framework Convention on Climate Change as well as outside, with a number of like-minded countries, to address short-lived climate pollutants.

Of course, my colleague should know of the significant investment our government has made in adaptation in the Canadian Arctic.

* * *

FISHERIES AND OCEANS

Mr. Fin Donnelly (New Westminster—Coquitlam, NDP): Mr. Speaker, Canadians are outraged at the Conservatives' take on fisheries and the environment.

They are muzzling scientists, they have closed the west coast oil spill response centre and today the minister announced plans to gut fisheries habitat protection. It seems there is no limit on what they will do to help their big business friends avoid environmental responsibility.

Does the minister not understand that selling out fish habitat is short-sighted and will damage both the fishery and our economy?

Hon. Keith Ashfield (Minister of Fisheries and Oceans and Minister for the Atlantic Gateway, CPC): Mr. Speaker, I thank the member opposite for his totally inaccurate question.

The current fisheries policy goes well beyond what is necessary to protect fish and fish habitat. I have been saying that for some time now.

Our government is committed to protecting Canada's commercial, recreational and aboriginal fisheries. The changes I announced earlier today will move the current regime from an indiscriminate one that treats farmers' fields and drainage ditches the same as major projects to one that actually protects Canada's fisheries from real threats, such as aquatic invasive species and habitat destruction.

[Translation]

Mr. Philip Toone (Gaspésie—Îles-de-la-Madeleine, NDP): Mr. Speaker, habitat must be protected in order to protect the fishery. The protection of fish habitat is fundamental to ensuring the health of our ecosystems and the fishery. Scientists, people who work in the fishery, anglers and even two former Progressive Conservative fisheries ministers all agree: the Conservatives' plans to protect fish habitat are a joke.

Why are the Conservatives putting our fishery at risk? Is it so that their friends in big business do not have to obey environmental rules?

[English]

Hon. Keith Ashfield (Minister of Fisheries and Oceans and Minister for the Atlantic Gateway, CPC): Mr. Speaker, I thank the hon. member opposite for his question.

Certainly the changes I announced today will enhance habitat protection. There is no question about that.

We should not be in the fields of farmers. For example, the long-running Saskatchewan jamboree was nearly cancelled after newly flooded fields were declared fish habitat, and in Richelieu, the application of rules blocked a farmer from draining his flooded property.

That is not protecting habitat. We will protect habitat.

* * *

AGRICULTURE AND AGRI-FOOD

Mr. Frank Valeriote (Guelph, Lib.): Mr. Speaker, in 2008 we saw how the listeria outbreak targeted children, seniors and other at-risk segments of the population, so Canadians deserve a straight answer when it comes to food safety.

In the wake of significant cuts to CFIA's food inspection, will the minister confirm that food inspection staff are being informed they will eliminate the program to pre-clear and track high-risk products like meat, that they will suspend key elements of the consumer protection program, and that food inspectors will move toward industry policing itself?

Mr. Pierre Lemieux (Parliamentary Secretary to the Minister of Agriculture, CPC): Mr. Speaker, what an alarming question. There was a report on OECD countries that actually listed Canada's food safety system as superior.

Our cost-saving measures will not reduce food safety. In fact, in our last budget, the one we just voted on recently, we increased funding for food safety by \$50 million.

What did the hon. member and his colleagues do? They voted against that increase in funding for food safety.

Ms. Judy Foote (Random—Burin—St. George's, Lib.): Mr. Speaker, slashing both food safety measures and jobs, Conservatives are cutting vehicle washing stations at Marine Atlantic ferry terminals in Newfoundland. These washing stations exist to prevent potato wart and potato cyst nematode-infected soil from being transported to other provinces.

The government says drivers will be responsible for removing the contaminated soil, but without the washing stations there is nowhere to wash away the contaminants.

Why is the government putting at risk a multi-billion dollar industry, in particular the potato industry in P.E.I. and New Brunswick?

Oral Questions

●(1455)

Mr. Pierre Lemieux (Parliamentary Secretary to the Minister of Agriculture, CPC): Mr. Speaker, these types of changes will have no effect on the safety of Canada's potato industry. The CFIA will continue to inspect for soil contamination and will work with the provinces and the private sector to find an alternative vehicle cleaning service.

The safety is there, the car wash is there, but the Canadian taxpayer will not be there.

* * *

[Translation]

AIR CANADA

Ms. Hélène LeBlanc (LaSalle—Émard, NDP): Mr. Speaker, while the Quebec government, Investissement Québec and the QFL Solidarity Fund are working on a recovery plan for Aveos, the Minister of Industry merely says that he sympathizes with the 1,800 workers who were laid off in Montreal. Despite everything, the government is leaving Quebec to fend for itself when it comes to saving assets and jobs.

Why is the government refusing to enforce the Air Canada privatization act? Why not support Quebec's efforts?

Hon. Denis Lebel (Minister of Transport, Infrastructure and Communities and Minister of the Economic Development Agency of Canada for the Regions of Quebec, CPC): Mr. Speaker, our position on this is clear. This situation involves two private corporations. This case is currently before the courts, so we will refrain from commenting any further.

Ms. Laurin Liu (Rivière-des-Mille-Îles, NDP): Mr. Speaker, the government does not seem to understand the urgency of the situation.

Without the good work of Quebec government officials, Aveos workers would still not have received their employment insurance cheques because they have not yet received their official termination notices even though they were summarily shown the door.

The Conservatives are hiding behind their legal opinion to avoid enforcing the law. They are washing their hands of the whole thing. On March 2, 2011, Chuck Strahl rose in the House and promised that the Montreal, Mississauga and Winnipeg centres would stay open.

Is that all that a Conservative promise is worth?

Hon. Denis Lebel (Minister of Transport, Infrastructure and Communities and Minister of the Economic Development Agency of Canada for the Regions of Quebec, CPC): Mr. Speaker, once again, in the preface to her question, the member made statements that are all wrong. It is thanks to our government, our minister and our work that Aveos workers were able to receive employment insurance benefits despite not having records of employment. How could it be otherwise?

We certainly sympathize with the workers who unfortunately lost their jobs, but once again, this is a private-sector matter that is before the courts. There will be no further comment.

[English]

NATURAL RESOURCES

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Mr. Speaker, there is currently a proposal to restore a flow of oil to its original direction from west to east, from Alberta to Ontario. This is a routine proceeding requiring little change.

This proposal would reduce our dependence on foreign oil, create jobs and help consumers. This is a win-win for everyone across the country and could create much-needed economic opportunities in my riding of Sarnia—Lambton. However, there are those who seek to delay this process. Could the Minister of Natural Resources update the House?

Hon. Joe Oliver (Minister of Natural Resources, CPC): Mr. Speaker, yet again groups opposed to resource development are seeking to delay a simple process by flooding our independent regulator with over 40,000 form letters. Yet again, we need to make changes. We need to show that we need to make changes to ensure our system works efficiently while hearing from Canadians who have a direct interest.

The question is this: will the leader of the opposition, who argued for eastern oil access, side with Canadian jobs or with groups doing everything to block job-creating projects?

* * *

PUBLIC SAFETY

Mr. Ted Hsu (Kingston and the Islands, Lib.): Mr. Speaker, the government said that by closing Kingston Penitentiary, the Regional Treatment Centre and Leclerc Institution, we would save \$120 million per year. Public Accounts Canada 2011 says this is just the combined annual budget of the three institutions, but the true savings can only be a fraction of that. The \$120 million must be reduced by the total expense of holding the 1,000 inmates elsewhere.

Could the minister inform us how much it will cost to hold these 1,000 inmates elsewhere and what the true net savings will be to Canadian taxpayers?

Hon. Vic Toews (Minister of Public Safety, CPC): Mr. Speaker, I am advised by the department that the true net savings is \$120 million a year.

* * *

[Translation]

LANGUAGE OF WORK IN QUEBEC

Mr. Robert Aubin (Trois-Rivières, NDP): Mr. Speaker, the NDP came up with a solution to protect francophones working in federally regulated businesses in Quebec. The Conservatives voted against it. What is their solution? To create a puppet advisory committee, which we have yet to hear from five months later.

Can the minister of conflict of interest tell the House what mandate he gave the committee, how frequently it will meet and when we can expect a report?

Oral Questions

● (1500)

[English]

Hon. Lisa Raitt (Minister of Labour, CPC): Mr. Speaker, as has been said in the House many times before, the Canada Labour Code has great protection for citizens in Canada and in Quebec. We are very proud of the language work that we are doing in Quebec. We are very proud of our Canadian record and our government's record.

That said, the Minister of Industry has announced that there is going to be a committee set up to study the matter, and we look forward to hearing about it.

* * *

JUSTICE

Mr. James Lunney (Nanaimo—Alberni, CPC): Mr. Speaker, this week is National Victims of Crime Awareness Week. To help give victims a stronger voice in the criminal justice system, our government is supporting local events and projects across Canada.

In the past few days we have announced \$7 million in new funding for the victims fund. Furthermore, the Prime Minister recently announced the new income support program for parents who are coping with the death or disappearance of a child that occurred as a result of crime. In fact, new legislation was introduced just today.

Can the Minister of Justice please inform the House about the government's latest initiative to help victims?

Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, today we introduced legislation that will make convicted offenders more accountable to the victims of crime. We will double the federal victim surcharge that offenders must pay and ensure that this surcharge is automatically applied in all cases. The revenue from this surcharge is used to provide direct services to victims of crime. We believe this sends the right message to criminals: they must pay for the harm that they caused their victims.

Canadians deserve a justice system that respects the victims of crime and one that sentences offenders appropriately. We committed to Canadians to put the rights of victims first, and after passing 20 justice bills since 2006, we have delivered.

* * *

CITIZENSHIP AND IMMIGRATION

Ms. Jinny Jogindera Sims (Newton—North Delta, NDP): Mr. Speaker, in legislation after legislation the Conservatives, with their recklessness, are unfairly punishing genuine refugees and putting lives at risk. Even under the current system, the government deported a refugee claimant, and she paid the ultimate price: her life.

Instead of improving the process and ensuring a fair and independent decision, the Conservatives are making matters worse by pushing this legislation about refugees. Why is the government putting even more power into the hands of one minister and creating an environment for more lives being at risk?

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism, CPC): Mr. Speaker, we are doing the opposite. Through this legislation, this government is creating, for the first

time ever, a full fact-based appeal, including an oral hearing for failed asylum claimants at the new refugee appeal division. It is an extra safeguard to ensure that we do not return people to face danger.

However, I regret that the member seeks to politicize a tragic case of a woman. I have read all of the decisions made by the IRB, the Federal Court and the pre-removal risk assessment, and I can tell the member that the tragic circumstances that this lady faced in Mexico had absolutely nothing to do with her claim of fear of a boyfriend in the United States.

* * *

FOREIGN AFFAIRS

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Mr. Speaker, the Prime Minister recently said in Colombia that it was a matter of principle that Cuba should be excluded from the Summit of the Americas. As Communist China keeps buying up Canada, I am wondering where the principle is. While Cuba has a long way to go, it recently held an open mass where the Pope invited Cuban Catholics to worship. There is no such freedom of religion in China's persecution of Tibetan monks, Falun Gong and Christians, which goes unimpeded.

I am asking the Prime Minister, as he hands the keys of Canada to China, what principle excludes Cuba?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, the issue is that the Summit of the Americas, by agreement in the Declaration of Quebec City some years ago under the preceding government, agreed that the Summit of the Americas was open to democratically elected leaders from the hemisphere. Cuba does not qualify because the leader is not democratically elected, and China does not qualify because it is not in the Americas.

* * *

PRESENCE IN GALLERY

The Speaker: Order, please.

I would like to draw the attention of hon. members to the presence in the gallery of leaders and representatives of all Ukraine's major faith denominations—Catholic, Christian, Jewish and Muslim—who are visiting Canada to acknowledge Metropolitan Andrey Sheptytsky's heroic good works during the Second World War.

Some hon. members: Hear, hear!

The Speaker: I understand the Minister of Citizenship, Immigration and Multiculturalism is rising on a point of order.

• (1505)

METROPOLITAN ANDREY SHEPTYTSKY

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism, CPC): Mr. Speaker, on behalf of all members, we are delighted to be joined by religious leaders from Ukraine and I believe there have been consultations from all parties. I am pleased to propose the following motion and I seek unanimous consent for its adoption. I move:

Whereas Metropolitan Andrey Sheptytsky (1865-1944) of the Ukrainian Catholic Church, was the leader of Western Ukraine's largest faith group during the period of the Second World War; and

Whereas in the darkest period of Europe's history, with the deepening horrors of the mass murder of Jews in their homelands in Eastern Europe under German occupation during World War II, he spoke out eloquently against anti-Jewish violence and urged his congregants in a famous homily: "Thou Shalt Not Kill;" and

Whereas leaders and representatives of all Ukraine's major faith communities—Christian, Jewish, and Muslim—are visiting Canada to acknowledge Metropolitan Sheptytsky's good works; and

Whereas Metropolitan Sheptytsky acted to shelter and rescue Jews, saving over 160, including some present with us in Ottawa today;

This House is united in expressing Canada's recognition of Andrey Sheptytsky's courageous actions, compassion for his oppressed Jewish Ukrainian countrymen, and enduring example of commitment to fundamental human rights as humankind's highest obligation.

The Speaker: Does the hon. Minister of Citizenship, Immigration and Multiculturalism have the unanimous consent of the House to propose this motion?

Some hon. members: Agreed.

The 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)

* * *

WAYS AND MEANS

MOTION NO. 11

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism, CPC) moved that a ways and means motion to implement certain provisions of the budget tabled in Parliament on March 29, 2012, and other measures, be concurred in.

The Speaker: Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

Some hon. members: No.

The Speaker: All those in favour of the motion will please say yea.

Some hon. members: Yea.

The Speaker: All those opposed will please say nay.

Some hon. members: Nay.

The Speaker: In my opinion the yeas have it.

And five or more members having risen:

The Speaker: Call in the members.

Oral Questions

And the bells having rung:

Hon. Gordon O'Connor: Mr. Speaker, I ask that we proceed immediately with the vote.

• (1515)

[Translation]

(The House divided on the motion, which was agreed to on the following division:)

(Division No. 184)

YEAS

Members

Adams	Adler
Aglukkaq	Albas
Albrecht	Alexander
Allen (Tobique—Mactaquac)	Allison
Ambler	Ambrose
Anders	Anderson
Armstrong	Ashfield
Aspin	Baird
Bateman	Benoit
Bernier	Bezan
Blaney	Block
Braid	Breitkreuz
Brown (Leeds—Grenville)	Brown (Newmarket—Aurora)
Brown (Barrie)	Butt
Calandra	Calkins
Cannan	Carmichael
Carrie	Chong
Clarke	Clement
Daniel	Davidson
Dechert	Del Mastro
Devolin	Dreeshen
Duncan (Vancouver Island North)	Dykstra
Fantino	Fast
Findlay (Delta—Richmond East)	Finley (Haldimand—Norfolk)
Flaherty	Fletcher
Galipeau	Gallant
Gill	Glover
Goguen	Goldring
Gosal	Gourde
Grewal	Harper
Harris (Cariboo—Prince George)	Hawn
Hayes	Hiebert
Hillyer	Hoback
Hoepfner	Holder
James	Jean
Kamp (Pitt Meadows—Maple Ridge—Mission)	Keddy (South Shore—St. Margaret's)
Kenny (Calgary Southeast)	Kent
Kerr	Komarnicki
Kramp (Prince Edward—Hastings)	Lake
Lauzon	Lebel
Leef	Leitch
Lemieux	Leung
Lizon	Lobb
Lukiwski	Lunney
MacKay (Central Nova)	MacKenzie
Mayes	McLeod
Menegakis	Merrifield
Miller	Moore (Port Moody—Westwood—Port Coquitlam)
Moore (Fundy Royal)	Nicholson
Norlock	O'Connor
O'Neill Gordon	Oda
Oliver	Opitz
Payne	Penashue
Poillievre	Preston
Raït	Rajotte
Rathgeber	Reid
Rempel	Richards
Richardson	Rickford
Saxton	Schellenberger
Seeback	Shea
Shiple	Shory
Smith	Sopuck
Sorenson	Stanton
Storseth	Strahl
Sweet	Toet

Privilege

Toews	Trost
Trottier	Truppe
Tweed	Uppal
Valcourt	Van Kesteren
Van Loan	Vellacott
Wallace	Warawa
Watson	Weston (West Vancouver—Sunshine Coast—Sea to
Sky Country)	
Weston (Saint John)	Williamson
Wong	Woodworth
Young (Oakville)	Young (Vancouver South)
Zimmer— 151	

The Speaker: I declare the motion carried.

* * *

[*English*]

PRIVILEGE

NATIONAL DEFENCE

Hon. John McKay (Scarborough—Guildwood, Lib.): Mr. Speaker, I take this opportunity to rise with respect to the probable and plausible contempt motion put forward brilliantly and succinctly by the member for Toronto Centre on April 5, just prior to the House rising.

Representatives of the Green Party and Bloc immediately concurred and associated themselves with his remarks, and just today the NDP did as well.

However, in my judgment, the Conservatives have made some largely irrelevant comments.

The hon. member for Toronto Centre made a compelling case for truthfulness—

Some hon. members: Oh, oh!

The Speaker: Order. The Chair is trying to hear the hon. member for Scarborough—Guildwood. I would invite members who need to carry on conversations with their colleagues to do so in the lobby.

Hon. John McKay: Mr. Speaker, I appreciate that the chamber needs to clear before we carry on.

Nevertheless, the hon. member for Toronto Centre made a compelling case for truthfulness in this chamber.

He quoted Speaker Fraser from the *Debates* of May 5, 1987, when he said, “the protection of absolute privilege because of the overriding need to ensure that the truth can be told”, that is, we have our privileges because truth needs to be paramount in this chamber.

He went on to quote Speaker Milliken, who said:

—members have argued that the minister has made statements in committee that are different from those made in the House or provided to the House in written form. Indeed, these members have argued that the material available shows that contradictory information has been provided. As a result, they argue, this demonstrates that the minister has deliberately misled the House and that as such, a prima facie case of privilege exists.

He then went on to quote Speaker Jerome from March 21, 1978. This is the test for use. He stated:

—the Speaker should ask himself...could it reasonably be held to be a breach of privilege, or to put it shortly, has the Member an arguable point? If the Speaker feels any doubt on the question, he should, in my view, leave it to the House.

Some hon. members: Oh, oh!

The Speaker: Order. I hate to interrupt the hon. member. I will just ask one more time that members who need to carry on conversations do so in the lobbies. The member is addressing a question of privilege, and the Speaker would like to hear the points being raised.

NAYS

Members

Allen (Welland)	Andrews
Angus	Ashton
Atamanenko	Aubin
Ayala	Bélanger
Benskin	Bevington
Blanchette	Blanchette-Lamothe
Boivin	Borg
Boulerice	Brahmi
Brison	Brosseau
Byrne	Caron
Casey	Cash
Charlton	Chicoine
Choquette	Chow
Christopherson	Cleary
Coderre	Côté
Cotler	Crowder
Cullen	Cuzner
Davies (Vancouver Kingsway)	Davies (Vancouver East)
Day	Dewar
Dion	Dionne Labelle
Donnelly	Doré Lefebvre
Dubé	Duncan (Etobicoke North)
Duncan (Edmonton—Strathcona)	Dusseau
Easter	Eyking
Foote	Freeman
Fry	Garneau
Garrison	Genest
Giguère	Godin
Goodale	Gravelle
Groguhé	Harris (Scarborough Southwest)
Harris (St. John's East)	Hassainia
Hsu	Jacob
Julian	Kellway
Lamoureux	Lapointe
Latendresse	Laverdière
LeBlanc (Beauséjour)	LeBlanc (LaSalle—Émard)
Leslie	Liu
MacAulay	Mai
Marston	Martin
Masse	Mathysen
May	McCallum
McGuinty	McKay (Scarborough—Guildwood)
Michaud	Moore (Abitibi—Témiscamingue)
Morin (Chicoutimi—Le Fjord)	Morin (Notre-Dame-de-Grâce—Lachine)
Morin (Laurentides—Labelle)	Morin (Saint-Hyacinthe—Bagot)
Mourani	Mulcair
Murray	Nash
Nicholls	Nunez-Melo
Pacetti	Papillon
Patry	Pécllet
Perreault	Pilon
Plamondon	Quach
Rae	Ravignat
Raynault	Regan
Rousseau	Saganash
Sandhu	Scarpaleggia
Scott	Sellah
Sgro	Sims (Newton—North Delta)
Sitsabaiesan	St-Denis
Stewart	Stoffer
Sullivan	Toone
Tremblay	Trudeau
Tumel	Valeriote— 126

PAIRED

Nil

Privilege

Hon. John McKay: Mr. Speaker, there are two versions of the F-35 costs, and Parliament and, by extension, the people—have been left confused by the various versions of these costs.

In 2011, the Parliamentary Budget Officer presented a report estimating full life-cycle costs at \$29 billion. The definition of full life-cycle costs is found in the GAO Cost Estimating and Assessment Guide at page 32, chapter 3. Without going into a lot of detail, it states:

Life cycle can be thought of as a “cradle to grave” approach to managing a program throughout its useful life. This entails identifying all cost elements that pertain to the program from initial concept all the way through operations, support, and disposal.

This is the definition that the Americans use, that the Parliamentary Budget Officer uses, that the Auditor General uses and that other nations use. Apparently, everyone uses this definition except the Minister of National Defence, the Prime Minister, the Associate Minister of National Defence and the Minister of Public Works and Government Services. The Parliamentary Budget Officer, using this definition, estimated the cost of the F-35 fighter at \$29 billion and the Auditor General at \$25 billion. The Department of National Defence, however, had two sets of books: the minister's version and the internal version. On the minister's version, which was for public consumption only, the cost was \$15 billion. For internal purposes, however, DND estimated the full life cycle cost to be \$25 billion. Hence, the \$10 billion deceit.

On June 14, 2011, in response to a question from his own colleague, the member for Kitchener—Waterloo, the Minister of National Defence stated:

While the \$9 billion sounds like a significant amount of money—and it is—keep in mind that it is amortized over a 25-plus-year period of time.

He was even misleading his own members.

In response to a question before the Standing Committee on National Defence on March 13, 2012, the Associate Minister of National Defence stated:

I think the only factual answer that can be given at this point in time is that the Canadian government has allocated \$9 billion to ensure that our men and women in the air force and in the military are afforded the best equipment possible to do their jobs.

In testimony before the Standing Committee on National Defence on September 15, 2010, at which the Minister of National Defence and the Minister of Public Works and Government Services appeared, the following statement was provided to the committee by the assistant deputy minister of the Department of National Defence, Materiel, who stated:

...it's important to recognize that the quoted \$9-billion program cost includes a lot more than the cost of 65 aircraft. The \$9 billion also includes almost \$2 billion in contingency and currency escalation, as well as elements such as the integrated logistics support, weapons, infrastructure simulation, etc., all of which would be intrinsic in any fighter that you chose to acquire.

This was presented as it appears, an all-inclusive cost, hardly representative of the findings of the Auditor General.

The contention of the Auditor General is that the facts concerning the procurement of the F-35s were not, to be charitable, accurately presented to Parliament. In his report, he clearly expressed concerns over the fact that parliamentarians were not given full and complete information. He said, on page 30, paragraph 2.76, “Some costs were

not fully provided to parliamentarians”. I submit that is the understatement of the year.

To reinforce this revelation by the Minister of National Defence that he knew the costing was at least \$10 billion higher than had been publicly reported by the government to Parliament, the Auditor General has confirmed that fact subsequent to his appearance before the public accounts committee, a fact that the Speaker must take into account as it related directly to the question of privilege.

● (1520)

It was reported that, according to the Auditor General, senior members of the Conservative government would have known that the cost of the aircraft had shot up to \$25 billion by the time the 2011 election was to take place, but publicly stuck to a lower estimate of \$15 billion.

The *Toronto Star* on April 6, 2012, the Auditor General stated:

I can't speak to individuals who knew it, but it was information that was prepared within National Defence, and it's certainly my understanding that that would have been information that, yes, that the government would have had.

Furthermore, the Minister of National Defence appeared on CBC's *Question Period* on April 8 stating that he had been well aware that the costs associated with the F-35 were in fact \$10 billion beyond the figures made available by the government prior to the Auditor General's report. What should be noted is that the minister did not make the statement either in the House or apparently before the standing committees of Parliament any time prior to April 5, 2012.

The government has, in part, responded to this by claiming that the discrepancy in numbers is simply a difference in accounting. It claims that the costs it provided to the House of Commons was a lower number merely because it had chosen not to include the full life cycle cost.

However, in the fall 2010 Auditor General's report on the acquisition of military helicopters on page 41, paragraph 6.74, in a response to the recommendation the Department of National Defence pledged to make it a policy to include, in the future, life cycle cost estimates when procuring military equipment. DND pledged to make full life cycle cost part of its presentation on any future procurement.

Therefore, this is not a rounding error. This is not a mere difference in accounting. The policy of including life cycle costs was clearly understood by all parties, the department and the minister. This was a clear and deliberate attempt to mislead the members of the House.

If the ring around from ministers has not made our heads spin yet, just wait. On page 3 of the Auditor General's spring 2012 report, which examined the bungled F-35 procurement, under “The departments have responded” section, we get the following:

National Defence, Industry Canada, and Public Works and Government Services Canada have accepted the facts presented in the chapter. Both National Defence and Public Works and Government Services Canada disagree with the conclusions set out in paragraphs 2.80 and 2.81.

The department agrees with the facts but disagrees with the conclusions. I have no idea what that means. Mr. Speaker, if you are not as confused as I am yet, just wait until we get to the ministers' responses.

Privilege

The Associate Minister of Defence, the Minister of Defence and the Minister of Public Works all said:

We do in fact accept the conclusions of the Auditor General, and we will in fact implement his recommendations.

The Minister of Defence said, "We have said that we accept his conclusions".

The Associate Minister of National Defence said, "We accept the conclusions of the Auditor General".

The Minister of Public Works and Government Services said:

I say to the member that our government believes very strongly that the Auditor General's recommendations and conclusions were accurate, and we agree with them.

The Leader of the Government in the House of Commons said:

This government has clearly expressed, through the ministers here, the views we have that we accept the findings of the Auditor General and the recommendations.

The Government House Leader attempted to explain this inconsistency yesterday by disassociating himself with his previous remarks. He stated:

I invite the Chair to take a comprehensive and complete reading of chapter 2 of the Auditor General's report. From that, one will see that it contemplates a distinction between the departments and their officials on the one hand, being National Defence and Public Works and Government Services, and the government or ministers on the other.

• (1525)

That statement should send a chill through the spine of every parliamentarian and, indeed, all Canadians and government agencies and departments. On the surface, the government House leader, speaking for the Prime Minister and the government, has clearly decided that ministerial responsibility has its limits and that the limit occurs when the Conservative government is caught misleading Canadians and this Parliament.

The government House leader would be well advised to read O'Brien and Bosc's *House of Commons Procedure and Practice*, second edition, 2009, or at least have someone read it for him, as there is a very clear definition of what constitutes ministerial responsibility contained in that volume.

At page 32 it reads:

The principle of individual ministerial responsibility holds that Ministers are accountable not only for their own actions as department heads, but also for the actions of their subordinates; individual ministerial responsibility provides the basis for accountability throughout the system. Virtually all departmental activity is carried out in the name of a Minister who, in turn, is responsible to Parliament for those acts. Ministers exercise power and are constitutionally responsible for the provision and conduct of government; Parliament holds them personally responsible for it.

In a ruling by Speaker Milliken on April 27, 2010, at page 2041 of *Debates*, reference was made to a letter from an assistant deputy minister from the Department of Justice to the law clerk and parliamentary counsel dated December 9, 2009, concerning the obligation to submit documents to parliamentary committees, which stated in part that "government officials...are agents of the executive". Clearly, government officials are not free agents. They act on behalf of their respective ministers.

One could cite numerous authorities to support this statement but I do not believe that is necessary. What is interesting is that this avoidance of ministerial responsibility was not always articulated by the government.

The following is a series of statements from the current Minister of Foreign Affairs made before the access to information and ethics committee on June 10, 2010, at page 4, concerning the committee's efforts to have ministerial staff appear before the committee to testify to illegal interference with access to information release. It reads:

...ministers are accountable and answerable to Parliament for government policies, decisions, and operations, and ministerial staff are accountable to their ministers. If anything, there is an attempt, I think, to strengthen accountability by having ministers take full responsibility for the actions of the members of their political staff in their office.

On the same matter, on June 8, 2010, the Prime Minister stated, at page 3553 of the *Debates*, "...in our system, ministers are accountable to Parliament for their actions".

Later that day, the then parliamentary secretary to the minister stated, at page 3553 of the *Debates*, with respect to ministerial responsibility:

...for hundreds of years, the principle of ministerial accountability has been paramount here in the House and in its committees. We will continue to respect that principle in order to improve and build a Canada where politicians are accountable.

The reasons for this firm belief and declaration of the principle of ministerial responsibility by the same government were made in an overt attempt to shield members of ministerial staff from having to testify before committees of this House to answer for illegal acts for which those staff members were identified.

I would submit that the citation from O'Brien and Bosc and the statements made by the members of the government regarding ministerial responsibility run completely counter to the argument made by the government House leader in this place on April 4 in an attempt to place blame on departmental officials for failures associated with the accurate costing of the F-35 procurement and the presentation of inaccurate information before this Parliament.

Before we get too confused, I will do a review.

• (1530)

Point one, truthfulness is a cornerstone of parliamentary democracy.

Point two, the universal definition of life-cycle costing, cradle to grave, is set out in the GAO Cost Estimating and Assessment Guide.

Point three, the PBO used that definition when filing its report in 2011.

Point four, the finance committee demanded a full life-cycle costing based upon that definition, which led to a non-confidence motion and the government's defeat.

Point five, the Auditor General used that definition.

Point six, DND pledged to use that definition in 2010, which it did but only for its own internal use.

Point seven, DND, Public Works, etcetera, agree with the facts but not the conclusions.

Point eight, ministers agreed with the facts and the conclusions.

Point nine, the government House leader agrees with neither the facts nor the conclusion and blames it on the department.

Privilege

Point 10, the Minister of Foreign Affairs accepts the premise of ministerial responsibility for his staff and his department.

What do we make of this confusion, the Keystone Kops' exercise in accountability? If this is not misleading, I do not know what it is.

When misleading, incorrect or incomplete information is provided to the members in the House of Commons, it then becomes difficult, if not impossible, to adequately hold the government to account. This is viewed as such a serious offence that the 34th edition of *Halsbury's Laws of England* states at page 558:

Ministers who knowingly mislead Parliament are expected to offer their resignation to the Prime Minister and such an offence might also be proceeded against as a contempt.

I would argue that the case before you today, Mr. Speaker, is one of the most serious, egregious and clear cases of contempt that this House has ever seen. Over the past two years we have not only seen minister after minister but also the Prime Minister knowingly and purposefully repeat misleading and false statements to the House of Commons and to the Canadian public.

Even with the release of the Auditor General's report, which confirmed what members of the House of Commons, the press, procurement experts and essentially anyone outside of the Conservative caucus already knew, that the numbers we were given were false, the government continued to try to confuse and mislead members by offering up contradictory responses to the report.

The significance of this cannot and should not be underestimated. Page 201 of *Erskine May* cites a British resolution that clearly outlines ministerial accountability.

...that, in the opinion of this House, the following principles should govern the conduct of Ministers of the Crown in relation to Parliament:

(1) Ministers have a duty to Parliament to account, and to be held to account, for the policies, decisions and actions of their Departments...;

(2) It is of paramount importance that Ministers...give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister;

(3) Ministers should be as open as possible with Parliament...

It is this resolution that gets to the crux of the problem we are facing here today. Mr. Speaker, you rightly call us to account if we call any member in this House a liar. You do this to preserve the dignity and tone of the debate and to prevent ad hominem attacks. Instead, debate in the House of Commons is intended to be based on fact rather than personality and on evidence rather than speculation.

As the arbiter of this institution, Mr. Speaker, we are also required to speak through you. As we are expected to speak truth through you, it is a time-honoured tradition based on trust and honesty, one that is fundamental to our system.

Here we have an instance where a number of ministers have spoken absolute falsehoods through you, Mr. Speaker, no ifs, ands or buts. The question is then: What must be done? If we cannot hold members to speaking the truth, then the entire premise of this institution is eroded. As members, our duty to constituents is to hold the government to account, but if we are not given full and proper information and are misled by the government, how can we fulfill this role?

On page 510 of the *House of Commons Procedure and Practice* it states:

The Speaker ensures that replies adhere to the dictates of order, decorum and parliamentary language. The Speaker, however, is not responsible for the quality or content of replies to questions.

● (1535)

However, Speaker Milliken stated in his ruling on a similar question of privilege on February 10, 2011:

This is not to say, however, that there are not circumstances when the Chair could determine, given the proper evidence, that statements made to the House have indeed breached the privileges of the House.

According to *Parliamentary Practice in New Zealand*, third edition, at pages 653 to 654, in order to establish a prima facie finding that a breach of privilege and contempt has occurred, the requirements are clear: first, it must be proven that the statements were misleading; second, it must be established that the member at the time knew the statement was incorrect; and third, in the making of the statement, the minister intended to mislead the House.

The government knew as early as June 2010 that the cost of the F-35s would be significantly higher than expected and yet chose to provide inaccurate and incomplete information to members of Parliament. When members of Parliament asked for clarification on these numbers, the government chose not to clarify the confusion. We know as a result of the Auditor General's report that the statements were misleading, but it is also very easy to conclude from this series of events that the government knew its statements would be misleading and that it intended to mislead.

Following the tabling of the Auditor General's report, the government again made false and misleading statements. It posited that it had accepted the recommendations of the Auditor General after statements were clearly made in the report that indicated that the departments did not agree with a number of the conclusions. One can only assume that, by providing such contradictory responses, the government intended to mislead members of Parliament and Canadians.

With the evidence I have laid out before you today, Mr. Speaker, I am adding my own voice to support the member for Toronto Centre's case for a prima facie finding of contempt.

When members are allowed to lie in the House, it degrades not just our reputation and the reputation of the party they represent, but also your reputation, Mr. Speaker, my reputation and the reputation of this institution as a whole. I am not willing to stand for that, Canadians are not willing to stand for that and I hope and trust you will not be willing to stand for that.

● (1540)

Hon. Wayne Easter (Malpeque, Lib.): Mr. Speaker, I will be short. I felt moved to speak to this question of privilege after listening to the House leader yesterday try to refute the arguments of the question of privilege.

Yesterday, the government House leader told the House, at page 7025 of *Debates*:

Government Orders

...because ministers have taken a posture different from that originally taken by bureaucrats, in respect of chapter 2 of the...[Auditor General's report], Parliament is being misled.

Let me be clear. The government, as represented by the Minister of National Defence, in particular, and by the Prime Minister as well, misled the House as to the costs associated with the F-35s.

I would remind the Speaker of the statement made in the House by the Minister of National Defence, who was adamant about the existence of a contract and the costs associated with the procurement of F-35s. He stated:

Mr. Speaker, let us look at the actual contract. What the Canadian government has committed to is a \$9 billion contract for the acquisition of 65 fifth generation aircraft. This includes not just the [cost of the] aircraft, but also includes the onboard systems, supporting infrastructure, initial spares, training simulators, contingency funds. This is a terrific investment for the Canadian Forces.

That was from the December 13, 2010, *Debates* on page 7130.

The following statement from page 3 of the Auditor General's report, chapter 2, should be of concern to you, Mr. Speaker, with respect to the issue of question of privilege. It states:

National Defence likely underestimated the full life-cycle costs of the F-35. The budgets for the F-35 acquisition (CAN\$9 billion) and sustainment (CAN\$16 billion) were initially established in 2008 without the aid of complete cost and other information. Some of that information will not be available until years from now.

Note the date referred to by the Auditor General, 2008. What makes that statement by the Auditor General significant is that the current Minister of National Defence, who deliberately misinformed the House as to the total costs on December 13, 2010, has been the Minister of National Defence since 2007, which means throughout the period the Auditor General is concerned about. It was this minister who was the minister of the department responsible.

It is my belief, having been a member of cabinet, that it is this minister and the current government that, in a matter relating to costing, deliberately misled Parliament.

With respect to the Prime Minister, I would make the following submission.

On November 3, 2010, at page 5751 of *Debates*, the Prime Minister, while attempting to berate the opposition for questioning the manner in which the government was handling the contracts, stated the following:

We are going to need to replace the aircraft at the end of this decade, and the party opposite knows that...

It would be a mistake to rip up this contract for our men and women in uniform as well as the aerospace industry.

The Prime Minister was clear. It is reference to a contract to acquire the F-35s to replace the CF-18s. There was no reference to any other kind of contractual agreement with anyone for anything other than for the replacement of the CF-18s.

Yet on April 5, 2012, at page 6948 of *Debates*, after the Auditor General's report the Prime Minister had changed his tune, declaring that the government "has not signed a contract".

One of those statements is misleading and a falsehood. That constitutes a breach of the privileges of all members of this place.

I know a fair bit of time has been spent on this and I would love to talk about the House leader's rendition of ministerial responsibility in the House yesterday, but I will leave that.

• (1545)

The fact is that the Minister of National Defence and the government generally were responsible for what has been stated in this place, not officials. The responsibility is that of the ministers. The fact is simple enough. What the House was told by members of the government does not accord with the findings of the Auditor General and that constitutes a deliberate misleading of the House, I believe, on both fronts, the contract and what my colleague, the member for Toronto Centre said in his first question of privilege.

The Speaker: I thank both hon. members for their further submissions on this question.

GOVERNMENT ORDERS

[English]

CITIZEN'S ARREST AND SELF-DEFENCE ACT

The House resumed consideration of the motion that Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons), be read the third time and passed.

Mr. Malcolm Allen (Welland, NDP): Mr. Speaker, I am pleased to rise to speak to Bill C-26, an act pertaining to what civilians can or cannot do when it comes to crimes that are perpetrated against them or their property.

It reminds me of my colleague, the member for Trinity—Spadina, and her constituent who was arrested after a perpetrator, who committed crimes against his particular business, was apprehended by him in a citizen's arrest.

When we look at the bill in the sense of what we should do on a go forward basis, it reminds me that we always need to think about many things when we suggest to citizens or when we try to protect them from charges against them when they try to protect themselves or their property.

I am always cautious around that type of action. Citizens need to be careful that they do not push the limits in what they do to protect themselves and their property when perhaps leaving the situation would be more advantageous. They could be either attacked or hurt when a situation could be defused.

Clearly we want to help them protect their property, their families and themselves from unwanted criminal acts that are perpetrated against them, but by the same token, we do not want to mislead them into believing that somehow, all of a sudden, they should become some form of adjunct police force.

As much as we support the bill, I would caution folks that if they are faced with the predicament of being attacked or their property being broken into and they are unable to move away, they should take reasonable precautions to ensure their property or their family is protected in a safe way that will not inflame or injure themselves or put them or their families at an even greater risk. It is not wrong to protect one's property, one's family or one's self from the perpetrator of a crime.

Government Orders

However, we do not want to give that false sense that individuals should be police officers because they live out in the country. I live out in the country, and to be honest, there really are no police officers in the neighbourhood for any of us who live in rural parts of Canada. The officers are quite far away, and that is as it should be. There are not many of us there and we cannot have an officer for half a dozen houses if they are miles and miles apart. It quite often takes a period of time for folks to get there.

Many of us have been victims of folks who have taken our property. I was the unwilling victim. It happens in rural Ontario, and I am sure it happens to rural constituents across this great land of ours, those who have nice sheds. When I say a shed, it is not the ones we get at Canadian Tire, 7x12 with flimsy stuff. These are great big sheds that hold full tractors, lawn tractors, lawn implements or other implements. We get a rash of folks coming across the rural constituencies who simply decide to load up their trucks with our goods.

In my case it was the famous whipper-snipper and chain saws. The only fortunate part was that whoever the perpetrators were, they could not figure out how to get the lawnmower tractor to move. They did not know that if they yanked on the little lever on the back, it would free-wheel and they would be unable to move it because the transmission was locked, fortunately, so I did not lose that. However, I lost a whole pile of other things.

Unfortunately for me, after I decided to bolt things up and chain them all together after I had replaced them, about four months later they decided to pay me another visit and scooped more stuff, but still could not get the tractor. I have to thank my dad for that, albeit he is no longer with us. As a millwright, he left me great big 10 and 20 foot lengths of chain with the great big locks he used to have when he was an industrial millwright, which would take one heck of a heavy bolt cutter to get through if an individual wanted to do that. These folks do not have bolt cutters. They do not really come equipped with that type of tool. Therefore, they could not get the additional stuff from me.

● (1550)

If I had been home at the time and witnessed the fact that those folks were entering my property and stealing valuable tools from me, which I need for the purposes of looking after my property, I certainly would have been at the window, yelling at them. Depending on the circumstances of what was going on, I may have been reluctant to actually go out and physically confront them. If there were more than one of them, and I was by myself, that may not have been what I would have wanted to do. I certainly would have been on the phone to 911. I may have been marking down their licence plate number and then allowing those sorts of things to go on. I certainly would have been protecting my property from that perspective.

In all cases it is not as simple as that, because the person might have been trying to come in through the door of my house. If I happened to be home with my family, that would present a different and unique danger.

If I am protecting myself and my family from a perpetrator who is intruding into my property, with malicious intent, whether that is to physically harm me or my family, or to do damage to my property

just by simply being a malicious individual, do I deserve the right to then try to protect my property? The answer to that is yes, in the perspective of understanding what one needs to do.

People need to take caution, as I suggested earlier, and establish what the situation truly is. If it is perhaps younger people, who may be more afraid of the victim than the victim is of them, the victim might be able to get them off the property. Then again, it could be a person who is well-armed. It could be more than one person. People need to look at the situation and decide how to protect themselves and property. There should be no cost to victims who protected their property by charging them rather than the person who tried to invade their property.

It gets to the nub of the situation of the rights of an individual who is about to become a victim. Clearly, that is what happens to those of us who are either on our property or perhaps are even attacked in the street while walking, for instance. We are victims of a crime and we are simply trying to defend ourselves from an attack of some description.

What it amounts to is the law should not be making a person a victim a second time. The individual has already been victimized the first time. The victim has already perhaps lost property or has had property damaged, or has received some sort of physical harm.

At the very least, people having had their property taken away from them is an emotional violation, whether they are harmed or touched in any particular way. Even though people may not be there at the time, there is a certain value to losing property, whatever that happens to be. In my case it amounted to a few thousand dollars. Those are things that a person has had for a period of time. In some cases, a person's house may have unique value or a person may have intrinsic thoughts that harken back to loved ones. Maybe it was a prized possession that grandma left for the person. If the person loses that, the emotional violation is always there.

Any time people are victims of crime, the last thing that should happen is that they are victimized again, or at least feel as if they are victim again. They have already been victimized by someone who has decided, in a malicious way, to do damage to their property, to them and their family.

We would all want and hope that folks would not perpetrate this type of violence or crime against other folks, but it would be naive in the nth degree to think that somehow all crime will just end. That is not the case. As we all know, crime is perpetrated, albeit we know it is on the decline.

● (1555)

Based on that, we have to look at what we can do to ensure that crime continues to decline. Albeit my colleagues across the way and I disagree about how to handle crime and punishment and rehabilitation or how to meet the balance. This is about folks who perpetrate crimes against others and the consequences of doing that, and there should be consequences.

Government Orders

What should the consequences be? What do we do to ameliorate that situation because the vast majority of those who perpetrate crimes eventually come out of incarceration or remand, depending on how it is done, or will be in the general society? How do we deal with that particular situation? How do we keep folks from taking other people's property? Ultimately, it really is an issue of how to move forward on crime.

This is about ensuring that the victim does not become another victim. That is the last thing New Democrats want. It was our colleague, the member for Trinity—Spadina, who in the last Parliament asked how one could protect oneself. Is it fair and just and right to use the powers that are available to citizens to ensure they protect their property, their person or family without crossing the line and committing a criminal act?

What is that line? How do we make that line broad enough so folks do not inadvertently trip over it because they did not understand it? How can we continue to move forward and allow them to act in a responsible way because they are a victim?

The folks this legislation would cover are the unwilling and unintended victims of a crime. They had no knowledge that a crime would be perpetrated against them. This was not a contrived act that the victim knew about. The victim had no sense that a crime would be perpetrated against him or her. This really was about an unintended situation happening to the victims, not unintended by those who attacked them. An intended act is when one decides to kick down someone else's door and ransack the house.

Ultimately, what are the consequences on people who receive that intentional act? They have to understand what the law will allow them to do. They have to understand that they can protect themselves or their property knowing in the full light of day that they will not have to worry about being criminally charged because of some unintended act based on an intended act by someone else who broke into their home and attacked them, their family or their property.

● (1600)

Again, it really has to be a cautious act. I would not want folks to think that this becomes a *carte blanche* bill that would allow one to set up some form of quasi judicial force or, for those of us who live rurally, would allow one to set up some sort of adjunct police force that is not the auxiliary police force.

We already have auxiliary police officers throughout the country, in Ontario and in my region. We have many of them because we do not have enough police officers. These auxiliary police officers are used at special events and parades. They are used extensively for the Labour Day Parade to help with crowd control and traffic. In my neck of the woods there are some great hills for cyclists. The auxiliary police officers control the intersections so that the regular officers can be out doing the work they are empowered to do under the law. We do not want to see another adjunct to the auxiliary officers such that, for example, the member for Welland will now have a group, and not just a neighbourhood watch.

A neighbourhood watch is a good thing. It is a neighbourly thing when one looks after a neighbour's property by simply paying attention when the neighbour is away. In my case, when I travel here, I know that my neighbour, Dave, who lives down the street—and I

will put a plug in for my neighbour—and owns Longlack Poultry comes to plow my driveway, which is greatly appreciated. He has been doing this for a number of years now. My partner appreciates when the driveway is done and she is not waiting for me to get back from Ottawa to do it. I want to thank Dave for that. He helps out with my property and keeps an eye out, as do other neighbours because we do not live next door to one another as people do in the city.

When I say that we live next door to one another we are about a half mile away from each other. The neighbourhood watch is really about noticing a suspicious vehicle. Unfortunately, that is how my material was lost. That is how folks in rural Canada lose material. Trucks pull up and look like moving vans, but they take all of one's stuff. However, we do not want to see people in a neighbourhood watch who think that they somehow have the power of the police to interfere in situations and act as if they are members of a quasi police force. I do not believe the bill intends for that. I would caution folks that is not the way we would like to see this go. The police forces have a legitimate role and they do it in a very effective way. We congratulate and thank them for all of their hard work.

This reminds me of when I was on the community policing association committee for my neighbourhood. I used to ask the sergeant about the number of police cars in the neighbourhood when we had break-ins. He would say that they were re-evaluating and would place a car here and there. I remember a complaint from a constituent that a car was not in our neighbourhood. There were none in the town at all. When I asked the sergeant why there was no car within the area, he told me that there was a stabbing in Niagara Falls. He asked if I would prefer the police car to be in my town or somewhere else. I said that I would prefer it there was not a stabbing at all. There was no car in my area because he had to allow the car to go to a very serious situation. Someone had been violently attacked and stabbed.

I will finish by saying that as New Democrats we certainly appreciate the bill coming forward. We have made an amendment to it and we would like to see that happen. However, I will say to the folks out there, whenever one is in danger, be careful, call the police and try to ameliorate the situation so that more harm is not perpetrated on oneself or one's family.

● (1605)

Mr. Brad Butt (Mississauga—Streetsville, CPC): Madam Speaker, I want to thank my hon. friend from Welland for a very thoughtful speech about the importance of this bill. I think most members of this House will be supporting this bill in the end, even though some people may have one concern or another.

One of the reasons I am supporting this bill is for the small businesses in the Streetsville business improvement area in my riding. These are hard-working local merchants, often one person working in a store, and they have been victimized. There has been a robbery, an assault or something. Quite often we find in these cases that the perpetrators return. They realize it was a good place to try to commit another robbery because it worked well previously. They can escape around the back quickly. However, sometimes the shop owner is able to get a picture of the perpetrators on video or maybe a glimpse of them. Then the perpetrators come back.

Government Orders

Would the member not agree that this bill is perhaps designed to help out that type of small merchant in communities all across Canada to be able to take some action if perpetrators return, and not be subject to charges as could presently be the case?

Mr. Malcolm Allen: Madam Speaker, my hon. colleague is absolutely right about the small business owners. There are many in my community.

As the member knows, although my community is more than just Welland. I love to give a plug to my riding of Welland, which is Welland, Port Colborne, Wainfleet, Thorold and parts of St. Catharines. There are small communities, like Port Colborne, Wainfleet and Thorold that have small business owners.

I think of a merchant like Elio's Foot Comfort Centre where people can get custom-made shoes and orthotics. I would encourage the member for Mississauga—Streetsville to come down and get those. If so, maybe he could get a pair of cowboy boots just like my good friend, Peter Kormos, the retired MPP from Welland. That is where he bought his good Canadian cowboy boots.

Clearly, the reason for this bill, as was said by the member for Trinity—Spadina, was what happened to Mr. David Chen in her riding. This was a small business owner who had acts of violence and robbery perpetrated against him not once but twice. We do not wish to see hard-working folks who own small businesses be victims of crime on multiple occasions, as in Mr. Chen's case, by the same person.

It is bad enough when an act is committed against a business owner or an individual, but it seems to me it is worse when the person who committed the crime comes back and perpetrates another crime against that business owner or individual. That is brazen beyond belief, that the same person would come back and try to victimize someone again.

Clearly that is why my colleague, the member for Trinity—Spadina introduced the legislation in the last House, to make sure that that did not happen.

Mr. Rodger Cuzner (Cape Breton—Canso, Lib.): Madam Speaker, in my own riding of Cape Breton—Canso, we had a rash of break-ins over a period of time in the Howie Centre, Sydney Forks area. We were fortunate. A member of the community, Seana Niedzielski, called a community meeting. There was a very good turnout. In conjunction with the Cape Breton Regional Police Services, she set up a neighbourhood watch program.

I am nervous about this piece of legislation because of something shared with us that evening. Police officer Paul Ratchford said that when people see someone trying to steal their barbecue, their initial reaction is to go out and confront the person. However, if someone is stealing something out of the backyard, he or she is probably not a very rational person. The individual may be high on drugs, such as cocaine or crystal meth. Those who confront these people are putting themselves at risk.

My question to my colleague is, should there be an education piece to go along with this legislation so that we do not unleash vigilantes across the country? There is a proper response for someone who sees a crime being perpetrated on his or her property. There is a rational process that should be pursued.

● (1610)

Mr. Malcolm Allen: Madam Speaker, I agree. It is an issue of what a reasonable person should do when faced with the situation, as my colleague has expressed. What do we do with someone who has indeed—

Some hon. members: Oh, oh!

The Deputy Speaker: Order please. There was a question raised and the hon. member is answering.

Mr. Malcolm Allen: Madam Speaker, I know my colleague from Cape Breton. It is a wonderful part of the world. Next to my homeland of Scotland, it reminds me of being home when I come to Cape Breton. I have been there many times.

As the member described, if someone came into my backyard to steal my barbecue, he is right that the first response sometimes is to head to the door and prevent it. However, as I said earlier, I ought to take half a step back and question why I would go out. The person is bigger than me. Perhaps as was described, he or she may indeed be under the influence of a substance or may have a weapon. Therefore, the first response should be to dial 911 and have the police come. We should not take it upon ourselves when indeed we do not have to because we are not being physically confronted.

The issue is different if we are in a business and someone comes into that business or our home and attacks us or one of our family members. That is a huge difference. If someone is outside our home stealing property, such as in my case when folks decided to help themselves to the material in my big shed, that is a different situation altogether.

Therefore, I would implore Canadians not to take action themselves when indeed the action they should be taking is to have the police forces take the action on their behalf. That is why we have them. They do a good job. They are well trained and well prepared to take that type of action.

[*Translation*]

Ms. Françoise Boivin (Gatineau, NDP): Madam Speaker, I appreciated the hon. member for Welland's speech. I support and share his rather serious concerns about the fact that corner store owners and others can decide to take justice into their own hands.

In committee, we heard from representatives of the Association of Professional Security Agencies. Most of their presentation involved asking the government to give the association more authority in order to allow the police to take care of more important matters.

I would be curious to hear my colleague's opinion in this regard. It seems to me that the training security guards receive is not necessarily the same as that received by police officers. This is one of our concerns about this bill—it allows a witness or the person he appoints to make an arrest in lieu of the police. Are we therefore not allowing many other people to take on a peace officer role?

Government Orders

•(1615)

[English]

Mr. Malcolm Allen: Madam Speaker, clearly we do not want to create another quasi police force. We have a police force, whether it be the RCMP, regional police or provincial police, depending on the province and where we live across this great country. Day in and day out, we have officers who do the hard work that we ask them to do.

We need to ensure that the folks who are in security agencies make sure that the property is secure, that folks are not trespassing, that the doors are locked at night, that parking lots are clear, and that if folks get hurt or fall ill they call the appropriate authorities. In the case of a crime being perpetrated, their call to the appropriate authorities would be 911 to have the police come. They should not become an adjunct police force looking for additional powers to take on the role of a police officer, when indeed we have them available to us, as do they.

This bill should be about the unintended consequences for me as an individual when I do not have a security person looking after my house. When someone enters my door and I am confronted, I have the choice to either fight or flee. In all cases, when one can flee, one should flee.

Mr. Jasbir Sandhu (Surrey North, NDP): Madam Speaker, I will be splitting my time with the member for Winnipeg Centre. I actually prefer to speak before him, rather than after him, because I know he has a great speech.

I want to take a couple of minutes before I speak to the bill to say I had a chance to attend a function on Friday that was organized by some very young people in my riding. It gives me great hope for Canada when I see young people being involved in our community and setting an example for other Canadians. These young people have managed to raise \$10,000 in a couple of months for BC Children's Hospital.

I just want to read out their names: Prineet Ghuman, Harmmeet Nijjar, Mandy Badwal and Sharon Uppal.

These young people are in high school. I want to thank them for taking a leadership role in our community and raising funds for the BC Children's Hospital.

Some hon. members: Hear, hear!

Mr. Jasbir Sandhu Surrey North, (NDP): Madam Speaker, today I rise to speak to Bill C-26, which amends subsection 494(2) of the Criminal Code, dealing with citizen's arrest.

First I want to say that the New Democrats support the bill. It is actually something that my fellow New Democrat, the member for Trinity—Spadina, had been advocating for quite some time.

Half of the bill proposes measures that her private member's bill had previously called for. My colleague introduced that legislation, which was known as the Lucky Moose bill, in response to an incident that happened in the city of Toronto in 2009. David Chen, the owner of the Lucky Moose Food Mart in Toronto, apprehended and restrained a man, Anthony Bennett, a few hours after he had stolen from his store. When police arrived, they charged Mr. Chen with kidnapping, carrying a dangerous weapon—which was a box

cutter, which most grocery store workers would carry normally—assault and forcible confinement. Crown prosecutors later dropped the kidnapping charge, but proceeded with the charges of forcible confinement and assault.

According to the Criminal Code as it is currently written, a property owner can only make a citizen's arrest if the alleged wrongdoer is caught in the act. Clearly, this portion of the Criminal Code needed to be changed. My colleague saw that and introduced her private member's bill, and the government followed suit with its own very similar bill.

What surprises me most about this bill is that the Conservatives are proposing something in the realm of public safety that actually makes sense. It is very surprising that they are proposing something that is sensible, because what we have seen from the government, from the Conservatives' crime agenda, certainly does not make any sense at all. Most of the time the Conservatives seem to be living in some kind of alternative reality, completely devoid of factual information and common sense when it comes to crime.

Normally, instead of answering critical questions about a reckless public safety agenda that is destined for failure, the Minister of Public Safety has preferred to hurl accusations and insults across the floor, such as standing in the House and accusing me of supporting child molesters because I questioned the complete failure on the side of the government to estimate the cost of its reckless crime agenda.

Sadly, we know that the facts do not really matter to the government. In Senate committee hearings on Bill C-10, the public safety minister told senators to ignore the facts. He said, "I don't know if the statistics demonstrate that crime is down. I'm focused on danger".

That was not the first time we have been told to ignore the facts by Conservatives when it comes to crime. In response to questions about Bill C-10, the Minister of Justice said, "We are not governing on the basis of the latest statistics". When it comes to public safety, ignoring the facts seems to be in the Conservatives' talking points.

Of course they want us to ignore the facts, because the facts are on our side. The facts will tell us that their crime agenda will cripple our criminal justice system and will not make our communities any safer.

•(1620)

I am happy to see that the Conservatives actually support something worthwhile, Bill C-26, but this, unfortunately, is the exception, not the rule, when it comes to the Conservatives' approach to crime. While I support this bill, which has been improved by NDP amendments in committee, I remain very concerned about the safety of our communities across this wonderful country of ours.

Government Orders

The NDP priority in reviewing this legislation was to ensure that it did not encourage vigilante justice or people putting their own safety at risk. While we understand that there are concerns about these matters in relation to citizen's arrest, self-defence and defence of property, we have determined that the bill proposes acceptable changes.

It should be noted that all three of these concepts already exist in the Criminal Code. Therefore, the changes made by this bill would only modify aspects of our current laws and do not introduce anything radically new.

The justice committee heard from a diverse group of witnesses while considering this legislation, including the Canadian Bar Association, the Canadian Police Association, academics and practising lawyers. Although New Democrats have already supported the intent of this legislation, we have brought forward a number of amendments in accordance with recommendations of witnesses. One successful amendment we brought forward will place a greater onus on the courts to consider the history of the relationship between the individuals.

We recognize the great need for these sections of the Criminal Code to be updated, and although most of our amendments were defeated, we still believe this bill accomplishes an adequate update to the legislation and we support this bill. Also, legal experts the committee heard from were, in general, supportive of the proposed changes to the self-defence and defence of property sections of the Criminal Code. They all acknowledged that these clarifications were absolutely necessary.

In conclusion, I want to thank my colleague from Trinity—Spadina for her work on this issue and for bringing such a worthwhile issue to the House. I also want to thank the minister and members across the aisle for their support to bring this initiative forward. As I have mentioned, we do not often see anything sensible coming from that side of the House when it comes to crime. In fact, when it comes to crime, the Conservatives are usually detached from being sensible altogether and pursue an approach that has been tried and has failed.

I hope to see the members opposite keen to adopt more New Democratic ideas in the future. We have many that I think make a lot of sense and are aimed at making our communities safer for all Canadians to live in.

• (1625)

Mr. Charlie Angus (Timmins—James Bay, NDP): Madam Speaker, I listened with great interest to my hon. colleague. He expressed a sense of unease that I think many of us feel. Citizens, small business owners and people protecting their property have a right to ensure that they can stop crimes, if possible, but we see the habit of certain right-wing governments to fan the flames, in a sense, as we have seen in the United States, and to create the sense and expectation that citizens can go further. We have heard about the horrific murder of young Trayvon Martin in Florida, thanks to a piece of legislation that not only allowed for vigilantes but said that if vigilantes feel in any way that they need to shoot somebody, they are able to.

That is a far cry from this bill, but the question we are grappling with is how we can ensure checks and balances so that citizens do

not get themselves hurt by thinking they should be able to intervene in situations where they should not intervene—police tell us all the time to step back and be careful—but can intervene in a way that will not result in their being unfairly penalized. There is a very narrow line between what is acceptable and not acceptable.

I want to ask my hon. colleague if he feels comfortable that the House understands where that division point is.

Mr. Jasbir Sandhu: Madam Speaker, I understand the issues that small businesses are facing because I have a small business in Surrey. The member is right, we do not need to fan any flames on this issue. This is a common-sense issue. Businesses and citizens need to ensure that they use the existing services we have to protect themselves. Instead of relying on vigilantism, we need to ensure we use the resources we have, such as calling the police, ensuring their services are used before any measures that individuals may take. It is a tool that will help business owners move forward and protect their properties.

[*Translation*]

Ms. Françoise Boivin (Gatineau, NDP): Madam Speaker, I thank my colleague, who is a member of the House of Commons Standing Committee on Justice and Human Rights. We are very pleased to have the benefit of his knowledge in this matter.

I especially appreciated that my colleague pointed out that Bill C-26—as I mentioned in my speech this morning—is an example of the work we can accomplish, even with the members opposite, when there is a little goodwill, instead of continual gags, time allocation motions and so forth. This bill is a fine example. We were able to discuss it without being told that it had to be passed at all costs in a certain time frame. There were discussions and debates, which were a little heated at times, but it was all done for the well-being of Canadians, the people we represent.

My colleague was also a member of the Standing Committee on Public Safety, where we saw how difficult it can be sometimes to understand this government's reasoning. It accepted the bill introduced by our colleague for Trinity—Spadina. However, does he think that we will ever again have this type of co-operation from the government?

[*English*]

Mr. Jasbir Sandhu: Madam Speaker, I believe that Canadians expect us to work together across the aisle, and they also expect us to make rules, regulations and laws that are common sense, that protect and help Canadians in their day-to-day lives and that are backed with facts and figures. Unfortunately, my Conservative friends across the aisle have shown in the last number of months that they do not want to look at the facts.

If we want to make our communities safer places to live, they need to look at the facts, see what is needed, and work with the New Democrats and the other parties when they bring in legislation. We have a lot of ideas that can make our communities safer. We need to work together. This was an example of how we can do that, and the idea was from a member of the New Democrats.

Government Orders

•(1630)

The Deputy Speaker: Before resuming debate, 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 Vaudreuil-Soulanges, Government Appointments; the hon. member for Esquimalt—Juan de Fuca, Airline Security.

The hon. member for Winnipeg Centre.

Mr. Pat Martin (Winnipeg Centre, NDP): Madam Speaker, I thank my colleague from Surrey North for agreeing to share his time with me as we debate Bill C-26. I asked specifically for an opportunity to join the debate today on behalf of the constituents I represent in the riding of Winnipeg Centre.

Every time I poll the constituents in my riding as to what their top of mind issue might be, consistently for the last 15 years the number one issue has been safety, crime and criminal justice issues, safe streets and the right to walk the streets free of molestation and with a sense of comfort and safety. That has been the prevailing issue of about 34% or 36% of those people answering my surveys. Things like tax cuts are down around 8%, and perhaps that is a function of the socio-economic demographics of my riding as it is one of the poorest postal code areas in the country. Low income people are more likely to be affected by and have their lives touched by crime, violence and even the criminal justice system.

I am particularly interested in this legislation and how it would affect ordinary Canadians.

I also want to compliment and pay tribute to my colleague from Gatineau for representing the party on this sometimes controversial issue with integrity and a sense of balance that such a sensitive issue calls for. I also recognize the comments that were made by other members of the NDP and the origin of this particular bill.

The member for Trinity—Spadina can claim responsibility for us having this debate today as Mr. David Chen, the owner of the Lucky Moose Food Mart, resides in her riding. It was the very high profile issue associated with Mr. Chen's frustration at so often being the target of shoplifting at his small business that he was compelled to take what we would consider to be dangerous and extraordinary action but which most Canadians would agree was justified and necessary at the time.

However, we are dealing with a bunch of competing rights. As with many pieces of legislation that properly fall before the chamber, it is an issue on which reasonable people can reasonably disagree and therefore we do not want to take this issue lightly.

In the few moments that I have I will start from the premise that the benchmark of a civil society is the quality of its criminal justice system and that the criminal justice system should be measured by its fairness and its application instead of the concern that there is sometimes an arbitrary application of criminal justice issues. Also, in the element of fairness, we must take into account some of the driving forces underlying the problem as it is presented to us.

I am a former labour leader. I have negotiated dozens if not hundreds of collective agreements. Every time we sought to change a clause in a collective agreement, two questions were put to us by the management side: First, why do we want to make this clause

change? Second, has this clause been a problem during the life of the collective agreement?

I think we can safely say in this example that there is justification for opening section 494 of the Criminal Code that deals with a citizen's arrest based on the extraordinary case of Mr. Chen and the Lucky Moose Food Market that brought the public's attention to this compelling issue.

•(1635)

The reason I began in the context of trying to describe the socio-economic demographics of my riding is that the opposite of poverty is not wealth. The opposite of poverty is justice. When we look at the high incidents of crime and in fact violence and contact with the criminal justice system in low income areas I think the argument makes itself.

When I look at the circumstances surrounding Mr. David Chen and the case that was put forward so compellingly by my colleague from Trinity—Spadina, I am gratified to know that all parties in the House of Commons acknowledge the necessity but, at the same time, we are confounded by the Conservatives' approach to criminal justice issues in the 41st Parliament and, in fact, even in the 40th Parliament when they were in a minority situation.

We have seen issues used as an excuse to raise the spectre of crime and violence in the streets as justification for putting forward legislation that cannot be easily justified. I am thinking of Bill C-10 where the Province of Manitoba, my home province, actually came to the government asking for certain changes with the detention, for example, in the auto theft situation when Manitoba was experiencing a great rash of auto thefts, often by young offenders. The police and the courts were frustrated by the limitations of holding a young offender who may have been apprehended that evening in the act of auto theft, being released the same night and then sometimes getting picked up by the same police in yet another vehicle, all in the context of a 12-hour period.

The Province of Manitoba came to the federal government urging it to make changes to where young offenders could be detained overnight until such time as they could make their first court appearance. That found its way into this new bill that has been quite controversial, but talk about baby and the bathwater. The ultimate legislation that we wound up with went far beyond any reasonable justification.

As I illustrated, the first question we need to ask when we open legislation to amend a clause is whether there is justification for it. We need to know whether the clause has been a compelling problem? In many of these cases, the only thing we were trying to address was a straw man built up by the Conservatives to strike fear in the hearts of Canadians and then they tried to paint themselves as the great saviour, the only ones who could protect the people from this manufactured fear. However, all the empirical evidence shows us that the rate of crime, especially crimes of personal violence, et cetera, is way down statistically.

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However, that did not stop the Conservatives from mailing ten percenters into my riding trying to whip up a frenzy of fear. I saw one of the ten percenters, back when MPs could actually mail ten percenters into other people's ridings, and it had a picture of a guy breaking through a window with his face shielded and with a knife raised above his shoulders as if he were going to break into our house and murder us in the night with a knife if we did not vote for the Conservatives to stop him from breaking in and killing us. That was the message, for all intents and purposes.

Even at a time when we are trying to calm people down and show them the actual statistics that the streets are safer than ever before, even in an area that experiences a great deal of property crime, et cetera, no one is at particular threat of being murdered in the night by this junky with a knife.

There is a dishonesty, a disingenuous aspect to this. The Conservatives are like a duck on a June bug when it comes to any issue associated with criminal justice issues, and their reaction is far disproportionate to the actual cause, need and demand.

In the context of Bill C-26, our party supports it with concerns that have been expressed by many of my colleagues.

• (1640)

Mr. Brad Butt (Mississauga—Streetsville, CPC): Madam Speaker, I have noticed that a lot of speakers have concentrated on one half of the bill and not on the other, and I would like to give that opportunity to my colleague.

The bill is called the citizen's arrest and self-defence act. However, I think that we have had some weird court decisions involving people who were simply trying to defend themselves and the perpetrator came back to swed them. The bill would help to provide better clarity for the judiciary, police, crown attorneys and so on, who would potentially lay charges or look at these individual situations.

Does the member for Winnipeg Centre want to address that aspect of the bill and indicate whether he thinks it is a good thing to have more clarity around issues of people acting in self-defence?

Mr. Pat Martin: Madam Speaker, it is interesting that my colleague should raise that, because I was just reading a quote by Alexander Solzhenitsyn who said:

Whenever the tissue of life is woven of legalistic relations, there is an atmosphere of moral mediocrity, paralyzing man's noblest impulses.

Therefore, we need to aspire to more than just the legalistic relations we have in society if we are going to elevate the standards of living conditions as a community. There is a more holistic approach to criminal justice issues than are dreamt of in their philosophy.

Mr. Charlie Angus (Timmins—James Bay, NDP): Madam Speaker, I listened with interest to my hon. colleague. I know that in the area of Winnipeg that he represents there are many poor people and many poor people suffer violence. When the Conservatives talk about safe streets, it seems that they talk about some people's safe streets and not other people's safe streets.

For example, in aboriginal communities in the far north and in the region I represent, Nishnabi Aski territory, there is a lack of police services and police stations because the federal government does not

want to bother funding them. Ricardo Wesley and Jamie Goodwyn burned to death in a makeshift jail cell in Kashechewan because the federal government would not put sprinklers in this shack that the police had to use as a centre. None of this would be allowed anywhere else. However, when police work on isolated reserves, they are often in very difficult situations and the families are put at risk.

Given that my hon. colleague has raised the issue of economic injustice, I would ask him why the government seems to favour certain people's safety, rights and privileges while other people are completely left out.

Mr. Pat Martin: Madam Speaker, I thank my colleague for adding a necessary element to this debate. It seems to me that the uneven application of the criminal justice system in this country perhaps serves as the most glaring and obvious charter challenge issue in the country. Certainly Canada's north and first nations are the most glaring examples.

The member invoked the names of two people who died in a jail in Kashechewan. I wonder if there is a member of Parliament present who believes that it would have taken 16 years to find the murderer of Helen Betty Osborne if she had been a white girl in The Pas and if there would have been a conspiracy of silence to bury the truth. We have a long way to go in the even application of the criminal justice system in this country.

However, we are satisfied that the bill addresses a legitimate concern and shortcoming in the Criminal Code. We are proud that we moved amendments to add some balance to the self-defence provisions. We took seriously, wrestled with and, I believe, added some satisfaction to the other side of this bill, which is, of course, the right of defence of property.

* * *

• (1645)

[Translation]

MESSAGE FROM THE SENATE

The Deputy Speaker: Before resuming debate, I must inform the House that a message has been received from the Senate informing this House that the Senate has passed Bill S-6, An Act respecting the election and term of office of chiefs and councillors of certain First Nations and the composition of council of those First Nations, to which the concurrence of the House is desired.

* * *

[English]

CITIZEN'S ARREST AND SELF-DEFENCE ACT

The House resumed consideration of the motion that Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons), be read the third time and passed.

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Mr. Jack Harris (St. John's East, NDP): Madam Speaker, I am pleased to have an opportunity to speak at this third reading stage of Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons). We would amend the Criminal Code in two respects, in relation to the issue of self-defence and the issue of what is known as citizen's arrest, which is contained in section 494 of the Criminal Code.

The circumstances giving rise to this bill in the first instance arose through the case of David Chen who was a shopkeeper in the city of Toronto at a store called the Lucky Moose. On that particular day, the Lucky Moose was not so lucky because of an incident that ended up in an individual being arrested and subsequently the store owner himself being the subject of criminal proceedings. This gave rise to a consideration of the rules with respect to a citizen's arrest in Canada under the Criminal Code.

This was originally a private member's bill brought forward by the member for Trinity—Spadina, and it ultimately was incorporated into a bill by the government, which also decided it was time to give consideration to suggestions that had been made by many, including academics and the Supreme Court of Canada, which suggested there was a great deal of confusion in our law on self-defence. We had a provision with approximately eight sections of the Criminal Code that dealt with self-defence. They were not necessarily contradictory but gave rise to potential interpretations of contradiction and caused problems of interpretation and sometimes contradictory results in the case law. An attempt was made to change that at second reading here in the House. This bill on the whole is a reasonable, if not perfect, example of inter-party co-operation on the creation of legislation that is literally seeking to improve legislation that is brought before the House, in this case by the government.

We had agreement at second reading to proceed to committee and we went through a series of hearings where we heard from individuals including Mr. Chen, other representatives of shopkeepers and store owners, someone from the security guard industry, lawyers in private practice and officials from the justice department. Our expressed intention at second reading, when dealing with this legislation, was that we ought to be very vigilant here when we are taking provisions of the Criminal Code. I do not know if they have been amended in decades or even 100 years, since the Criminal Code was first codified into law. There were not many amendments to these sections. Some might say they had stood the test of time, but they had not stood it very well and it was time to revise it.

The worry was that when we make these changes, we did not want to make changes that would cause problems and that have unanticipated results. Therefore our intention was that we ought to be very careful, that we ought not to treat this as something that could be done in a perfunctory manner. There was some rush in December that this could all be done in a matter of three or four days before Christmas. That was not our view, in our experience of hearing from the witnesses and considering the amendments that came through at the committee stage. There were a dozen or more amendments, probably 15 or 16, proposed by all parties. I know there were a dozen NDP amendments and four by the Liberals, and maybe the Conservatives did not bring any amendments. I do not see any here on my list.

● (1650)

Nevertheless, there were very extensive discussions in the committee while hearing from witnesses and legal counsel who had acted in a number of cases and who understood the law. We heard from the Barreau du Québec and the Canadian Bar Association. They very helpfully offered their comments and advice.

Based on some of this, as New Democrats and as the official opposition, we put forward a series of amendments designed to improve the bill. I will say that some of them were accepted by the government members on the committee, and we are very pleased to see that. Others were not, and obviously we were disappointed that the measures we brought forward in those instances were not accepted.

However, it was a collaborative effort. We did our best as a committee to not only come to conclusions and be reasonable but also to listen to the advice of the officials from the department of justice who were there as technical experts on the interpretation of various provisions of the existing law and who had their opinions with respect to how it might be interpreted based on the existing case law.

On the basis of some of that, some of the amendments we had proposed as being beneficial were in fact withdrawn by us. I say that just to let members of the public who are watching understand how this process works.

We have legislation that is brought forth. If it is a government bill, it is brought forth by the government. It is debated at second reading. It goes to a committee where witnesses are heard, often expert witnesses, in this case lawyers, but also members of the public, who we heard from in this particular case. Then we have what is called a clause-by-clause study in committee on each element and each word, if it comes down to that, especially when we are dealing with criminal law because every word is given a meaning by the courts.

We came forth with amendments that we thought were appropriate. These were then debated in committee at clause-by-clause consideration with experts, and ultimately what we have before us at third reading is this bill as amended.

That might sound a bit tedious, but it is also extremely important. What is written in these sections of the Criminal Code determines what the courts call the liberty of the subject or the freedom of a citizen. A citizen's freedom can often depend on the interpretation of one, two or three words in the Criminal Code. That is why it is important.

Let me give an example of why that is. The amendment to the citizen's arrest provision is designed to change the law so that a citizen's arrest, which under the existing provisions of the Criminal Code must be made at the same time as the commission of an offence, has now been changed. The new wording will say that the arrest to be made within a reasonable time.

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That sounds like a small difference, but it can be the difference between the guilt and innocence of someone who is charged with making a citizen's arrest that, as in the case of David Chen, was not while he caught someone in the commission of an offence but was a couple of hours later. That person had left Mr. Chen's store after being seen to steal something, came back a couple of hours later and was then arrested. Mr. Chen was charged with kidnapping, unlawful confinement and other charges.

He was eventually acquitted by a judge, but nevertheless the crown and the police felt very strongly that they had the right and should have the right, and expressed no regrets for it afterwards, to arrest the store owner and charge this individual because of their understanding of the wording of the act. The judge found extraneous circumstance, but it would be unusual for the words not to be applied as they were in the Criminal Code.

The change to add "within a reasonable time" is a good one, and we accepted that. We also thought, however, and this is where one of our suggestions was rejected by the committee, that there ought to be a further protection in the sense that while an arrest should be made within a reasonable time, and we agreed with that, it should be made at the first reasonable opportunity.

●(1655)

We had evidence before us suggesting that the law was too broad, as it was written by the government, that it would allow for organizations such as private security operators to turn themselves, essentially, into private investigators who would act as agents of individuals and arrest somebody at home some time later. We tried to put some constraint on that by saying it had to be not only within a reasonable period of time but at the first reasonable opportunity.

Another amendment, which was defeated, suggested that it should be within a reasonable period of time after the offence is committed and at a place that is within reasonable proximity to where the offence was committed. In other words, it does not have to be in the store. If the individual was found down the road some 20 or 30 minutes later, he or she could be arrested, but the individual could not be hunted down over a period of time, such as after finding out where the person lives and arresting him or her at home. People would be required to phone the police to say, "Here is the address of the guy who stole from me. I am satisfied that he lives there. Would you arrest him, please?" That was rejected and there were arguments made on both sides as to why and why not.

However, other amendments we proposed were accepted. For example, when we talked about the other topic of self-defence, we wanted to ensure the court was going to take certain factors into consideration and added an amendment of our own. We wanted to ensure that it must take into account the relevant circumstances of the other parties involved in the act, and also other factors. Those factors listed in the original bill had to do with size, age and gender of the parties. We sought to add the physical capacities of the parties because gender by itself may not be sufficient. There could be a man with a slight build, a mild manner and incapable of doing certain things, or there could equally be a woman who was in fact a formidable opponent, trained in physical combat, martial arts or any number of activities. When taking into account the person in respect

of self-defence, one should take into account not only gender but the physical capacity.

These are just examples of the kinds of changes that were made in our committee to improve the quality of this bill.

We had some reservations about some of the wording, which is evident in the dozen or so matters we brought forward, but on balance we are satisfied that what we have at the end of the day is an improvement over what was there. As to the confusion that reigns to some extent on the issue of self-defence over the last number of decades that has been recognized by our courts, there have been at least attempts to resolve it with the best information and the best we have been able to bring to the task up until now. We did not want to see another 20 years of litigation to determine whether we made a good choice or not. That was our worry.

We have given it the kind of scrutiny that a legislative committee is expected to. That is important. That is, after all, our job. We come here to represent our constituents on all sorts of levels, whether they be major policies in terms of economic development, international affairs, the redistribution of wealth and taxation or attempting to solve social issues like housing and poverty, but we also make laws. One of the laws that governs all of our citizens is criminal law. In crafting those laws we, the people in the chamber, are the ones who have the ultimate responsibility for passing those laws. This is a prime example of how a committee would look in detail.

●(1700)

Most of the justice committee members are lawyers. I happen to be a lawyer, but I do not for one minute believe that one needs to be a good lawyer to make good laws. I would be the last person to say that. Also, we had good advice to the committee from witnesses who are not lawyers and also from members of the committee who had their points of view on both sides, our side as well as the other. They put their common sense, knowledge, experience and brainpower to the task of making the law better. This is a good example.

My colleague, the previous speaker, talked about how this particular government uses the criminal law for political purposes. That is a big shame. It is a serious shame. I had the honour of being the justice critic since last October. I am not anymore; my colleague is now the justice critic, and I commend her to her new role. I know she will be equal to the task. It is an important job.

I do decry, along with the previous speaker, my colleague from Winnipeg Centre, the attitude the government has toward criminal law. It is the most appalling, degrading kind of debate. We should not even give it that name. To suggest that someone is obviously in league with child pornographers or pedophiles if that person disagrees with the government's idea of what the criminal law ought to be—the wording and nature of crime and punishment and how to go about dealing with that—is the most appalling abuse of parliamentary precincts that I have encountered, and I say that with some experience: I was first elected to Parliament 25 years ago next July.

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That is the most appalling thing that I have heard in this Parliament and the other parliament that I was in with the Province of Newfoundland and Labrador. It is appalling for the government to suggest that people who disagree with it are in league with criminals and are here to defend...well, on one day it could be pedophiles, the next day terrorists, the next day child pornographers. It is appalling that the government would do that.

However, amidst all that, there was this small island in dealing with Bill C-26, in which the justice committee sat down and talked, for the most part civilly, about the rules governing self-defence. It is an extremely important part of our criminal law. The right of citizens to defend themselves when under attack or under a threat to their lives or safety or property is a most important right that citizens have, and a criminal law should reflect a proper understanding of how that ought to be interpreted.

The right of citizen's arrest is not something new. It did not come about as a result of the Criminal Code. In fact, the citizen's arrest predated the development of police forces. At one time that was the only way that people were arrested for crime, by an act of a citizen. When we codified the common law, much of the criminal law was governed by common law, and in many respects it still is in some countries, including England, although it has codified things recently.

The citizen's arrest is also a fairly fundamental kind of right that citizens have to defend themselves and to arrest someone who they find committing an offence. Both of these things are extremely important, and we did have, with the work of this committee, a very small island of working to try to improve it.

It is not perfect. I hope the courts will not take 10 or 15 years to figure out what it really means and I hope we will not have controversy, but I think we have done a good job, and we support the bill as amended.

• (1705)

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Madam Speaker, I understand that the committee struggled with this bill. It definitely improved it with a number of amendments, which are welcome, but no amendments were allowed to the section on citizen's arrest.

Clause 3 creates for the first time, under proposed section 35, that not only can the person who owns the property issue a citizen's arrest but also a person authorized by the owner. A number of witnesses before committee raised concerns that this could give rise to a growth in the private security business with the ability to execute a citizen's arrest after an event. It appears to be the view of some of the committee witnesses, from what I see in going through transcripts, that this would be a gift to private security firms.

I understand that the member feels that he has reached the compromise that he must reach and I respect his opinion on this. I have to go on record as saying that it looks as though I will be the only member of the House to vote against this bill. That is because I am deeply worried that it would create problems down the road.

Could the hon. member tell me how he feels about private security firms taking advantage of this legislation?

Mr. Jack Harris: Madam Speaker, the member for Saanich—Gulf Islands is sincere in her concern about this particular issue. It is something that we looked at and raised some concerns about. That is why some of these amendments in terms of the proximity to the place were brought in. They are an attempt to at least put a ring around some of the activities that one witness suggested private security firms could engage in.

I take issue with my colleague's notion that no one other than the owner could take action in the past. As the member will know from her own experience, often a private security agency operates in a store. Sometimes operatives are disguised as shoppers, and they can actually arrest somebody who is shoplifting, take them to a room within the building and call the police. They can effect an arrest. That is not really new. I am not as worried about it as my colleague is in terms of creating a new right.

I do have concerns about what security companies may be up to. They are supposed to be regulated by the provinces, not by the Government of Canada, so we ought to let our provincial counterparts know that this is something they may opt to look at and keep an eye on in case security companies go beyond what is a reasonable mandate for them.

Mr. Rodger Cuzner (Cape Breton—Canso, Lib.): Madam Speaker, my colleague from St. John's East has shed a great deal of light on the issue that we are debating here today.

As he said, he was a member of this chamber a great number of years ago. He decided to step down because the oil from the lamps that were used to light this place caused him headaches.

Since he was a part of this process, my colleague may be able to enlighten me on a concern I have. I am leery that this piece of legislation may prompt an outpouring of vigilante justice.

I talked earlier about a neighbourhood watch program that was established in my community because there was a rash of break-ins. If some guy decides to steal a barbecue, the initial reaction is to confront him head-on. If this guy is on some kind of substance—crystal meth, coke, or jacked up—or if he has a weapon on him, or whatever it might be, the citizen confronting him is placing himself at great risk.

My question is in combination with the questions posed by my colleague from Saanich—Gulf Islands. With the passing of this legislation, should there be some type of program that could assist in educating provinces and private citizens?

• (1710)

Mr. Jack Harris: Madam Speaker, it was not the glow of the lights that caused me to retire temporarily from federal politics. The voters decided they wanted me to sit in the provincial legislature, not the federal, so I took their advice and spent a few years doing that before I came back.

The member raises a very good point. We certainly discussed that. There was some talk that was a bit wild in our committee, suggesting that shooting guns over people who are coming onto our property was a good thing, or allowed.

Government Orders

The big worry that I am sure the hon. member would have would be that this bill could possibly encourage people to take risks. Police forces across the country would warn the public against that. I would hope that the federal justice department, upon the passage of this bill, would earmark some money into a national program saying that we have the right to defend ourselves, but the police are there to do the job. That should be the message out of this.

However, it should not stop us from making the law better. I think we have done that, but I do hope the members of the public listen to what the hon. member is saying and avoid these kinds of confrontations, because they are not trained and they do not necessarily know what they are dealing with if they try to effect a citizen's arrest.

[*Translation*]

Ms. Françoise Boivin (Gatineau, NDP): Madam Speaker, I want to thank my colleague whom I am glad to see before me. This morning, during my speech, I thanked my colleague from St. John's East for the extraordinary work he did on the Standing Committee on Justice and Human Rights as the justice critic. He has been a very good mentor.

I would like to go back to the committee's deliberations on Bill C-26. It is true that much has been said about the Lucky Moose part of the bill, but there is also everything to do with self-defence. What is more, some legal experts had concerns about how to define "reasonable defence", and we had to strike a balance between objective and subjective criteria.

I would like to know whether my colleague, who has been in the House for a long time, is pleased that we managed to uphold defences that might be used by battered women, for example. In that regard, the bill is well balanced. Not all of our amendments were adopted, but some of them were approved by this government, which often turns a deaf ear.

[*English*]

Mr. Jack Harris: Madam Speaker, I want to thank the member for Gatineau for her kind words. As I said in our last gathering, I was delighted that she was appointed justice critic and I felt that she would do an excellent job on behalf of our party and the country, so I commend her to that role.

We were worried enough about the state of the bill that we moved the amendment. One was to seek to ensure that the perception of the person was key, that the subjective interpretation was important. That amendment failed. Sometimes we make amendments for greater certainty, and that was the case here: we wanted to make the amendments for greater certainty. We were given some assurance by the justice department officials that they were unnecessary; however, in our judgment, it was for greater certainty that we moved them.

It is a balance. Sometimes we have our own opinion, but when the majority passes something and we have some legal advice from the experts, then we have to decide whether we do not support the bill or whether we support it hoping that they were right and that our judgment was unnecessary in this particular case. This is an example of that situation.

I do not think it puts at risk the situation of the battered wives syndrome as an aspect of self-defence in those types of cases. I do

not think it puts those people at risk. We wanted to have greater certainty and we did not get it; we hope it does not cause problems in the course of events, but that remains to be seen.

• (1715)

Mr. David Christopherson (Hamilton Centre, NDP): Madam Speaker, I appreciate the opportunity to be a part of the debate today.

Right from the get-go, I will display my non-credentials to the extent that I am not a lawyer. I am a layperson, so my comments will be very much from the point of view of what took place, why it took place, what the solution is and where we are in terms of the politics of it right now. I will leave it to the professionals to deal with the details of discussing the minutia of the bill.

Also, it is a real treat to be stand in this place to talk about what one could call a law and order bill from the government that we can actually support, that actually does something positive and is not just laden down and loaded with spin, taking care of the base and all the politics. It is nice to deal with the Criminal Code in a way that the average Canadian would not only understand but would support.

At the risk of my whole speech becoming a preamble, this may indeed be the very first time probably in my entire public life where I may not use all the time available. The odds are that will not happen, because I know what I am like, but there is a good chance I will conclude a little early. I am just letting you, Mr. Speaker, know that if that happens, I am not ill; nothing has gone wrong, even though it will be so uncharacteristic of me to give up any time available. However, this may indeed be one of those times.

With all of that, let me give some thoughts to Bill C-26 before us now. One cannot talk about the bill or these measures without giving a great deal of credit to, and I am not sure it has happened but I would hope government members have also acknowledged, the lead role that the NDP member for Trinity—Spadina has played on this file. I know it has been talked about on our side of the House. I certainly hope *Hansard* reflects that the government was gracious enough to acknowledge that at least half the credit for an improvement to our Criminal Code does go to the member for Trinity—Spadina in whose riding the original incident took place, and that gave rise to Bill C-26 and the amendments therein to the Criminal Code.

It has been mentioned a number of times, but it is pretty hard to give a speech without putting some context to it. As we know, on May 23, 2009, Mr. Chen, who owned the Lucky Moose Food Mart in Toronto, apprehended someone he believed had stolen from his store. When the person returned, Mr. Chen and two employees tied him up and locked him the back of the delivery van. When the police arrived, they charged Mr. Chen with kidnapping, carrying a dangerous weapon—which was a box cutter—assault and forcible confinement. By the way, the box cutter is pretty much a tool of the business. I think everybody understands that.

Government Orders

The crown prosecutors dropped the kidnapping and weapons charges, but they went ahead with the charges of forcible confinement and assault. This got a lot of attention from a lot of Canadians, for good reason. It the sort of circumstance that ordinary people could find themselves in, or someone they know could find themselves in, wheter friend, family, or neighbours. It is not the usual dealing with the intricacies of the law. This is pretty plain and simple. This is everyday living.

It is interesting that this area of the Criminal Code has been a problem before. In fact, there have been public comments made by judges in the matter around the issue of self-defence and defence of property and the rights to citizen's arrest.

● (1720)

It is interesting that in the case of *R. v. McIntosh*, Chief Justice Lamer stated that sections 34 and 35 were:

—highly technical, excessively detailed provisions deserving of much criticism. These provisions overlap, and are internally inconsistent in certain respects.

Most of us can get the gist of that. Lawyers in the room will understand, I am sure, the poetry to that language. However, I thought a more apropos quote for ordinary folks, and very much a colloquial interpretation of what the justice said, comes from Charles Dickens' *Oliver Twist*, and captures that same sentiment rather nicely. In *Oliver Twist* it says:

If the law supposes that, "said Mr. Bumble, squeezing his hat emphatically in both hands, "the law is a ass..."

From time to time, even though that was written a very long time ago, it is quite appropriate. I think it is appropriate in this case—

An hon. member: Not just the law.

Mr. David Christopherson: "Not just the law", the hon. member across the way says. I have to agree with him on that. Because he was not specific, I will not assume to what he was referring. I will just take it as a generalization and keep us in good spirits here.

I do think the point is made in terms of "the law is a ass", and goes on to say, "a idiot" after that.

The fact remains that for Mr. Chen's point of view, this law is "a ass". Here was a store owner, and as far as he was concerned, there was complete proof of who was stealing from him. When the person returned, Mr. Chen thought this was his chance to get at the source of the theft and stop the stealing. He knew the person, so he wanted to grab him before he came back to steal even more. Then, as we know, Mr. Chen ends up with all these charges and a potential criminal record. If he had been found guilty of those original charges, he would have been in a pile of trouble, probably doing time in a federal penitentiary, assuming there is one that is open.

Luckily, in this case one could say that our system actually worked. To recap, here is a situation. The grocery store owner went through these incidents, had taken the action he did, believing that he was completely in the right, doing exactly what he had a right to do to protect his property and his business from theft, only to discover that he was the one who was in a lot of trouble because of, as the justice had talked about, highly technical, excessively detailed provisions deserving of much criticism. The law is "a ass", and every now and then that is the case.

The only thing that would be worse is if nothing was done about it. If all that happened was that Mr. Chen had it resolved one way or another, it went off the front pages and out of the media, people did not talk about it anymore and we, the chamber of law-making, did nothing. That, to me, would be an even bigger crime.

I think it is worth pointing out from the lay person's point of view that we had an incident. A citizen believed he was in the right, only to find out that due to the technicalities of the law, he was not within his rights. In fact, he was in a lot of trouble. As we know, Mr. Chen and his two accused were found not guilty of the charges of forcible confinement and assault on October 29, 2010. The person who stole pled guilty in August of 2009 to stealing from that store and he was given 30 days.

● (1725)

At the front end, where people live, things worked out, but, quite frankly, only because there was such a hue and cry across the land and the fact that the member for Trinity—Spadina took up this cause and said that it was not good enough that we allowed Mr. Chen to find justice in this case, that we needed to fix the law so no future Canadians would find themselves in a similar situation. When we discover a piece of law is "a ass", we fix it so it is not. That is pretty much what we are doing here. It is actually a relatively good day for the Criminal Code of Canada, given the kind of abuse that it has taken from the government on the other side.

Mr. Chen got his justice. It would seem that the perpetrator of the crime got his justice, and hopefully he has turned his life around. Now we are in the process of finalizing the changes to the Criminal Code so no other Canadian has to go through what Mr. Chen did. It does not mean the law is perfect and it does not mean there will not be people who still find themselves in a bit of a jackpot, but at least the House, the standing committee, experts who were brought in, everybody focused as best they could on how to amend this law.

That was not necessarily easy. First, it is never good policy to be making laws around one issue. One has to be very careful when thinking of doing that. Second, there is a concern that if the law is reshaped too much in one direction, we could encourage, perhaps even make legal, activities that we do not want in our country, meaning that people will seek their own revenge. They will seek their own justice. There will be a vigilante kind of atmosphere around the changes. Therefore, one has to be very careful.

Again, not being a lawyer, I could not say exactly which words or clauses would do that. That is why we brought in experts. Most of the members in this place are not lawyers and that is why we take advantage of slowing down the work at committee, going through legislation clause-by-clause and asking experts, not just somebody who has an opinion but somebody who has an expert opinion, such as law professors, the law society, the whole list.

We brought those folks in and asked them questions such as: Did this do the job? If it did not, what would they recommend and why? We would ask the person sitting beside them, “You have heard something that’s a little different, so what do you think about that?” With that give and take and working things through, it seems to us in the official opposition that we have a bill that actually meets that need. It is going to save the Mr. Chens of the future from having to go through what he went through, but we have not gone so far as to give a sense that any kind of vigilante activity, in the purest sense of vigilante, is not on. For all the problems that we have and all the fun and jokes about government and everything else, it really is nice to see.

In the end, we had an incident that was resolved with fairness and justice, and that is good. Now we have a bill that would amend the Criminal Code so hopefully it would not happen again, but we have been very careful about adjusting it so we do not go too far to suggest that vigilantism is okay in the country. All in all, finally, on the Criminal Code file, it was a good day at work.

• (1730)

The Acting Speaker (Mr. Bruce Stanton): The hon. member for Hamilton Centre will have five minutes remaining in the time allotted the next time the House resumes debate on this question and the usual 10 minutes for questions and comments.

It being 5:30 p.m., the House will now proceed to the consideration of private members' business as listed on today's order paper.

PRIVATE MEMBERS' BUSINESS

[English]

CRIMINAL CODE

Hon. Hedy Fry (Vancouver Centre, Lib.) moved that Bill C-273, An Act to amend the Criminal Code (cyberbullying), be read the second time and referred to a committee.

She said: Mr. Speaker, it is my pleasure again to stand in the House to speak to this bill.

Bill C-273 is an act to amend the Criminal Code under the heading of cyberbullying. There are three sections of the Criminal Code that are applicable here and that are currently applicable.

The first is “Criminal Harassment”, which states:

No person shall, without lawful authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, engage in conduct referred to in subsection (2) that causes that other person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.

That includes repeatedly communicating this criminal harassment, directly or indirectly, to the other person or anyone known to them and engaging in threatening conduct. It is an indictable offence and is liable to imprisonment for a term not exceeding five years.

The second component of the Criminal Code that I need to talk about is section 298, which is about defamatory libel.

Defamatory libel is anything that is:

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published, without lawful justification or excuse, that is likely to injure the reputation of any person by exposing him [or her] to hatred, contempt or ridicule, or that is designed to insult the person of or concerning whom it is published.

A defamatory libel may be published directly, by insinuation or irony, in words legibly marked upon any substance.

The third piece that I attempt to change is the one that speaks to the issue of false messaging, which states:

[Anyone] who, with intent to injure or alarm any person, conveys or causes or procures to be conveyed by letter, telegram, telephone, cable, radio or otherwise information that he [or she] knows is false is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.

What I am attempting to do with these three areas is amend the Criminal Code by adding “using electronic messaging” and “using a computer” to be able to continue to do these three prohibited components in the Criminal Code.

Today, if we look at any of those issues, whether it be defamatory libel, et cetera, one cannot use a telephone to do it, one cannot print it on paper, one cannot say it to someone else or say it on the radio. However, we now have a new modern mode of communication called the computer or electronic media. People have been using that communications mode in order to commit these three prohibited criminal offences. What I intend to do is add the new communications mode, which is the computer or electronic messaging, to the Criminal Code.

I want to add that it is very important to understand that cyberbullying is not an age-related thing. Bullying may be age related, such as when somebody pushes somebody in the school, calls them a name, talks to people in the school and makes fun of them. That is the kind of bullying we are very familiar with in the playground and in the school. The thing about the new method of communications, via computer, electronic messaging and social messaging, is that the person can be of any age. It goes on in offices. A neighbour who may not like us or someone who knows us in political life or another life may try to spread information about a person at any age. The insidiousness of using this mode of communication is that it is there forever. We can be 90 years old and it is still there in social media, in a computer, set there for life, whatever it is these people did that fall under the subsections of the Criminal Code I am speaking about.

Students say to us that they are bullied in the schoolyard but when they go home they know they are safe, they are with their family and friends and they can escape the harassment and the statements people are making about them. Today, it is on people's BlackBerrys, iPhones or computers. It is inescapable. They can travel from Penticton to Bonn, Germany, and it follows them everywhere. Therefore, whatever happens with respect to cyberbullying is there forever and follows people wherever they go, to whatever corner of the earth and whatever age. That makes it an insidious, dangerous and permanent form of bullying.

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• (1735)

It is a new phenomenon that is linked to advancements in technology. One can be bullied by mobile, wireless and the Internet. Bullying can happen by posting harmful, cruel text messages or images, by posting sensitive private information about another person, by pretending to be someone else to make a person look bad or by intentionally smearing someone from an online group. Bullying, no matter where it occurs, is about power, control and human relationships. The intent is to harass, degrade and inflict harm and fear. This is different from traditional bullying as it is done with anonymity. That is another piece of cyberbullying. It is anonymous. For example, it could be from somebody named joe@google.ca. One would have no idea who the person is. Therefore, anonymity is a problem.

As I said, the reach of the Internet is international, reaches around the world and endures over the course of one's life. There are many campaigns out there to combat bullying and many are in schools. Although this type of bullying is not age restricted, recent examples of the impact of bullying that we know about are mostly in schools. Quite often adults do not like to complain. It is shameful for them to know that somebody is bullying them and they do not know who is doing it. They try to hide it and keep it secret. Therefore, the data that has been collected so far has been from a lot of information collected in schools, but I will give one example outside of a school.

As with Jamie HUBLEY and the high-profile case of Tyler Clementi in the United States, cyberbullying can affect one's mental health, well-being, academic performance and ability to get a job. For people who were cyberbullied when they were 25 years old, if that was pulled up when they were trying to get a promotion at age 50, it might be conceived as true and the answer to the promotion might be no. It affects every aspect of one's life.

A recent study by Jennifer Shapka at UBC found that children especially do not equate cyberbullying with traditional forms of bullying and that currently all of the anti-bullying techniques we have set up to deal with bullying do not work. They work for the traditional in-your-face bullying such as name-calling, shoving and pushing, but they do not actually work to prevent cyberbullying. We need to look at this as a real problem.

In the study of 17,000 Vancouver students, 30% reported taking part in cyberbullying compared to 12% who took part in real bullying. Only 12% take part in real bullying because they are identifiable and so most do not do it. However, they feel anonymous and safe when they cyberbully and so a larger percentage have been cyberbullying.

A startling revelation was that 95% said that what happens online is only intended as a joke. However, this joking does serious and permanent harm. Again, one of the problems with cyberbullying is that people have no way of knowing if it is a joke or not. They do not see facial expressions with cyberbullying nor do they see mannerisms. It is just a clear cut statement.

Another difference is the anonymity, as I said, and I want to reflect on that end of it. It means that anyone today can be a bully because they can hide behind that anonymity. It could be someone who everyone respects and thinks is a really neat person who is doing the

bullying. The perception that a bully has to be more powerful, bigger or more popular applies only in one-on-one bullying in a school yard or face to face. It does not apply with online bullying.

Much of the content posted online can follow people for the rest of their lives. It never goes away, even after their death. Therefore, there are serious implications with cyberbullying, and one is that it can lead to suicide. I mentioned Tyler Clementi. He was a young gay student who took his life after his roommate at university video-recorded his personal relationship with another young male over the Internet. Shortly afterwards, Tyler jumped off a bridge. A court recently found Tyler's roommate guilty of a number of offences, including breach of privacy and hate crime.

Those types of bullying happen every day. I believe as legislators we have a responsibility to lead by example. That is why I have introduced this legislation that I hope all members will support. It does not create any new Criminal Code legislation. It uses the existing Criminal Code legislation, the sections that deal with defamatory libel, false messages and criminal harassment.

• (1740)

Adding electronic forms of communication to those sections would clarify cyberbullying in the same manner as traditional print, telecommunications, television and radio are also identified under these headings. Other jurisdictions are beginning to look at how to combat cyberbullying, and this is happening in the European Union now. Actually Nova Scotia is leading in Canada in looking at this issue.

No legislation can end bullying or cyberbullying, but this change would offer a protection to the victim and decrease the risk of cyberbullying because people would understand that there is a penalty attached to it and it would take away the powerlessness that the victim feels. There is nothing more effective than public awareness campaigns, programming in schools, et cetera, but this bill would raise awareness, encourage a debate and it would lead to a Criminal Code that is keeping pace with new advancements in technology.

I hope members will support this bill. I want to stress that this problem of cyberbullying is pervasive, is not limited to any age, will follow us through the rest of our life and is now happening in every environment, whether in Parliament or among office staff, friends or community advocates. People out there are engaging in cyberbullying constantly. I want to stress that this is not an age-related issue and it can harm people for the rest of their lives and even until after death. I know there are physical and psychological effects of cyberbullying, but the fact is that it is broader reaching than the schoolyard and the office. The damage and harm continues. It is forever there in cyberspace for anyone to see or to read.

Private Members' Business

[Translation]

Mr. Dany Morin (Chicoutimi—Le Fjord, NDP): Mr. Speaker, I have a question for my Liberal colleague. I read her bill, and I understand why she felt compelled to introduce a new bill to fight cyberbullying, because since coming to power, the Conservative government has done nothing about bullying and cyberbullying.

I also remember that I asked a question in the House, and the parliamentary secretary answered that all the government could do was give money to provincial organizations. I find that utterly deplorable.

Does my Liberal colleague not believe that her bill will not help young people by preventing cyberbullying because by further criminalizing bullying, it will penalize bullies after the fact, not before? Where is the prevention element in this bill?

• (1745)

[English]

Hon. Hedy Fry: Mr. Speaker, first and foremost this bill is supported by the Canadian Association of Police Boards and by the Canadian Teachers' Federation. I want to reiterate that this is not an age-related thing. We can go online right now on Twitter and see people saying things about people who we know, who we have heard of, who are public figures and not so public figures and who are our neighbours.

It is an important bill, and the member's question is whether it is going to be an after-the-fact thing. If people know that the punishment for doing something that is so extraordinarily damaging throughout people's lifetimes and wherever they go, it may be a preventive measure as well, because people would be afraid they would be found out. There are ways now to find out who is doing so. For instance, people can use a telephone under these three areas of the Criminal Code and the telephone company is forced to reveal who used a telephone to do that, under the Criminal Code. So it would be forced to reveal who the person is, especially when there is a result like suicide or something like that. It would—

The Acting Speaker (Mr. Bruce Stanton): Order, please. I am sure there are other members who may wish to pose questions.

The hon. member for Winnipeg North.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Speaker, I applaud the member for Vancouver Centre for having a wonderful idea and bringing it to the floor of the House. Over the last number of years, the use of the Internet and cyberspace has grown rapidly. I wonder if the member could provide a comment on the fact that not only is her bill of great need today but, as we continue to move into the future and we see the potential that is there, there is potential good but also potential harm. She might want to reflect on this being a bill that the government would do well to adopt and ultimately pass.

Hon. Hedy Fry: Mr. Speaker, I hope the government will pass this bill.

There are instances we have seen recently here within the House where people have had their private lives open to the public and have been harassed and bullied.

It would show too that we are moving forward with the times. Every form of communication is included under three sections within the Criminal Code, except this very new form of communication. All we are doing is adding it to the list of current forms of communication that are there already in the Criminal Code.

All I am saying is we just need to move up with the times. This is a new technology. It causes harm. No one can run and hide from it. There is no safe place. Everyone can read it, and it is forever haunting someone. I reiterate, even after death, one's family is harassed and is bullied by what is left there about that person and what was said about him or her.

Mr. Robert Goguen (Parliamentary Secretary to the Minister of Justice, CPC): Mr. Speaker, I am pleased to join the debate on Bill C-273, An Act to amend the Criminal Code (cyberbullying).

This bill was introduced by the member for Vancouver Centre in September 2011. However, this is not the first time this issue has been brought to the attention of this House, as the member for Vancouver Centre previously introduced a similar private member's bill on the same topic in previous Parliaments.

I do not think I am alone when I say that I think cyberbullying is an issue which requires serious attention from this country's policy-makers and legislators.

Please allow me to take a moment to describe in a bit of detail what Bill C-273 aims to do. It is not a complicated bill. This bill seeks to amend three existing Criminal Code offences. Those offences are section 264, criminal harassment; section 298, defamatory libel; and section 372, false messages, indecent telephone calls and harassing telephone calls.

First, both the criminal harassment provision and the defamatory libel provision would be amended to add a "for greater certainty" provision to each of these offences. This provision would clarify that when the conduct that forms the basis of these offences is committed through the use of a computer or a group of interconnected computers, or in other words over the Internet, that behaviour would be captured by these offences.

The criminal harassment provision is also known as the stalking offence and, among other things, makes it an offence to engage in harassing conduct, knowing or reckless as to whether another person is harassed and which causes the other person to fear for his or her safety or the safety of someone known to him or her. As I said, Bill C-273 would clarify that harassing behaviour could be done through the use of a computer.

I think it is important to note that the courts have already interpreted section 264 of the Criminal Code as applying to conduct that is carried out through the use of computers or over the Internet. Therefore, section 264 as it is presently worded already applies.

As I mentioned, this bill also proposes to amend the definition of defamatory libel found in section 298 of the Criminal Code. The defamatory libel provision is intended to protect the reputation of an individual from matters which are published that could expose the person to hatred, contempt, ridicule or insult.

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Bill C-273 would amend the definition found in section 298 to make it clear that this section would apply if the information was published by means of a computer or group of interconnected computers or related computers, the Internet.

Finally, as I previously mentioned, Bill C-273 would also amend section 372 of the Criminal Code, the false messages, indecent telephone calls and harassing telephone calls offence. Section 372 actually contains three criminal offences. First, false messages conveyed by letter, telegram, telephone, among other means. Second, indecent phone calls. Third, harassing phone calls.

Bill C-273 proposes to amend all three offences to extend the scope of the enumerated offences to include the use of computer systems or electronic communications.

The sponsor's stated goal of these proposed amendments is to target the growing use of cyberbullying, the act of bullying another individual through the use of a computer, computer system or the Internet. She indicates that this is a problem which affects over half of Canada's youth, whether they witness the bullying, are victims of bullying or are the bullies themselves.

The member for Vancouver Centre is not alone in recognizing the seriousness of the issue. There have been many attempts to ascertain to what extent bullying and cyberbullying is occurring in Canadian schools and playgrounds. For example, a survey of 2,186 students in the greater Toronto area, conducted by the University of Toronto School of Social Work in 2008, confirms the view that cyberbullying is a growing problem. The results of the survey indicated that in the month prior to the survey, 27% of the students polled, or 1 in 4, had been bullied online, and 35% of the students, or 1 out of every 3, reported that they had bullied someone else.

Another recent survey conducted in 2011 by the Nova Scotia cyberbullying task force found that 60% of Nova Scotian students indicated they had been bullied. As I mentioned previously, there is no doubt that cyberbullying and indeed bullying in its traditional forms should be carefully considered by policy-makers and lawmakers.

The goal of Bill C-273 is laudable and targets a very important issue which is having an increasing impact on Canada's youth.

● (1750)

I would however like to pause for a moment to consider whether the bill's focus on these three criminal offences is the best approach. There are other offences which could also apply in a situation of bullying that are not included in the bill, such as intimidation, section 423, or uttering death threats, section 264, or personation, also known as identity fraud, section 403. Any of these offences, if the facts permitted, could be used in a situation of bullying. Yet Bill C-273 does not propose similar amendments to these offences to clarify that they could be committed over the Internet or via telecommunications.

This leads me to wonder whether the amendments to the Criminal Code proposed by Bill C-273 are a complete response to this issue or if the issue requires further exploration. For example, if the clarification is added to only some of the applicable offences but not all, will there be any negative consequences? Would it lead courts to interpret these other offences as no longer applying when

the conduct occurs through the use of a computer or a group of computers?

I also think we should consider whether the bill's focus on cyberbullying is the right focus. It might be useful at this time to explore in more detail the type of behaviour which can be described as bullying itself.

Bullying is defined in many different ways by many different people, but I think it is safe to say that bullying includes a wide range of behaviour that can include conduct such as insults, threats and physical aggression that are intended to reduce the targeted person's perceived power and that can have a physical and/or emotional impact on the targeted person.

Cyberbullying is used to refer to such conduct that is carried out through the use of new technologies, including the Internet. Bullying has been around for as long as human beings have socialized with each other. But the recent explosion of new technologies has created a new way to commit an old offence with increased speed, reach, prevalence, duration and impact on young people.

Cyberbullying provides the perpetrators with a sense of anonymity and follows the victims wherever they go. Victims of cyberbullying often report that when the bullying takes place online, the impact of the bullying is felt more profoundly.

As I am sure all members are aware, bullying and cyberbullying have been receiving much media attention over the past few years as high profile cases of teen suicide have been linked regrettably to this issue. These tragic cases highlight the importance of addressing the issue of bullying which is becoming of increasing importance to Canadians.

Once again I would like to thank the member for Vancouver Centre for bringing this important issue before us today. I hope that as we continue to consider Bill C-273 we can also consider some of the questions that I have posed.

● (1755)

[*Translation*]

Mr. Dany Morin (Chicoutimi—Le Fjord, NDP): Mr. Speaker, it is my pleasure to speak to the Liberals' Bill C-273, An Act to amend the Criminal Code (cyberbullying). As I mentioned in the questions I asked my Liberal colleague, it is commendable to introduce a bill to move Canada forward and protect adult and youth victims of online cyberbullying. Still, many people believe that harsher punishment for cyberbullies may not be the best way to prevent cyberbullying. I will leave it up to each individual to consider that issue.

What I want to talk about today is the Conservative government's lack of leadership on the cyberbullying issue. Since coming to power, the Conservatives have done nothing to protect young people who are victims of bullying or cyberbullying. That is why my Liberal colleague felt the need to introduce a bill.

Private Members' Business

There are all kinds of things the Government of Canada could do. Even if the Conservative government does not agree with me, it has a role to play in fighting bullying and cyberbullying.

There is no magical solution to combat youth bullying. Nevertheless, every stakeholder has a role to play, whether it be the federal government, the provinces, the school boards, parents, the young people being bullied, or those that witness it. Everyone has a role to play in addressing this problem.

I am going to give the Conservative government some advice and offer good examples of what has been done by other countries that have decided to take a leadership role in the area of cyberbullying. I would advise my Conservative colleagues to take notes.

Finland has developed the KiVa program, generally considered one of the best national anti-bullying programs in the world. Education is at the heart of this program, and the objective is to encourage witnesses to take action and to put an end to bullying when they see it.

When bullying occurs, instead of removing the culprits from their environment, discussions are organized between the bully, his victim and other young witnesses. The focus is very much on including the community, broadly speaking, in efforts to combat bullying. Schools, for example, are subject to fines if they fail to deal with bullying. Bullies are also subject to fines, regardless of their age. I admit that in Canada, this is an area of provincial jurisdiction.

Here is another example that will perhaps better reflect the way things work in Canada. In United States, the U.S. government created the website www.stopbullying.gov, which provides information for the public on combatting bullying. Additionally, the government organized a White House conference on bullying prevention. I congratulate the American president, Barack Obama. In 2011, with a view to bringing together experts in the field, the government also organized an annual summit for federal partners who work in bullying prevention. The aim was to bring together key stakeholders in the fight against bullying. The stakeholders come from all levels of government and civil society, and they include parents and young advocates. The aim is to encourage co-operation and share best practices.

As a Canadian citizen and an NDP member, I would very much like my own Prime Minister to show as much leadership as the U.S. President. I live in hope, but I am still waiting.

Sweden is also a good example. This country really is a frontrunner in various social areas and has made a number of progressive breakthroughs. Since 1994, the federal government has required that every school develop a plan to fight bullying. It is the responsibility of school principals to ensure the plan is followed. This is something that concerns schools, but there are other things that the government can do. Unfortunately, over the last few years, cyberbullying has spread in society, particularly through social media. More and more young people are victims of cyberbullying.

There have been good initiatives at the provincial level, and I hope the federal government is doing everything it can to support them.

In Ontario, for instance, the Accepting Schools Act sets out potential consequences for bullying, which include expulsion. It also includes increased financial support for training on bullying prevention and encourages schools to create gay-straight alliances.

British Columbia is another leader in the fight against cyberbullying. In 2007, the provincial government gave school boards a mandate to establish policies to fight bullying.

● (1800)

That is a great pity, at the end of the day. It is now 2012, and the Conservative government has not yet put anything on the table. Besides, as far as I know, and I have discussed it with some Conservative MPs, nothing is expected to be put forward that will allow the Canadian government to finally take an active part against cyberbullying.

Coming back to British Columbia, not all of the school boards in the province took part in the initiative. The proposed codes of behaviour for students require that schools work closely with students and parents to fight bullying.

I could talk about many other things. Alberta's Bill 206 contains some good initiatives. Nova Scotia, unfortunately because of the suicide of a student, Jenna Bowers-Bryanton, has also put forward a measure to respond to cyberbullying. Manitoba has been active on this issue since 2004. Quebec has also passed legislation that requires school boards to develop a plan to fight bullying.

There are many things that different levels of government and society are doing to take action and help young people who are victims of cyberbullying, because the ones who are victims of cyberbullying are primarily—we must admit—young people.

Several economic, government and social players have a role in this. Currently, the Government of Canada is still absent from the equation. We have no national plan to combat cyberbullying, or bullying in general, and no concrete government plan. It is quite deplorable.

I am going to tell my Conservative government what I want. What I want is for the federal government to clearly adopt a leadership role and work alongside the provinces, anti-bullying groups and other key stakeholders in order to address the issue of bullying, particularly, as I mentioned, among youth.

This means more than simply making changes to the Criminal Code; it also means developing a national strategy to fight bullying. Our communities need resources and programs to help them deal with the root causes of bullying.

This is why I will vote in favour of my Liberal colleague's bill. It is a step in the right direction, because currently, the federal government is doing nothing. I thank my colleague for her bill.

The notion of cyberbullying may be abstract to some people. I will try and define it by using the definition of Bill Belsey, who a decade ago created www.cyberbullying.org, an information-packed resource that for years has been providing support and assistance to the young victims of bullying. I would invite my colleagues to visit this website to see the good work that he does.

Private Members' Business

Cyberbullying involves the use of information and communication technologies to support deliberate, repeated and hostile behaviour by an individual or group that is intended to harm others. I agree entirely with this definition of cyberbullying because, at the end of the day, it involves aggressive behaviour that has very serious ramifications for our youth.

To establish a link with Bill C-273, I should point out that the public also agrees with criminalizing cyberbullying and including it in the Criminal Code. Indeed, an Angus Reid poll has revealed that 65% of Canadians believe that bullying should be considered a crime, even when it does not involve physical violence, while only 19% of Canadians think that bullying should be considered a crime only when it involves violence. Just 6% of Canadians believe that bullying should not be considered a crime. It is quite evident that the vast majority of Canadians support this type of initiative, because people realize that not enough is being done.

Clearly, it is not easy to know why our children are victims of bullying. There may be a number of clues: the child may lose interest in going to school, might be irritable, or may have trouble concentrating.

I will conclude with a sobering observation. People do not realize the extent to which young people are affected by bullying. An analysis of schools in the Toronto area showed that a child is a victim of bullying every seven seconds. It truly is an epidemic. We must at all costs mobilize and fight cyberbullying.

I conclude by saying that the NDP will be pleased to vote in favour of this bill. However, the federal government must do more.

• (1805)

[English]

Hon. Irwin Cotler (Mount Royal, Lib.): Mr. Speaker, I rise to speak to Bill C-273, an act to amend the Criminal Code in relation to cyberbullying.

As my colleagues have noted in the debate thus far, Bill C-273 would amend the Criminal Code to broaden the scope of crimes constituting criminal harassment, defamatory libel and false messaging. My colleague, the member for Vancouver Centre, has explained the definitions with respect to each of these crimes. The current law provides, for example, that an individual is libel for false messaging if he or she deliberately spreads false information through the mediums of letter, telegram, telephone, cable, radio and the like. However, there is no provision that prohibits false messaging through the newest and most widely used medium, the Internet.

Before I proceed any further, I want to commend the hard work of my colleague, the member for Vancouver Centre, and her remarkable foresight in bringing this matter to public attention years ago and for her ongoing dedication to rectifying what is certainly a vital issue in our increasingly technologically-oriented Internet society.

With the proliferation of potential uses and abuses of the Internet, the crime of Internet harassment presents challenges for law enforcement personnel, legislators, educators, parents and the like. Indeed, given its immediacy, anonymity and accessibility, the Internet offers a forum, through social networking sites and the like, for harassment and other social ills committed against minors.

Accordingly, Bill C-273 is an important step in the right direction as the current legislation does not adequately protect Canadians and, in particular, young persons from such online abuse.

In 2009, Professors Faye Mishna and Robert MacFadden from the University of Toronto undertook a survey of roughly 2,200 students from 33 schools in the greater Toronto area in order to gauge the effects of cyberbullying. The results were alarming. They determined that over 50% of the students had been bullied online and that the bulk of cyberbullying occurred between students who attended the same school and knew each other in person. More important, the results revealed that individuals who would tend not to bully others face to face would be far more likely to engage in bullying over the Internet.

Professor Qing Li from the University of Calgary found that, as a result of the impersonal nature of the Internet, whereby we do not experience the same feelings of regret or shame that come hand-in-hand with personal interaction, not only are more people likely to engage in cyberbullying, but those who do so feel that they can say whatever they want without any fear of repercussion or sanction. Simply put, the ability to cloak oneself in the shadows of cyberspace removes barriers, decreases the likelihood of punishment and, thus, results in more bullying and more victims.

In a word, the veil of separation, distance and anonymity that the Internet provides has amplified the problem of bullying simply by expanding the arena of threat far wider than the public sphere to which it was once confined. Indeed, children who are victims of cyberbullying can no longer even seek refuge in the comfort of their own homes.

Addressing cyberbullying is an issue of the utmost importance, as has been set forth in the comments this evening. Protecting our youth is one of the most vital responsibilities that not only we as parliamentarians but society as a whole share: protecting, in effect, the most vulnerable among us. When I was minister of justice, the first piece of legislation that I tabled before the House at the time was a bill to protect children and other vulnerable persons. The bill then sought, as we do now, to provide protection for those who are the victims of such hateful and harmful crime.

Unfortunately, it is not always the case that legislation, criminal law in particular, is able to keep pace with the technological developments in our society. As I have said elsewhere, while science races, the law lags and very often the scientists beat the lawyers. The lack of comprehensive legislation in this regard, coupled with the lack of consequences for online bullies, only further enables cyberbullying by incentivizing online abuse as an alternative to physical bullying.

In 2009, Statistics Canada reported that eight out of ten Canadian households owned a computer and had access to the Internet and that the number of Canadian Internet users was increasing.

• (1810)

A recent study by comScore found that Canada continues to lead the world in online engagement, with visitors spending an average of 45 hours per month online.

Private Members' Business

The statistics about cyberbullying are particularly troubling and I do not wish to repeat many of the numbers we have heard this evening. I want to focus on two high-profile cases that arose from the U.S. and illustrate quite vividly the problem that this legislation seeks to address.

The first is the tragic case of Megan Meier, a 13-year-old Missouri girl who committed suicide as a result of cyberbullying. What is so shocking about Megan's case is that the bullying was not at the hands of one of her peers but was committed by an adult. In that case, the mother of a former friend of Megan's set up a fake Myspace page pretending to be a boy, Josh, who had just moved to the area and was home-schooled. Within a few weeks of Megan becoming friends with this Josh and communicating extensively online with him, the tone of his messages dramatically changed. Eventually, Megan hung herself in the closet. While the mother who orchestrated the fake account was acquitted of murder, the case sparked numerous U.S. states and Congress to consider changing their statutes. The bill before us, Bill C-273, does not limit its application to young offenders.

Another high-profile case, mentioned earlier in discussion by the member for Vancouver Centre, was that of Tyler Clementi, an 18-year-old student at Rutgers University in New Jersey, who committed suicide in 2010 by jumping from the George Washington Bridge. Members may recall it at the time. It was later revealed that Clementi's roommate secretly filmed Clementi's sexual encounter with another man and broadcast it on the Internet without anyone's knowledge. Clementi, who had not yet made his sexual orientation public, took his own life in consequence.

We see, through troubling incidents such as these and others that have been described in debate this evening, that cyberbullying is real and can have devastating consequences. Parliament needs to act to adopt this legislation but parents and legislators must also intervene to denounce cyberbullying and discuss appropriate technology use with our children. While this legislation cannot, in and of itself, prevent cyberbullying, it can deter and dissuade people from it, as well as sanction those engaged in it, something that the current law does not provide.

In the time remaining, I will briefly discuss a few particular concerns that might form the basis for some discussion in committee and potential amendment. Some reference has already been made to this regard.

The first is that there is a lack of uniformity in the terms surrounding the problem, be it cyberbullying, cyberharassment or cyberstalking and the like, or any such variation thereupon. The proposal before us uses none of these but it may be useful to define such terms for greater clarity.

Second is something that is difficult to address. There is the question of the jurisdictional limits and the anonymity of the Internet. As we have observed, even with our own House investigation into threats made by the group Anonymous, it can be difficult for law enforcement personnel to identify, locate, arrest and prosecute alleged offenders.

Third is the issue of harm, as some argue that cyberbullying has only emotional consequences, unlike the physical scars that may

result from traditional bullying. Certainly both are problematic and must be addressed and redressed but it may be that online activity requires different wording than what is presently in the Criminal Code. I look forward to submissions in that regard as well.

This bill is a necessary addition to our criminal law to address the ever-growing problem of harassment over the Internet by text message and the like. I look forward to its deliberation in committee and its subsequent passage through the House.

This is but the start of a larger dialogue that we need to engage in as a nation with respect to trying to determine the ethical limits of the conduct and misconduct and the related and appropriate use of technology, as we as parents are now forced to tackle issues that were inconceivable when we were children. I am sure I speak for many of my colleagues when I express the hope that the society which we build should seek to be one in which our children are not targets of harassment and abuse either in person or online.

● (1815)

Ms. Kerry-Lynne D. Findlay (Parliamentary Secretary to the Minister of Justice, CPC): Mr. Speaker, I am pleased to discuss this legislation introduced by the member for Vancouver Centre that proposes to strengthen our ability to deal with cyberbullying.

Bill C-273 seeks to amend three Criminal Code offences: section 264, criminal harassment; section 298, defamatory libel; and section 372, false messages, indecent telephone calls and harassing telephone calls, to ensure that all three of these offences are interpreted to capture behaviour that occurs using a computer or over the Internet. The sponsor's stated goal with these proposed amendments is to target the growing issue of cyberbullying, a term that has received a lot of media and academic attention and scrutiny.

I am sure we can all acknowledge that the issue of bullying is not new. However, technology has forever changed the nature and scope of bullying, as it has changed so many other aspects of our society. The immediacy and broad reach of new technologies has made bullying easier, faster, anonymous, more prevalent, permanent and more cruel than ever before.

The member for Vancouver Centre is in good company in recognizing the increasing challenge posed by computer technology to the issue of bullying. In fact, many leading Canadian scholars and academics have been involved in work to ascertain to what extent bullying and cyberbullying is occurring in Canadian schools and on playgrounds. It is challenging to get an accurate sense of the level of bullying in Canada but many people are trying, and I think it is fair to say that the incidents of bullying are not insignificant.

For example, in her remarks upon the introduction of the bill, the member for Vancouver Centre referred to a University of Toronto survey on cyberbullying. She stated:

In a recent study by the University of Toronto, 50% of surveyed students reported that they had been bullied online....

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Other reports make the same point. For example, a 2010 research report published in the *American Journal of Orthopsychiatry*, which studied 33 junior high schools in Toronto, reported that almost 50% of students surveyed had been bullied online.

It is not just students who are affected by this issue. Many educators, non-governmental organizations and parents have reported that cyberbullying is one of their biggest concerns relating to schools and education today. A Statistics Canada survey conducted in 2007 of 2,162 Canadian parents with children age 5 to 24 years found that bullying was a concern to 80% of parents.

Another survey conducted in 2010 on behalf of the Canadian Teachers Federation found that 85% of Canadians felt that bullying and violence were very serious problems.

Finally, an Angus Reid poll from this year found that 88% of Canadians surveyed felt that bullying was a serious problem in elementary school and 94% felt that it was a problem in high school and middle school.

We all recognize that these are very serious issues and the government has been active in addressing the issue of bullying through several federal departments. For example, bullying is being addressed by the national crime prevention strategy, which is administered by Public Safety Canada's National Crime Prevention Centre. The National Crime Prevention Centre provides funding to organizations, including schools, to implement crime prevention. The interventions target the risk factors that are associated with future involvement in crime, including aggressive and anti-social behaviour, which are also linked to involvement in bullying.

The federal government also offers programming and project funding to help address and prevent bullying through the RCMP, the Public Health Agency of Canada and Justice Canada.

Provincial governments are also dealing with the issue through various measures. For example, Ontario, Quebec, Manitoba and Alberta have all recently introduced new anti-bullying legislation that requires schools to implement anti-bullying policies and procedures. Ontario's keeping our kids safe in school act, which came into force in February 2010, requires, among other things, all school staff to report to principals serious student incidents, including bullying.

Quebec's bill 56, as another example, will require schools to implement an anti-bullying plan and allow principals to expel repeat offenders when it is passed by the provincial legislature.

• (1820)

Earlier this month, Nova Scotia announced that it would be introducing legislation in the near future to address the issue of bullying. It will likely take into account the 85 recommendations contained in the recently released task force report on bullying and cyberbullying. The task force, which was struck by the Government of Nova Scotia in 2011, released its report on March 22 of this year.

In addition to federal and provincial efforts to address bullying and cyberbullying, some municipalities have enacted bylaws against bullying. Edmonton, Alberta was the first municipality to do so in 2003. It currently has a bylaw in force that would impose a fine of up to \$250 on anyone who bullies a person under the age of 18.

It is also interesting to note that other jurisdictions, including the United States, have also been addressing the issue of bullying and cyberbullying through legislative reforms. To date, 50 U.S. states have enacted legislation that address bullying or cyberbullying in some way and a few of them flow through the imposition of criminal sanctions.

As members can see, there is much work under way to address the issue of bullying. It is an issue that I take very seriously as it has affected my own family.

I would just like to raise for our consideration a few points regarding the approach this bill is proposing. I would ask members to think about the scope of the bill and the fact that it only addresses the issue of cyberbullying and not the broader issue of bullying. In my opinion, these two types of bullying are so closely intertwined that it may well make more sense to deal with both together. As well, it limits the focus to three Criminal Code offences and not to other offences that could also apply in a situation of bullying, such as intimidation, personation and uttering threats. We should consider whether the narrower approach is the right approach.

I do not want these comments to detract from the importance of this issue so, in closing, I express my thanks to the member for Vancouver Centre for bringing this very important issue before us today.

[Translation]

The Acting Speaker (Mr. Bruce Stanton): Before I recognize the hon. member for Drummond, I must say that I will have to interrupt him at 6:30 p.m., at the end of the time provided for private members' business.

The hon. member for Drummond.

Mr. François Choquette (Drummond, NDP): Mr. Speaker, I would like to say first of all that I am speaking today on Bill C-273, an act to amend the Criminal Code on cyberbullying.

I am greatly concerned about cyberbullying and bullying. I really want to make people aware of this terrible scourge. As a former teacher, and as a father, this is an issue that is of immediate concern to me. We know it is a very serious social problem with tragic consequences and implications.

In my community, in the Drummond riding, people are very involved and are aware of the issue. They are taking action to inform and enlighten people about this serious problem. The parents' committee of the Des Chênes school board, which I am proud to recognize and commend, is a very active committee. Recently, these parents sent out an invitation to Jasmin Roy, who established the Fondation Jasmin Roy that fights against bullying and cyberbullying.

Mr. Roy gave a speech in Drummondville, and the room was full to overflowing. Everyone listened closely. Parents and young people, people who had never been bullied and others who had been bullied or were still being bullied, everyone was very concerned about the issue. At the end of the speech, I had planned to ask a question because I found the subject extremely interesting and worrying. When I raised my hand, I saw that all those in attendance had raised their hand at the same time. I was really astounded to see that the issue was of such great concern and that it touched so many people. It touched them personally, in the deepest part of themselves, and it touched their dignity.

This is really important, because when you bully someone, you attack their dignity, their self-esteem and their idea of themselves as individuals. It is very important to be treated with respect, and bullying and cyberbullying damage people's self-esteem. As we know, unfortunately, sometimes this has very serious consequences. It can lead to suicide. There is a great deal of depression. Mr. Roy himself explained that he had experienced periods of very serious depression because of the bullying he had suffered. We have to take action on this problem, and it is important that all levels of government be involved.

People in my municipality are very involved, including the parents' committee and the municipality itself. As an MP and a citizen myself, I decided to get involved too. In fact, I have offered my website to people to post messages of hope—youth and adults alike, anyone who has been bullied in the past or has witnessed this phenomenon and did not know what to do about it. Once again, I am offering my website to people who want to post messages of hope, to encourage people to condemn bullying and to call on organizations that can help.

It is imperative that we not sit back and do nothing about bullying. People need to get involved and condemn it. They need to go and get help, to tell their parents and teachers. Organizations exist. Tel-jeunes is a great organization that is making a difference in Quebec. It is absolutely crucial that people be able to intervene.

Once again, I would like to thank the entire Drummondville community for its great work.

We live in a time when communication is at a peak. This allows people to share information very quickly and across borders. Today's technology—whether telephones, cell phones or computers—is capable of doing more and more. Accessing the Internet is child's play for most people, and this allows us to stay in touch no matter where we are.

The Internet is creating an entire universe of new forms of interaction.

• (1825)

The use of email, websites, discussion forums, instant messages, text messages and social networks allows many very interesting messages to be shared; however, unfortunately, it also allows for an incredible form of abuse that we call cyberbullying. There are too many examples of people who have made headlines in the newspapers, the media and the national and international news because they got caught in the vicious cycle of cyberbullying and bullying. They committed deplorable acts that one can only be

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saddened to learn about. As I mentioned earlier, unfortunately, some people go as far as committing suicide. We must put a stop to this scourge. All levels of government must get involved.

Since I have little time remaining, I will get right to the heart of my conclusion. What I think is important is that this bill is a beginning. It is not perfect but it must be supported in some way. We need to ensure that the main focus is prevention, because once such acts have been committed, the damage is done and the results are too sad. We really have to focus on creating greater harmony in schools and with people. We have to work on self-esteem.

When a person has high self-esteem, when he feels good about himself and he is involved in worthwhile activities, such as sports, hobbies and the arts, he has alternatives to bullying others. Such involvement also helps to create social ties and to ensure that victims of bullying have someone to talk to and to provide them with support in order to help them cope with this very real problem. Everyone needs to get involved.

Unfortunately, the Conservative government is not very involved. There are many things that can be done. The hon. member for Fjord named a number of them earlier.

• (1830)

The Acting Speaker (Mr. Bruce Stanton): Order, please. The hon. member for Drummond will have three minutes for his speech when the motion returns before the House.

The time provided for the consideration of private members' business has now expired, and the motion is dropped to the bottom of the order of precedence on the order paper.

ADJOURNMENT PROCEEDINGS

A motion to adjourn the House under Standing Order 38 deemed to have been moved.

[*English*]

GOVERNMENT APPOINTMENTS

Mr. Jamie Nicholls (Vaudreuil—Soulanges, NDP): Mr. Speaker, I am an NDP member. We have never taken federal power and so we look at the long game and often go to history to see the mistakes made in the past.

There is a famous saying by one of the major figures in Canadian politics. It was "You had an option, sir." Those famous words were what cleared out the Liberal government at the tail end of the Trudeau era. They were words uttered by former Conservative prime minister Brian Mulroney, then only a candidate, debating former prime minister John Turner about a raft of patronage appointments that had been made.

The member across who will probably speak to this would have probably been tucked into his bed at that time, when the debate was televised. That might account for the lack of historical awareness of this pivotal debate. Those words were credited with bringing down years of Liberal arrogance, to usher in the greatest Tory majority that Canada had seen.

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Mr. Mulroney, we would come to learn, would have ethical challenges of his own. Therefore, nobody's hands were clean in the end. Eventually he, too, was swept from power, leaving his party in tatters.

Often what undoes a party is a lapse in ethical judgment concerning appointments, what is called patronage.

What I am going to say tonight here in this place is a warning to members across. They too are vulnerable to the will of Canadians. The member across has a bright future, but the electors do not look favourably upon the political class when we give our friends plum positions at the expense of taxpayers. No one would denigrate the competence of these people, but their closely linked past with the party leads one to question if the appointment was based on merit or favouritism. It puts it into question and it taints the appointment itself.

The Prime Minister used to call the Senate a dumping ground for political cronies. I guess he has caved in to the rotten precedent set by Liberal and Tory administrations of past years.

In the words of our former leader:

He has declared to the Canadian public that he would not name unelected people to the Senate....His word means less and less every day he's in office, and he's behaving more and more like the Liberals.

These appointments are not limited to the Senate only, but through a whole range of public positions. I only have four minutes, so I would never be able to get through all the appointments. Let me look at the ones that stand out.

Doug Finley, husband of the Minister of Human Resources and Skills Development, was the former campaign manager of the Conservative Party. He was at the head of the campaign during the in and out scandal. Wow, nice reward, a plum Senate position.

Carolyn Stewart-Olsen, the Prime Minister's communications assistant, was given a Senate job.

Don Plett, former president of the Conservative Party of Canada, was given a Senate job.

Elmer Derrick is not a Conservative, so I guess my theory is, but wait a second, he signed a deal to support Enbridge's \$5.5 billion oil pipeline. He was appointed director of the Prince Rupert Port Authority.

Bernard Généreux, former Conservative MP, was appointed to the Quebec Port Authority conseil d'administration.

Jean Pierre Blackburn, former Conservative cabinet minister, was appointed as ambassador to UNESCO.

Larry Smith, failed Conservative candidate in Lac-Saint-Louis, was given a plum job in the Senate. He had the gall to complain about his pay cut.

Josée Verner, former Conservative cabinet minister, was given a plum Senate job.

Jennifer Clarke, a Vancouver Tory who failed in the 2011 election, was named director of the Prince Rupert Port Authority. Wow, Prince Rupert is really hopping.

Mark Wright, former assistant to a Conservative MP, found himself appointed to the Thunder Bay Port Authority.

Andrew Paterson, who massively donated to the Conservatives, was named to a well-paying job with Canada Post.

The list could go on and on. "I'll scratch your back if you scratch mine" works between buddies, but it is not a valid framework for public appointments. It has become so bad that Canadians have lost faith in the political class. Whether it is the Liberals or Cons, they always come in promising—

• (1835)

The Acting Speaker (Mr. Bruce Stanton): Order, please. The hon. Parliamentary Secretary to the Minister of Transport.

[*Translation*]

Mr. Pierre Poilievre (Parliamentary Secretary to the Minister of Transport, Infrastructure and Communities and for the Federal Economic Development Agency for Southern Ontario, CPC): Mr. Speaker, our government's practice is to appoint qualified candidates to positions where they are responsible for serving Canadians.

[*English*]

I think it would be appropriate for the hon. member to acknowledge the hard-working Canadians who serve in a variety of these positions. Many he did not name, but they are mildly compensated for a great deal of time and commitment. People have spent a lifetime accumulating experience to go on to serve on a board on behalf of the Canadian people. Often these nominated Canadians are well qualified and could be doing something else in the private sector, but they choose to serve. Indeed, public service is a worthy and honourable undertaking. Thousands of my constituents are public servants.

The hon. member has every right to raise questions about the people we appoint. The executive cabinet has the ability to make nominations, and the opposition has the responsibility to scrutinize them in this chamber. I do not deny the member's role in doing that. I only ask that he avoid painting all appointed Canadians with a negative brush. There are many honourable people in this country who have served in those roles and do so every day for the well-being of their country. We ought to recognize and thank them for that. We ought to work together to ensure that all nominations are done on the basis of merit, just as this Prime Minister does every day.

Mr. Jamie Nicholls: Mr. Speaker, I do not think there was anything I said that denigrates the public service. In the years that we have been here, we have been great defenders of public service. However, when appointments are made that bring up questions and lead the public to ask if the appointment was made because the person was involved with the party in question rather than because of the wealth of experience the person might have from their career, as soon as that decision is tainted, then effectively the trust in the political class is reduced.

Adjournment Proceedings

I would suggest to the member across that he visit the hall outside near the central foyer and look at the portraits of the two prime ministers mentioned earlier. He might hear the echoes. He had an option. He could have said, "I'm not going to do this. It is wrong for Canada, and I'm not going to ask Canadians to pay the price." There was an option to say no, but he chose to say yes to the old attitudes and old stories. That, if I may say so respectfully, is not good enough for Canadians.

If he heeds those words of one of the past leaders of his party, he may stick around long enough to see the portrait of his leader on the wall in 2016 and continue to keep the NDP government to task in his capacity as one of the leaders of the official opposition. If not, he will become one of the forgotten—

Mr. Pierre Poilievre: Mr. Speaker, indeed, one day this Prime Minister will have his portrait unveiled in these halls of Parliament. It will be an occasion to reflect upon the historic achievements that he has ushered in during his time as Prime Minister.

He has won three mandates just now, and perhaps more in the future. He led Canada through one of the greatest worldwide financial crises since the Great Depression. He brought to an honourable conclusion Canada's efforts to combat the Taliban in Afghanistan following the al-Qaeda attack that killed dozens of Canadians on 9/11. He has lowered taxes and reduced the encumbering weight of the state on the backs of the Canadian people. He has been recognized all around the world for his defence of human rights, Canadian values and strong economic freedom. That is why we are proud to call him our Prime Minister. It is why Canadians gave him a strengthened mandate. It is why that unveiling will be a great occasion.

• (1840)

AIRLINE SECURITY

Mr. Randall Garrison (Esquimalt—Juan de Fuca, NDP): Mr. Speaker, I am happy to rise this evening in this adjournment debate to bring attention to a serious matter of discrimination against the transgendered community in Canada that was the result of a change in the regulations regarding air travel implemented in August 2011.

I am also happy to continue the debate here tonight in the hopes that the government will act to end this situation where an unnecessary regulation causes great distress to transgendered Canadians when they try to travel, by subjecting them to scrutiny that no others face.

This raises a couple of important questions. One is the question of privacy rights. Why do transgendered Canadians have to prove their gender when no one else is asked to face the same kind of scrutiny at an airport? They also have to do this in a public situation, which unfortunately exposes them to the prejudice that often exists in our country against transgendered Canadians and again is a violation of their privacy rights.

We have many examples where it has caused delays in people catching flights and therefore caused missed flights, the repurchase of tickets and disruption of their travel plans for a reason that would never happen to any other Canadian planning to travel. In some cases, people have been prevented from flying by their inability to

come up with documents which match the gender appearance which they show.

The government took no action when I raised this question with the Minister of Transport in question period on February 1. In fact, not only was there no action, there was unfortunately much tittering on the other side as if there was something funny about the challenges that face transgendered Canadians in their everyday lives in this country.

At transport committee on February 9, government members voted unanimously to defeat a simple NDP motion that had been moved by the member for Trinity—Spadina. That motion called for the repeal of section 52(1)(c) of the identity screening regulations under the Aeronautics Act. This regulation states, "An air carrier shall not transport a passenger if the passenger does not appear to be of the gender indicated on the identification he or she presents".

This is a completely unnecessary regulation. It is not required under any of the international aeronautics agreements. There are many other solutions to the supposed problem presented by transgendered people who want to fly. The United Kingdom, for instance, does the very sensible thing, which we are talking about, which is requiring that identification simply match the face to the person on the documents. The question of gender is irrelevant to that match.

In Australia, there is a much more innovative solution. Australian passports and other documents allow three gender choices in determination of documents. Australian travel documents may say male, female or indeterminate, which allows transgendered people to choose a category which would not subject them to this kind of study.

In committee at that time the Parliamentary Secretary to the Minister of Transport said, "I think my colleagues across have argued their case very well and have raised some good points." Then he went on to raise no substantive points in answer to our proposal to simply limit the regulations for flying to matching up the face to the identity documents of the person.

Tonight I am asking the Parliamentary Secretary to the Minister of Transport whether the government has reconsidered this issue. I am hoping that the government will be able to report to transgendered Canadians that this unnecessary regulation will be removed at the earliest possible date.

Mr. Pierre Poilievre (Parliamentary Secretary to the Minister of Transport, Infrastructure and Communities and for the Federal Economic Development Agency for Southern Ontario, CPC): Mr. Speaker, the identity screening regulations were created in 2007 to support the passenger protect program. That program is an aviation security initiative designed to identify people and to protect Canadians in their travels. To accomplish this, airlines used to have to verify at the boarding gate that a passenger's name, as indicated on his or her identification, matched his or her boarding pass. However, the regulations did not specify that the airline had to also match the identification and boarding pass with the passenger.

Adjournment Proceedings

In 2010, after an incident in which an airline allegedly did not check the identification of a passenger who was wearing a veil, the regulations were amended to explicitly require that air carriers compare and verify the physical identity of passengers against their travel documents and identifications. Air carriers are now required to screen each passenger by matching the face, date of birth and gender with that on their identification.

That said, we all know it is possible that someone's age, gender or facial characteristics do not necessarily match or resemble his or her identification. This can happen for a variety of reasons. Some are medical, some are due to aging and some are due to just regular changes in appearance that can occur. That is why we give airlines the ability to resolve any apparent discrepancies when comparing passengers with their identifications.

Unlike what is being alleged, they do not necessarily require a medical certificate to do this. For example, it is possible that a passenger's gender could appear to be different from that on their identification, but what people are deliberately not being clear about is that the airline can use other methods, methods such as questions or visual assessments, to confirm that the gender on the identification is correct and belongs to that passenger. I think we can all agree that this is simply good security. We want to make sure, essentially, that people are who they say they are. That is done by matching three things: the passport to the identification and the identification to the passenger. If those three things can be linked, there is a secure identification of the person boarding the plane.

Let me be clear. These regulations do not discriminate on the basis of gender, sexual orientation or other irrelevant characteristics. They simply seek to match the passenger to the identification and the identification to the passport so that the airlines and our transportation system can be comfortable knowing that the people getting on the plane are who they say they are.

• (1845)

Mr. Randall Garrison: Mr. Speaker, I thank the parliamentary secretary for his remarks, but he is still doing the same thing: evading the main issue.

We all believe in security in transportation and the necessity of checking the identities of passengers boarding planes. No one disputes that. However, gender is an irrelevant characteristic and does not need to be checked to establish identity. We know that other countries do not do this and have equally safe air transportation systems. The fact is that although the intention may not have been to discriminate against transgendered Canadians, having this unnecessary regulation very clearly results in that discrimination and the violation of privacy rights, exposure to prejudice and, ultimately, difficulties in travelling.

I know the government likes to talk about unnecessary regulations and the necessity to remove them. I am offering this as one that is very simple and would not affect security. It would not require the gate agents of all the airlines to be experts in gender identity or force transgendered Canadians into a situation in which they may be discriminated against, exposed to prejudice and prevented from flying.

Once again, I would call on the government to eliminate this unnecessary regulation, which has nothing to do with the safety of air travel.

Mr. Pierre Poilievre: Mr. Speaker, I think the hon. member would agree with me that we can structure our regulations in a way that ensures that people of all backgrounds, genders and characteristics can have equal treatment when boarding aircraft to reach their destinations and ensures at the same time that the system can protect Canadians against those who would do harm. We can marry those two objectives of avoiding any form of discrimination on the one hand and protecting the security of Canadian air travellers on the other. These are not incompatible goals. They are the objectives of our government, and we continue to achieve both of them.

• (1850)

The Acting Speaker (Mr. Bruce Stanton): The motion to adjourn the House is now deemed to have been adopted. Accordingly, this House stands adjourned until tomorrow at 2 p.m., pursuant to Standing Order 24(1).

(The House adjourned at 6:50 p.m.)

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