HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

House of Commons Debates

VOLUME 146 • NUMBER 058 • 1st SESSION • 41st PARLIAMENT

OFFICIAL REPORT
(HANSARD)

Thursday, December 1, 2011

Speaker: The Honourable Andrew Scheer

CONTENTS

(Table of Contents appears at back of this issue.)

HOUSE OF COMMONS

Thursday, December 1, 2011

The House met at 10 a.m.

Prayers

ROUTINE PROCEEDINGS

● (1005)

[*English*]

GOVERNMENT RESPONSE TO PETITIONS

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

* * *

INTERPARLIAMENTARY DELEGATIONS

Mr. Randy Hoback (Prince Albert, CPC): Mr. Speaker, pursuant to Standing Order 34(1) I have the honour to present to the House, in both official languages, the report of the Canadian parliamentary delegation of the Canadian Section of ParlAmericas respecting its participation in the 41st regular session of the OAS General Assembly held in El Salvador from June 5 to 7, 2011.

* * *

COMMITTEES OF THE HOUSE

ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT

Mr. Chris Warkentin (Peace River, CPC): Mr. Speaker, I have the honour to present, in both official languages, the first report of the Standing Committee on Aboriginal Affairs and Northern Development entitled "Supplementary Estimates (B), 2011-12".

* * *

BILLS OF EXCHANGE ACT

Ms. Libby Davies (Vancouver East, NDP) moved for leave to introduce Bill C-374, An Act to amend the Bills of Exchange Act (rights of bill holders).

She said: Mr. Speaker, I thank the member for Welland for seconding my bill today. I am very pleased to rise in the House to present it.

The bill is a little complicated and hard to explain but it is actually a very simple issue. It springs from a flaw in the Bills of Exchange Act, which is federal legislation governing financial transactions that dates back to the 1890s. The purpose of my bill is to prevent the cashing of cheques by a cheque-cashing business when the cheque has been cancelled by the person who wrote it. I know that sounds a bit convoluted but I will explain it.

This would apply, for example, to people who have hired someone to do work on their house, realize there are complaints of fraud, cancel their cheque and then the person who was doing the work goes to a Money Mart or a cheque-cashing business and cashes the cheque. When the cheque-cashing business realizes that there was a stop payment on the cheque, it goes to the homeowner to collect, even though homeowner did the proper thing. In dealing with cases in Vancouver, I found out there were dozens and dozens of cases where Money Mart had actually sued the homeowners for doing the right thing and putting a stop payment on the cheque when they realized there were improper things going on and yet cheque-cashing businesses went after the homeowners.

This bill would simply correct that. It is something that dates back to the 1890s. We need to ensure there is consumer protection when people have shown due diligence. The purpose of this bill is to ensure that cheque-cashing companies also show due diligence in terms of how they conduct their transactions.

I hope that makes sense. Once people understand it, they realize it is very common and we need to take action on it. I hope members of the House will support the bill.

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

* * *

WORLD AUTISM AWARENESS DAY ACT

Mr. Harold Albrecht (Kitchener—Conestoga, CPC) moved for leave to introduce Bill S-206, An Act respecting World Autism Awareness Day.

He said: Mr. Speaker, I rise today to introduce Bill S-206, an act respecting world autism awareness day.

I think all of us in the House have met or have had personal contact with those who are struggling with autism. We are very much aware of our colleague, the member for Edmonton—Mill Woods—Beaumont, who has done such an incredible job of raising the awareness, understanding, acceptance and desire to help people and families struggling with autism. I am continually amazed at the perseverance and tenacity demonstrated by every family and community that has to deal with autism on a daily basis.

We need to do all we can to raise awareness, to work toward effective solutions and to finding ways to support them.

(Motion agreed to and bill read the first time)

* * *

PETITIONS

CANADIAN BROADCASTING CORPORATION

Mr. LaVar Payne (Medicine Hat, CPC): Mr. Speaker, it is a pleasure to stand and present a petition from people right across Canada calling for the de-funding of the Canadian Broadcasting Corporation.

The petitioners want to ensure that the government is aware that the sum of $1.1 billion given by the Government of Canada to CBC does present an unfair advantage to CBC over its competition in the private sector.

Therefore, these petitioners call upon Parliament to end the public funding of the Canadian Broadcasting Corporation.

● (1010)

FALUN GONG

Ms. Libby Davies (Vancouver East, NDP): Mr. Speaker, I have the pleasure to introduce a petition signed by residents in metro Vancouver. It concerns the Falun Gong, which is an organization and a practice we are all familiar with, which is the peaceful and beneficial spiritual practice centred on the principles of truth, compassion and forbearance.

The petition draws to our attention the persecution of these practices and people in China and calls on the government to use every possible channel to call for an end to the persecution of Falun Gong, especially at meetings with Chinese leaders and at international forums, and to help rescue 12 family members of Canadian residents who are incarcerated for their belief in Falun Gong in China.

CANADIAN BROADCASTING CORPORATION

Ms. Judy Foote (Random—Burin—St. George's, Lib.): Mr. Speaker, I rise with pleasure to present a petition on behalf of constituents in the riding of Random—Burin—St. George's for the continued funding for the CBC.

In line with the number of "whereas" clauses giving reasons for their support, the petitioners call on the Government of Canada to maintain stable and predictable long-term core funding to the public broadcaster, including CBC Radio and Radio-Canada in support of their unique and crucial roles.

I could speak to the importance of CBC, particularly as a former employee, but, as well, because of the relevance of the programs, programs such as the *Fisheries Broadcast* which is heard throughout Newfoundland and Labrador, particularly in rural communities. In some cases, it is the program that connect fishers from one part of Newfoundland and Labrador to the other.

In terms of the importance of CBC and the programs that it offers, I concur with the signatories to this petition and call on the government to recognize the importance of the CBC to Canadians from coast to coast to coast.

SEARCH AND RESCUE

Mr. Jack Harris (St. John's East, NDP): Mr. Speaker, I have the honour of presenting a petition from a number of my constituents in St. John's East and in other parts of Newfoundland and Labrador, including from the riding of the member for Random—Burin—St. George's, calling on the government to reinstate and change the decision to close the marine rescue coordination centre in St. John's, Newfoundland and Labrador. This Newfoundland and Labrador region has the highest proportion of distress incidents in Canada, responding to an average of 500 incidents a year, involving 2,900 people and saving the lives of some 600 people in distress at sea each year.

This centre is responsible for 900,000 square kilometres of ocean. The staff there have a unique knowledge of that area of ocean and coastline, as well as the people who work on the oceans, fishers, boaters and other workers.

It is very important that this be maintained. The petitioners are calling on the government to do that.

* * *

QUESTIONS PASSED AS ORDERS FOR RETURNS

Mr. Tom Lukiwski (Parliamentary Secretary to the Leader of the Government in the House of Commons, CPC): Mr. Speaker, if Question No. 182 could be made an order for return, this return would be tabled immediately.

The Speaker: Is that agreed?

Some hon. members: Agreed.

[*Text*]

Question No. 182—**Mr. Ted Hsu**:

> With regard to the new vaccine research facility at the University of Saskatchewan: (*a*) what is the exact cost for constructing this facility; (*b*) how much money is the federal government pledging to assist in the construction of this facility; (*c*) what department(s)are responsible for overseeing and managing the construction of this facility; (*d*) what ministry or ministries will be responsible for allocating funds towards this facility; (*e*) what is the estimated cost of maintaining and running this facility on a yearly basis; (*f*) what, if any, of this cost will be borne by the federal government?

(Return tabled)

[*English*]

Mr. Tom Lukiwski: Mr. Speaker, I ask that the remaining questions be allowed to stand.

The Speaker: Is that agreed?

Some hon. members: Agreed.

GOVERNMENT ORDERS

[*English*]

CITIZEN'S ARREST AND SELF-DEFENCE ACT

Hon. Gerry Ritz (for the Minister of Justice and Attorney General of Canada) 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 second time and referred to a committee.

Mr. Robert Goguen (Parliamentary Secretary to the Minister of Justice, CPC): Madam Speaker, I am pleased to lead off the debate on Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons). Bill C-26 was first introduced in the last Parliament as Bill C-60. The bill is a responsible expansion of the citizen's power of arrest and also includes a long overdue simplification and clarification of the law on self-defence and defence of property.

Prior to the introduction of former Bill C-60, the issue of citizen's arrest had been subject to two private member's bills and numerous discussions in parliaments, newspaper and, no doubt, in coffee shops across the country. So the straightforward reform proposed for the law of citizen's arrest in the bill is well understood and well supported by all parties. I will speak to it only briefly today.

● (1015)

[*Translation*]

The proposed reforms to the defences of property and persons have different histories and goals. Some members were surprised by the inclusion of these reforms in Bill C-60 when it was introduced. I would like to start by explaining why these reforms were presented together.

While defence of property and the power to make a citizen's arrest are separate legal concepts, in the real world, these concepts can sometimes overlap. For example, imagine a security guard who discovers an intruder in a building who is heading to the door with a laptop in hand. The security guard can apprehend the thief and then call police so that the thief can be charged. That is an example of a citizen's arrest. That is the typical situation in which citizens make the arrest themselves and then call the authorities.

In this emergency situation, the law authorizes the security guard to make the arrest, in the place of the police, but the security guard could also use a minimal amount of force against the thief. For example, the guard could grab the thief's arm while trying to grab the laptop. Because the intent is different, this action could be considered defence of property—the laptop, in this case. If the thief resisted or responded with force, it would be a matter of self-defence if the guard had to defend himself.

[*English*]

While there are three distinct legal mechanisms, they are all directly relevant to the broader question of how citizens can lawfully respond when faced with urgent and unlawful threats to their property, to themselves and to others.

Our government recognizes that all of these laws, any one of which may be pertinent to a given case, must be clear, flexible and provide the right balance between self-help and the resort to the police. That is why all these measures are joined together in Bill C-26.

I will now to turn to a brief description of the proposed citizen's arrest reforms and to devote the rest of my time to the reform of the defences.

On the question of a citizen's arrest, no one can dispute the fact that arrests are primarily the responsibility of the police. This will remain their responsibility and there is no change in that regard. However, in recognition of the fact that the police are not always present when a crime is committed, the Criminal Code has long authorized citizens to arrest other citizens in narrowly defined situations, including where an offence is committed on or in relation to property.

Section 494(2) of the Criminal Code currently allows for an arrest only where a person is found committing an offence. That said, there have been occasions recently where a citizen effected an arrest a short while after the crime was committed because that was when the opportunity arose. These cases have raised questions about whether the scope of the existing arrest power is appropriate.

Our government believes that it is reasonable to extend the period of time allowed for making a citizen's arrest by allowing arrest within a reasonable time after the offence is committed.

To discourage vigilantism and to ensure that citizens only use a slightly expanded power of arrest in cases of true urgency, Bill C-26 also includes a requirement that the arresting person reasonably believes that it is not feasible in the circumstances for a peace officer to make the arrest. These are reasonable and responsible reforms and all members are urged to support them.

[*Translation*]

Although our citizen's arrest reforms are rather simple, the changes that they will mean for defence of the person and defence of property need more detailed explanations.

The provisions on defence of the person and defence of property, as they are currently written, are complex and ambiguous. Existing laws on self-defence, in particular, have been the subject of decades of criticism by the judiciary, including the Supreme Court of Canada, as well as lawyers, academics, lawyers' associations and law reform organizations. Much of the criticism has to do with the fact that the existing law is vague and hard to enforce. It is fair to say that reform in this area is long overdue.

These kinds of defence were included in the very first Criminal Code. The wording of this part of the legislation has remained very similar since the original Criminal Code was written in 1892. Defence of property was covered in nine separate provisions containing a number of subcategories and other very complex provisions that have become obsolete and unnecessary.

● (1020)

[*English*]

Professor Don Stuart of Queen's University, whose textbooks on criminal law are widely used by first year law students in this country, has written:

> The defences of person and property in Canadian law are bedeviled by excessively complex and sometimes obtuse Code provisions.

It is important to be clear, however, that the criticisms of the law do not pertain to its substance but rather to how it is drafted. Self-defence and defence of property are and have always been robust in Canada. There has been a lot written in newspapers about the right to self-defence and protection of one's property, some of which suggests that these rights have been diminished or are inadequately protected. This is untrue. The law is robust, despite the fact that the rules as written in the Criminal Code suffer from serious defects, and despite the way the media have portrayed these issues in recent times.

Parliament has a duty to ensure that laws are clear and accessible to Canadians, criminal justice participants and even the media. That is exactly what we are proposing to do in Bill C-26, even though the actual rights of Canadians are robust and upheld in Canadian courts on a daily basis. When the laws which set out these rules are confusing, we fail in our responsibility to adequately inform Canadians of their rights. Obviously, unclear laws can also complicate or frustrate the charging provisions of the police who themselves may have difficulty in reading the Criminal Code and understanding what is and is not permitted. Bill C-26 therefore proposes to replace the existing Criminal Code provisions in this area with clear, simple provisions that would maintain the same level of protection as the existing laws but also meet the needs of Canadians today.

How are we proposing to do this? I will start with the defence of the person because it arises more frequently than does the defence of property, because calls for reform have focused on this defence, and because of the fundamental importance of the right of self-preservation in Canadian criminal law.

[*Translation*]

If we were to ask ordinary Canadians if they think self-defence is acceptable, they would say that it is acceptable when their physical integrity or that of another person is threatened. I think they would also say that the amount of force used should be reasonable and should be a direct response to the threat.

The reforms proposed in Bill C-26 are centred on those basic elements. Because of the general nature of these ideas, one law based on these fundamental principles should be able to regulate all situations that arise involving defence of the person. We simply do not need different regulations for every set of circumstances. All we need is a single principle that can be applied to all situations.

[*English*]

Under the new defence, a person would be protected from criminal responsibility if there are three conditions which are met: one, the person reasonably believes that he or she or another person is being threatened with force; two, the person acts for the purpose of defending himself or herself or another person from that force; and three, the person's actions are reasonable in the circumstances. Let me clarify a few salient points.

First, unlike the current law which creates different defences for different circumstances, the new law would cover both self-defence and defence of another. The same criteria govern defensive action in both situations.

Second, with regard to the defender's perception of threat to himself or herself or another, members should know that a person is entitled to be mistaken about his or her perception, as long as his or her mistake is reasonable. For instance, if a drunken neighbour walks into the wrong house at 3 a.m., the homeowner may well be reasonable in perceiving a threat to himself and his family, even though there was in actual fact no threat at all, just a tired, drunken neighbour in the wrong house.

The law must still allow people to use defensive force where they make a mistake that any reasonable person could make. Unreasonable mistakes, however, are not permitted. If a person seeks to be excused for the commission of what would otherwise be a criminal offence, the law expects the person to behave reasonably, including in the person's assessment of threats to himself or herself, or others.

Third, the defender's purpose is paramount. If a person acts for the purpose of defending himself or herself or another, the defence is available. Defensive force cannot be available as a disguise for what is actually revenge. Conduct for any purpose other than protection falls outside the bounds of defensive action and the person stands to be convicted for it.

● (1025)

[*Translation*]

Fourth, if the other conditions are met, then the defender's actions must be reasonable in the circumstances. What is considered reasonable in the circumstances depends entirely on the circumstances of each specific case, as assessed by the reasonable person test. The question is: would any reasonable person in the defender's situation have done what the defender did? There is not just one reasonable response for every situation. The important thing to know is that the defender behaved in a way that the judge considers reasonable in those particular circumstances.

The list of factors that may be relevant in determining whether the act of defence was reasonable is far too long to be included in the Criminal Code. Nonetheless, to facilitate the deliberation process, without limiting the nature and scope of the factors that could be taken into consideration, the proposed reform provides a list of well-recognized features of many self-defence situations presented before our courts. This list will guide judges and juries in their application of the new legislation, and confirms that current case law on self-defence continues to be applicable.

[*English*]

Factors that are on the list and likely to be relevant include the nature of the threat and the response to it. For instance, was the attacker threatening to break a finger or to kill? Another factor is whether weapons were present. Another factor is the relative physical abilities of the parties, such as their age, size and gender. Naturally, a petite, elderly woman and a fit, young man may have different options available to respond to the same threat. Another factor is whether there were any pre-existing relationships between the parties, including any history of violence and abuse.

This last factor is particularly important in cases where a battered spouse must defend against an abusive partner. As the Supreme Court has noted in the landmark case of Lavallee, it is sometimes difficult for a jury of citizens to understand how a battered spouse might stay in an abusive relationship or how the person might come to understand the patterns of violence of the person's partner. These cases do not arise often but when they do, sensitivity to these factors is crucial.

The reasonableness of the response must take into account the nature of the relationship and the history between the parties in arriving at a just result.

The proposed law would establish a simple and meaningful framework for decision-making. The relevant facts must be determined first, and then the rule can be applied. Police and prosecutors, in assessing whether a charge should be laid, should gather all the facts and then assess them against the criteria set out in the defence to determine whether there is a reasonable prospect of conviction and whether charges are in the public interest. If charges are laid and the defence is advanced, the trier of fact will be asked to determine, based on his or her assessment of the facts presented at trial and his or her own experience and common sense, whether the actions taken were reasonable in response to the threat.

[*Translation*]

I want to bring one small change to the attention of the hon. members. The use of force is permitted under current legislation only in the defence of a person. Essentially, violent behaviour against the attacker is permitted in the defence. Bill C-26 broadens the defence in order to recognize the fact that in emergency situations, a person might use other forms of behaviour in self-defence such as breaking and entering into a building to seek refuge or even stealing a car in order to flee.

In parallel to the changes to the self-defence provisions, Bill C-26 would replace all the existing provisions for defence of property with one single criterion. It encompasses these essential components and maintains the same level of protection as under the current legislation.

[*English*]

There are three primary conditions to the proposed defence. First, the defender must reasonably perceive that someone else is about to or has just done one of the following things: enter 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.

As with the case of defence of the person, a person can make a reasonable mistake about a threat or interference with property and still have access to the defence. The defender's purpose must be defensive. Defence of the property is not a disguise for revenge. The overarching question for the trier of facts will be whether the actions taken by the defender were reasonable in the circumstances.

It is also imperative to appreciate the defence of property is different from and more complicated than the defence of the person in one important respect. Every person has the right to decide who can touch him or her and how he or she wishes to be touched, and it is very clear when the trigger of non-consensual threat to bodily integrity arises.

Property is very different from the human body in this respect. There can be overlapping interests in the same piece of property which can lead to disputes as to the degree and nature of those interests. Therefore, the defence of property must be guided by the realities of property law in addition to its other basic conditions.

The result as far as the criminal law is concerned is that the defence of property has an additional pre-condition; namely, that the person who claims the defence must have been in peaceable possession of the property at the time of the interference.

The concept of peaceable possession of property is present in the current law and is included in these reforms. This term has been interpreted by our courts to mean that the person must be in actual physical possession of, or in 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 peaceable; it must not be contested or risk violence or public disorder.

For instance, protesters occupying a government building and criminals who are safeguarding stolen goods are not in peaceable possession of property, and therefore they cannot benefit from the defence if someone else tries to take or enter property.

Law-abiding citizens going about their business, on the other hand, will almost certainly be in peaceable possession of their property. If they reasonably believe that someone is threatening their possession, for instance, a thief is trying to pick their pocket or an intruder is trying to break into their house in the middle of the night, and if they act for the purpose of protecting the property from that threat, they will be excused from criminal responsibility for any actions they take that are reasonable in the circumstances.

We can see why threats to ownership rights do not justify responsive actions that might otherwise be criminal. Ownership and many other legal interests in property are matters of property law, and must be decided by the civil courts if the parties cannot agree among themselves.

Only actual real-time threats to physical possession of property allow a person to respond in a way that would otherwise be criminal. The overarching function of the criminal law is to promote public order and public peace. The law therefore cannot sanction the use of force to protect property in any circumstances other than where a present lawful situation is threatened in a manner such that seeking civil recourse at some later date creates the risk of permanent deprivation of property.

The law allows people to preserve the status quo, not to solve ongoing disputes with violence.

[*Translation*]

In closing, I invite all hon. members to support this bill. These changes are long awaited and are a reasoned and measured response to very complex legal situations.

● (1030)

Mrs. Anne-Marie Day (Charlesbourg—Haute-Saint-Charles, NDP): Madam Speaker, I thank the member for his speech.

He spoke about replacing the existing law with clear and precise provisions, or provisions that have been made clearer. He also spoke about the possibility of detaining a person for a so-called reasonable period of time. I find the term "reasonable" to be elastic. It is far from clear and precise. It is used several times in the text. For example, we might consider one day in jail to be appropriate whereas someone else might think that three days in jail would be appropriate in the same situation.

Could the member clarify and explain what he means by "reasonable"?

Mr. Robert Goguen: Madam Speaker, what is reasonable in any context depends on a number of factors. When a citizen's arrest is made, the citizen's responsibility remains to immediately turn over the person detained to the authorities. The law has not been thrown out. When an arrest is made, the citizen must turn the person detained over to the police right away. If they are in a remote area and cannot contact the police or the police must travel a much greater distance to pick up the accused, then circumstances will naturally dictate when this happens. However, the objective is to immediately turn the person over to the authorities, if possible.

● (1035)

[*English*]

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Madam Speaker, I appreciate the opportunity to ask a question, which is in relation to what has happened in the past in some areas across the country.

For instance, one particular incident which took place was that a person's home was continuously broken into. Finally, that person put up traps. He set up a shotgun, so that when the intruders came across and through the window, it would do what he intended to do, which was to repel the people who continuously broke into his home.

I am wondering if this would deal with that kind of situation, where a person was not home at the time of the incident but used force that, in my mind, would be beyond what would be reasonable to repel intruders from entering personal property.

Would the hon. member be able to answer that question for me, please?

Mr. Robert Goguen: Madam Speaker, that question is certainly very relevant. It is a good example of how the application of force of that nature would probably be ruled to be excessive and beyond the scope of what might be reasonable. Obviously, setting off a shotgun to deter criminals is far excessive to perhaps setting up an alarm system, which might otherwise alert the police authorities and have them respond immediately.

The intent of the law is to always give the police authorities the first obligation to respond, then to permit citizens to respond to situations wherein police cannot respond, and to of course only use what is considered reasonable force to protect themselves or their property.

Mr. Jack Harris (St. John's East, NDP): Madam Speaker, I wonder if the parliamentary secretary would agree with me that the whole issue of self-defence and defence of property, although it has been said to be complex, has been part of common law since as far back as the 1100s, I am told. I was not around at the time, but that is what I have heard said. As well, it has been codified since 1892 in Canada.

As a result of being codified, there is a tremendous number of case law. It may be complex, but would the member agree that we have to be very careful when we start changing the law? We are getting rid of eight sections and changing it to two. We must carefully examine the consequences of the different wording that is being used.

For example, "proportionality" is talked about under defence of person but not under defence of property. We do have occurrences such as the member for Fort McMurray—Athabasca mentioned, where people assume that because they have the right to use force in defence of property, they can therefore set a trap that might kill someone. We are dealing with an area of the law wherein we have to be extremely careful.

Would the member agree with that?

Mr. Robert Goguen: Madam Speaker, I would take no issue with the hon. member's comment. It is a matter of proportion and reason.

In essence, what the law proposes to do is make the ground rules clearer. The issue arises only in situations of emergency. We cannot expect people to always react in the same way. However, there has to be a framework in society of exactly what is reasonable for public order, not excessive but what is reasonable, for ordinary citizens who are not used to reacting in emergency situations in the manner that trained officials are.

Therefore, I would agree that there must be a framework that is reasonable. Otherwise, it could create public disorder. That is certainly not what is sought.

Mr. LaVar Payne (Medicine Hat, CPC): Madam Speaker, it is really appropriate that I put a question to my colleague. In Taber, in my riding of Medicine Hat, an individual who had intruders on his property, who were proposing to obviously steal property, took some action to prevent that because the police were not readily available.

In these kinds of circumstances, should there be any kind of charges against this individual?

● (1040)

Mr. Robert Goguen: Madam Speaker, the question of whether or not charges are or are not laid relates to the facts at hand and whether the force used was reasonable in the context and if the intruders have weapons. It is a far different situation if they are caught red-handed breaking in with no weapons. It is always hard to determine, given the circumstances, how the defence will apply or not. It depends really on the circumstances.

There is one important thing to retain from this whole amendment. With these changes and the simplification of the rules, although they are reasonable, it will be easier for law enforcement authorities to make a call as to the application of the law.

The law as it stands right now is far too complex. Because police authorities are not certain whether or not they should lay charges, they will lay the charges and see what the court determines. That obviously clogs the docket, slows down the criminal process, and no one is served by that. Having the rules of the game much clearer will serve not only the police authorities but also the law-abiding citizens who seek to protect themselves and their property.

Mr. Jack Harris (St. John's East, NDP): Madam Speaker, I am pleased to have an opportunity to speak today at second reading on BillC-26, an act to amend the Criminal Code in relation to citizen's arrest and the defences of property and persons.

This bill had its origins in the attention brought to a citizen's arrest some two years ago in Toronto. I think it was called the Lucky Moose case, after the name of a foodmart in downtown Toronto. The owner of the store was a persistent victim of shoplifting. A shoplifter, whom he had seen in his store walk away with some property, apparently came back an hour or so later. Based on his experience in trying to get the police to respond to shoplifting events in the store, the store owner felt that the only way to actually have this fellow charged was to apprehend him.

As a result, the owner was charged with assaulting the individual and with forceable confinement. I think at one point he may have been charged with kidnapping as well. However, the end result was that he was himself put before the courts.

The case caused a lot of controversy. Some of it had to do with whether the policing was sufficient in the area. We know that in larger establishments, like supermarkets and retail stores, there are often security services operating in the establishments. They have some training in apprehending people. They are in effect performing citizen's arrests based on seeing someone actively committing a shoplifting offence. They will phone the police and hold the shoplifter until the police come.

What was different in this case was that the individual had left the store and then came back. When he came back, he was not in the act of committing an offence, as the parliamentary secretary pointed out. As a result, Mr. Chen, the owner of the store who did this, was not inside the provisions of section 494 of the current Criminal Code that says a citizen may arrest someone who is found committing an indictable offence, or personally believes on reasonable grounds that a criminal offence has been committed and is escaping from it, and is freshly pursued.

Actually 494.(2)(b) was the section that he was purporting to act upon. It states:

> A person authorized by the owner or by a person in lawful possession of property, may arrest without warrant a person whom he finds committing a criminal offence on or in relation to that property.

There is a provision that says, “Any one other than a peace officer who arrests a person without warrant shall forthwith deliver the person to a peace officer”.

The normal process for shoplifting is that the store detective, or the store owner, can actually apprehend individuals, phone the police, and forthwith turn them over and the police handle it from there. In this case, because the arrest took place an hour later on a return visit, the owner did not have any basis under section 494 to arrest this individual.

Hence, the legislation originally came forward as a private member's bill introduced our colleague, the member for Trinity—Spadina. I think she might have even called it the Lucky Moose bill in honour of Mr. Chen. It received widespread support from all sides of the House.

Many people who are in the position of being lawmakers are very concerned about passing laws that would encourage a vigilante type of justice. This is why this is such a touchy area.

● (1045)

As the parliamentary secretary said, we have a highly trained police force operating across the country. We have a national police force, local police forces and community policing. There are people patrolling on foot in Chinatown, where the event happened, and other areas of Toronto. These are the people on whom we need to rely.

On the other hand, not every store owner has access to security guards or store detectives. The concern here is for the person trying to run a business. In this case, Mr. Chen was trying to run a business and protect his property. I think most people would think he acted reasonably and detained the individual without using excessive force. However, that is forcible confinement, for which Mr. Chen was charged. If one uses force to confine someone to prevent the person from leaving, that is an offence. However, the citizen's arrest provision provides a defence for forcible confinement by changing it to an arrest, provided the arrest is made within a reasonable period of time.

I suppose if one knows who the individual is, one would phone the police to tell them that the individual is known to have done this before and was witnessed taking something and leaving. The individual would not be chased because of the danger involved and the police would be called. However, if one does not know who the individual is, then the only way to apprehend the offending stranger is to take advantage of the opportunity to pursue.

We support this aspect of the bill wholeheartedly. I think it takes a minimalist approach by making changes to section 494. When I say minimalist, I mean that it does only what is required by the circumstances in which Mr. Chen found himself.

There have to be two conditions: one must witness the offence and the arrest must be made at the time of the offence or within a reasonable time after the offence is committed. Also, one must believe that, on reasonable grounds, it is not feasible under the circumstances for a peace officer to make an arrest.

We could say that when the individual came back into the store, instead of arresting him, the police should have been called right away. However, in Mr. Chen's experience, the police often did not come fast enough and he thought that this individual would be gone again. Mr. Chen would have had this defence, if it fit the circumstances.

Of course, as legislators, we should not make laws every time something unusual happens. However, if the unusual happening points out a flaw in the law where people see an injustice, then I think that a reasonable legislature should take some action, and we support that wholeheartedly.

I want to speak about the powers of self-defence. This is complex, as my colleague, the parliamentary secretary, has pointed out. I do not disagree with the overall thrust of his comments.

As it stands, sections 34 to 42 of the Criminal Code deal with the issues of self-defence. We have specific provisions which allow for self-defence of the person, property and dwelling houses. Historically, there have been reasons for that.

Within the provision for self- defence of a person, there are two categories. One category is for a victim of unprovoked assault. The other category is for a victim who may have started a fight, but the response is so overwhelming that he or she has had to defend himself or herself.

● (1050)

I have no doubt that the rules are complicated. I am looking at the annotated Criminal Code. It starts off with the section with which we are dealing. It then has a series of annotations from case law, covering what the courts have said about these various provisions. I see that even though we are only dealing with relatively short sections of the Criminal Code, there are more than a dozen pages devoted to the cases that have interpreted these sections. That tells us two things: number one, the provisions are litigated relatively often; and, number two, the courts have a history of actually interpreting that legislation.

Section 41, in reference to the defence of a dwelling house and assault by a trespasser, states:

> Every one who is in peaceable possession of a dwelling-house... is justified in using force to prevent any person from trespassing on the dwelling-house or real property, or to remove a trespasser therefrom, if he uses no more force than is necessary.

That is a specific limitation on the use of force. I have been a victim of a break and enter in my house. For example, if someone came into my house and I had no idea what the situation was, I could not get a two-by-four, wait for the individual to come around a corner and crack him or her over the head with it because the person is in my house. If I happen to have a registered weapon or shotgun, I cannot shoot the person just because he or she is on my property.

When we were kids we heard stories about stealing crabapples. We may remember hearing about homeowners with salt guns. I do not think I ever saw a salt gun, but they were shotguns that people would put salt in. We had neighbours we were frightened of because they supposedly had a salt gun. If people were caught stealing crabapples, they would get shot with a salt gun. I have never actually met anybody who was shot with a salt gun, but it would probably be illegal. I hope it would be illegal, but that does not mean it did not happen. Similarly, if people walk on my property, I cannot tell them to get off my lawn and if they refuse, pepper them with a shotgun. That is unreasonable force. That is not force people are allowed to use under the Criminal Code.

In criminal law and the interpretation of law, words are very important. This is especially true when, in the case of these provisions in the Criminal Code, 100 years or more of judicial interpretation has helped to establish how these words are interpreted. An example would be the situation where there is more force than necessary. If people use more force than is necessary, they are going to be convicted of an offence. In fact, even outside the provisions of self-defence, section 26, which also applies to citizen's arrest, states:

> Every one who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.

We are not changing that. Regardless of what changes are made to sections 34 to 42, this excess force provision would remain. I am saying this off the top of my head right now, but perhaps it is all right to get rid of the provision of no more force than is necessary because there is the excess force provision in section 25. However, I am using that as an example.

● (1055)

We agree that there may be some confusion. The Supreme Court of Canada has indicated that there may be some confusion in the law. It added more confusion, in the case of McIntosh, by deciding that sections 34 and 35 were somehow not separate approaches but should be looked at together. The question is how we can eliminate that confusion without causing other problems or encouraging people who might take the law into their own hands and do things that are dangerous.

We support the citizen's arrest case in principle and feel that there is no need for change to the provision. On the idea of looking at the whole question of self-defence, are we making it more likely to be abused? Are we making it easier to understand and to apply? Are we sending the right message to citizens? Or are we encouraging, perhaps, more self-help in situations where the police should be called or where extreme restraint ought to be encouraged? Obviously, people have a right to defend themselves.

I have practised criminal law among other kinds of law over the years. There was one individual who was charged with manslaughter who was acquitted on the basis of self-defence. They were very tragic circumstances. The individual who died should not have died. It was a complicated case because he died several days later after having hit his head. The simple question was whether the blow that caused him to fall was an assault or was in self-defence. If it was an assault, he was guilty of manslaughter even though it was a trivial blow. If it was a blow in self-defence, then it was not manslaughter. The individual ended up with a subdural hematoma, a cracked skull. He was not properly treated at the hospital and died three days later. Self-defence is very important for that reason: it can mean the difference between the kind of consequences that I am talking about and a proper defence to a charge. We have to be very careful in doing that.

We will support this bill at second reading. We want it to have careful consideration, which is code for not rushing it through, I say to the Parliamentary Secretary to the Minister of Justice and the committee. We do not want to see this dealt with in one meeting. We want to hear from people who have practised criminal law. We want to hear from experts in the Department of Justice, from the Canadian Bar Association and others. We need to examine it very carefully. We need to ensure that by making changes, we are not throwing away 100 years of precedent and all the advice that the courts have given. If we are starting off with a blank slate and a whole new law, it may take another 10 or 20 years of case law to understand what that means. Do we really need to go down that road? I think we have to answer that question with the kind of detailed study that can take place in a committee. I know the member from Athabasca who spoke earlier is on that committee, along with the parliamentary secretary, others with legal training and lawyers who have practised in the area. Also, we would rely not just on ourselves but the expertise of people who have analyzed these provisions, studied all the cases and who can help us ensure that we are doing the right thing.

Having said that, we will support this bill at second reading but we do want to have extremely careful consideration given to it in committee.

● (1100)

Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.): Madam Speaker, I appreciate the intervention by the hon. member for St. John's East.

Having been a member of the bar for quite some time, I think this House can appreciate that the member offers views and positions that would be of value to us all in determining the overall merit and considerations of the bill.

The hon. member mentioned that the genesis of the bill was in a particular case. I believe it is was the Lucky Moose Food Mart case in Toronto. The shopkeeper basically felt that there was a requirement on his part to defend his property; he apprehended a suspected thief and was subsequently charged with assault.

The case went through the system and was resolved. I believe that either the charges were dropped or he was found not guilty. The hon. member may be able to refresh our recollections of it.

The question is as follows: does this particular legislation add any new remedies, any new penalties or any new circumstances that assist in those kinds of matters?

The case in point is that the citizen's arrest occurred after the theft of property. Does this legislation actually provide any specific means to deal with the specific case that was the genesis of this particular legislation?

Mr. Jack Harris: Madam Speaker, there are two things here: acting in defence of property as a self-defence, and defence to an assault charge.

In the case of Mr. Chen, the arrest was actually what is called a citizen's arrest. What happened in his case was that when the police arrived after he had called them, they charged him with kidnapping, carrying a dangerous weapon—a box cutter—assault and forcible confinement. The crown prosecutors dropped the kidnapping charges and the weapons charges, but they proceeded with the forcible confinement and assault charges.

This legislation would make it clear that if he did what he did having seen the individual steal his items, it would have been fine. However, this was an hour later. The individual had left the store and had come back. He was no longer in the commission of the offence.

The changes to section 494 would actually have the effect of providing a defence to Mr. Chen without having to go through what he went through. I think he was eventually acquitted, but it was very unclear that acquittal would be the outcome of the case. This bill would clarify the fact that there would be a specific defence for what he was doing in that particular case and for anyone else in those circumstances. The law would now reflect that eventuality.

● (1105)

Mr. Robert Goguen (Parliamentary Secretary to the Minister of Justice, CPC): Madam Speaker, I would like to touch on three issues that the hon. member discussed: vigilantism, the use of excessive force, and the jurisprudence that has guided us on the provisions that we are amending.

I acknowledge, as the hon. member has said, that the question of excessive force remains intact. Certainly that is a question of public order and should be maintained.

One of the triggering points in the ability to make a citizen's arrest is that the person making the citizen's arrest has reason to believe that there is no prospect of an enforcement officer being able to respond.

First, in the member's opinion, is that a reasonable safeguard in trying to guard against vigilantism? Would he agree that although it is perhaps not an absolute guard against it, it is a reasonable attempt?

Second, we talked about the body of law that has interpreted the various provisions of the act that are being consolidated now. Would the member agree that there is a cycle to the law? An enactment is made and is interpreted by jurisprudence; now we have a recodification, and the cycle will recommence with the interpretation of the new provisions. Certainly we will still be able to draw from the previous jurisprudence in guiding us on what the boundaries of these new provisions will be.

Mr. Jack Harris: Madam Speaker, I agree with the parliamentary secretary that there must be a reasonable grounds for believing that the police cannot effect the arrest. That is a safeguard against vigilantism. It is a minimalist approach, but it does take into account those circumstances.

Of course we want people to rely on the police in all cases, because it is dangerous to arrest someone if we do not have any training or do not know how someone is going to react or do not know the individual's mental condition. If the person is in an excited state or reacts with violence, we might not be able to control it. We do not really want to encourage it, but at the same time a defence would be provided. That is okay.

I agree as well that there is a cycle. However, if we are recodifying based on the jurisprudence, that is one thing; if we are starting off on a fresh tack and saying we are not going to do it this way anymore but will do it another way, then we have a whole different set of concepts, with different language being used. We are really losing the benefit of the analysis.

I am a new justice critic, so I am not going to suggest that I can pronounce on this legislation immediately. We do need to look at it carefully and have the benefit of experts to help us analyze it to see whether we are going to be able to use that jurisprudence in the new sections.

Ms. Libby Davies (Vancouver East, NDP): Madam Speaker, I am familiar with the case that brought this issue forward. It was the member for Trinity—Spadina who first brought this issue to the House.

I understand my hon. colleague's explanation that there are existing laws to prevent an aggressive reaction so that there is some protection for people who may be charged under the new law.

However, I have a concern. Would the very existence of this new provision, if it is approved, create an environment of permission through which certain individuals could be targeted?

For example, I represent a very low-income riding. There is often tension between business owners and people who are homeless and on the street. Some of them are probably ripping off stores, so we do get into this very fine area.

Besides the specifics of the law, would its existence create a more open environment that could lead to situations of people being targeted, for example, by private security forces? We have these forces in my riding, and they can be very aggressive with people.

There are issues and rights on both sides. I wonder if my colleague might comment on that.

● (1110)

Mr. Jack Harris: Madam Speaker, unfortunately we do have extreme circumstances in some communities because of the situations people find themselves in. We do not want to encourage vigilantism, and that is why we, as legislators, must be vigilant ourselves. That is why there is a requirement for an offence being committed. A store owner cannot take it out on someone who shoplifted something from the store two weeks ago. Individuals cannot set up their own police force. They cannot take it out on people.

I certainly hope that no store owner or security firm would think this legislation would give them permission to act in a way that they have not been able to act in the past. This legislation is extremely narrow and does not give permission to individuals to make a citizen's arrest.

Citizen's arrest has been around for a thousand years. I hope nobody will take this legislation as permission to act aggressively or to discriminate against people or target people on a list or whatever. That would be wrong and it would be contrary to this legislation.

Hon. Irwin Cotler (Mount Royal, Lib.): Madam Speaker, I am pleased to rise to participate in this debate on Bill C-26, the citizen's arrest and self-defence act. While I may not agree with much of the government's crime and punishment agenda, this legislation is something that I can support in principle, although I do have some concerns that I believe may be able to be adequately addressed in committee.

As my colleagues have noted, this legislation replaces the current Criminal Code provisions on self-defence and defence of property. This change is welcome, because Canada's self-defence laws are complex and out of date, as the jurisprudence itself has demonstrated. This has been further highlighted by recent high-profile cases that have produced some less than ideal results, as already referenced in the chamber debate this morning. The bill would provide greater clarity, therefore, for prosecutors, judges and juries, as well as for those who may find themselves in a circumstance requiring them to defend themselves or their property.

Simply put, I support this necessary law reform. Indeed, a review and simplification of the entire Criminal Code is needed, as I indicated during the period that I served as Minister of Justice and Attorney General. I trust that the government will commit itself to a comprehensive criminal law reform and in that regard reinstate the Law Commission of Canada, which I and others found to be a very valuable resource in this regard.

While this legislation fixes on one particular section of the Criminal Code, much more remains to be done. It is important to point out, for example, that although it was raised at committee, a textual inconsistency that we have yet to correct in Bill C-10 adds, perhaps inadvertently, another error to the Criminal Code. Indeed, in the committee deliberations we found at least four errors in the French text of the Criminal Code as it is now, and errors with respect to the English and French texts when compared to each other. My point is that if we are going to add another piece to the Criminal Code, as in Bill C-10, we should correct it to the extent that we can.

Returning to Bill C-26, the changes to the self-defence provisions would repeal the current complex self-defence provisions, which are spread over four sections of the Criminal Code, and create one new self-defence provision. Currently sections 34 to 37 of the Criminal Code provide distinct defences to those who use force to protect themselves or another from attack, depending on whether they provoked the attack or not and whether they intended to use deadly force. In that particular regard, the use of deadly force is permitted only in very exceptional circumstances, such as when it is necessary to protect a person from death or grievous bodily harm.

The new legislation in Bill C-26 would, as one section of the Criminal Code alone, permit persons who reasonably believe themselves or others to be at risk of the threat of force or of acts of force to commit a reasonable act to protect themselves or others. The act outlines factors to consider when assessing reasonableness, something I will address shortly.

With regard to defence of property, sections 38 to 42 of the Criminal Code currently outline multiple defences for the "peaceable possession" of property. The defences respecting the type of property relate to whether the property is either personal or real property, the possessory right of the possessor and of the other person, and the issue of proportionality in the threat to the property. In addition, the code requires that one consider the amount of force used when a property defence is raised.

I do not intend to address in particular the legislation with respect to these property defences in particular. Briefly, Bill C-26 would repeal what jurisprudence and experts have held as the confusing defence-of-property language, now spread over five sections of the Criminal Code, and remove in part the distinction between defence of real and personal property.

Under Bill C-26, one new defence-of-property provision would be created, eliminating the many other distinctions that currently exist in the code and arguably serve no purpose but to confuse and confound the matter. Simply put, the new provisions would permit a person in peaceable possession of a property to commit a reasonable act, including the use of force, for the purpose of protecting that property from being taken, damaged or trespassed upon.

● (1115)

In particular, my concern is not with the defence of property provisions, with which I agree, but rather with the new self defence provision, which I believe, while I support again this approach to amendment, may in and of itself arguably be overbroad.

I will state at the outset that it is not as though, without the bill, there is no right of self defence or citizen's arrest. Both exist as a matter of the common law. Both have been codified as statutes. Indeed, if we did not have a statutory basis, we would have the common law. Statutory reform now would in fact refine and, hopefully in this instance, improve our approach and understanding of this matter.

Primarily, the concern is that the current Criminal Code provision with respect to self defence provides that, "Everyone who is unlawfully assaulted without having provoked the assault is justified in repelling, force by force". Thereby, confining self-defence to assault situations and noting that it could not have been the result of provocation.

This new legislation would remove the assault requirement entirely, speaking of force or threat of force, and also would remove provocation. This is where I believe that committee study of the bill will be helpful.

What force or threat of force is contemplated by the new legislation? While one may consider that it refers to physical force, we might want to specify that, or we might also want to ask the question whether the legislation also envisages the threat of economic force in a bargaining situation, for example. This is not to say that the current limitation of the Criminal Code is self-defence only in assaults is the correct approach, but it may be that we would inadvertently be opening the door to other claims and concerns.

The legislation offers a list of factors to consider when determining whether or not the action taken was reasonable in the circumstances, and where the current Criminal Code, as I noted, speaks of provocation, something which this legislation would remove, the new legislation includes in its factors the person's role and the incident.

The question is whether this provision is meant to account for provocation. Might we want to amend it to say, "including whether there was provocation on his or her part". To my mind, that would clarify the rules and what it is meant to address, as it may be inappropriate to eliminate the entire line of jurisprudence surrounding the notion of provocation.

I would like to focus on some of the factors list, as this is where I believe we may have to address it in committee, though again, as I say, I am supportive of the bill in principle.

The most concerning or disconcerting factor here is found in (e) in what would become section 34.2 of the Criminal Code. The factor, again with respect to determining the reasonableness of someone's self defence action, refers to the size, age and gender of the parties to the incident. Size and age I can appreciate. As one of the older members in the House, I can attest that people sometimes make certain assumptions about age, including sometimes about the imminent retirement of a member, which may be far from the mark.

The use of gender in this factor warrants a certain approach or critique. Indeed, some might call it a feminist critique, but I propose it just as a critique on the merits. What does "gender" itself have to do with reasonableness? If we are trying to address a size imbalance between the parties to a incident, is not the size factor itself sufficient? If we are trying to address a power or strength imbalance, might we use those words or some other phrase such as perception of potential force that could be exerted. As soon as we put in gender, we may be opening the door to the resurgence of a series of myths and stereotypes, which have, regrettably, undermined our criminal law, as we have observed most notably in the area of sexual assault.

This would open the door to all sorts of assumptions about gender playing out, either in police decisions to prosecute or in judges' rulings and the like.

The concern here is that we may see some relying upon and the furthering of the outdated notion of a weak, defenceless woman. If she is unarmed, we have a factor, as set forth in (d), whether any party to the incident used or threatened to use a weapon. Again, the question is what gender may be adding.

Its presence in the statute implies that there is some fundamental difference between capacities of men and women to protect themselves. While I remain unconvinced that this itself is something we should be addressing in this fashion, the point is that if there is a size or power or weapons imbalance, that is what the issue is, not the gender of the person.

● (1120)

On this point, too, we may have certain stereotypes about masculinity as well. Some men who are attacked or feel an attack is imminent, may respond aggressively, others more passively. Again, the question is whether this factor implies that only one type of response is appropriate. I think this is something that may warrant addressing on deliberation in committee.

A final factor that we may want to address is in (f), which refers to the nature, duration and history of any relationship between the parties to the incident, including any prior use of threat or force and the nature of that force, or threat. I can imagine that this could raise difficulties in conjugal relationships where there is a long and complex history between the partners and the focus of the police service or the judge may be on the physical relationship or force, not taking into account considerations like economic dependency or psychological force that are also important.

Indeed, I have a particular concern here that couples that may have had a disturbing relationship over time and then one partner crosses the line, a judge may pass it off as par for the course instead of addressing it as a serious act of conjugal violence. Again, this is something best addressed in committee.

The final concern I have with the bill has been raised by numerous academics and has been raised this morning as well. It is the potential risk for vigilantism, which we certainly do not want to promote this.

With reference to my comments earlier about the scope of self-defence no longer being just assault and the addition of the word "threat" of force, it may be that we are somewhat overbroadening this bill such that we may give a pass to those who really should not be engaging in matters best left to our informed and uniformed first responders.

I welcome this modification to Canada's criminal law. It would clarify and streamline self-defence and defence of property. However, as I mentioned, I have some concerns with some of the factors enunciated in this legislation. It is my hope that, through thoughtful and informed deliberation and debate in committee, we may be able to address these issues and favourably resolve them. The bill can then enjoy the full support of the House, as it now has, as a matter of principle, but then can be more fully supported with regard to any considerations that may raise some matters for concern.

[*Translation*]

Mr. Matthew Dubé (Chambly—Borduas, NDP): Madam Speaker, the issue addressed by this bill is so delicate that it is important to obtain expert legal opinions. My colleague from St. John's East spoke about the importance of studying this bill in committee to find just the right balance in order to ensure that it does not lead to the abuse of the defence of property and the person.

Could my hon. colleague tell me how we could go about finding this balance? We must protect people who want to defend themselves and the rest of the population in order to ensure that abuses do not occur and that people do not become de facto police officers.

● (1125)

Hon. Irwin Cotler: Madam Speaker, I tried to include these considerations in my remarks. The question is whether the response is rational and proportionate. This bill is an improvement over the existing legislation, which, as the case law shows, includes some vague and complex provisions. It is thus very important to have a debate to talk about the principles of the bill and to discuss the bill in committee, where witnesses can come and share their expertise on these issues.

[*English*]

Mr. Blaine Calkins (Wetaskiwin, CPC): Madam Speaker, I appreciate my hon. colleague's wisdom and guidance in this. He is very experienced. I appreciate that he is bringing these concerns forward prior to his pending retirement. I am just kidding.

The reality is that this is an issue that is near and dear to the hearts of my constituents. There have been several occurrences in my riding. I noticed that he talked a bit about some of the exceptions he had. I am wondering if, from his perspective, he has any experience with this.

I represent a fairly large rural constituency where response times by law enforcement officials are somewhat less than what one would expect in a municipal area. I am wondering if the member would like to speak to that and if he has any issues, concerns or prior knowledge with respect to self-defence and citizen's arrest provisions. Also, does he have any foresight or wisdom he could share with the chamber in regard to situations where someone might be 45 minutes to a couple of hours away from having a law enforcement officer respond to an emergency situation?

Hon. Irwin Cotler: Madam Speaker, I do think those are considerations that are important because different issues can play out in different contexts in different places. Therefore, the notion of what constitutes reasonableness may vary given the context, both geographical and otherwise, as well as what may determine proportionality, these being the two main criteria in this regard.

I will take this opportunity to address another factor that may pose a concern, which is (h), which reads:

> whether the act committed was in response to a use or threat of force that the person knew was lawful.

The question is whether "knew was lawful" is enough or should it be "knew or ought to have known".

I can imagine a situation with an undercover police officer and the person saying that he or she did not know the action was lawful and therefore he or she was justified in assaulting the officer in self-defence. Again, this may be another factor we may want to clarify. Therefore, should "including whether the person identified his or her lawful authority" be added, or is "knew or ought to have known" be sufficient?

The question points out, and I have used this particular consideration or factor by way of response, that there are a number of issues that will be best addressed in committee.

As the Supreme Court said, the contextual principle is crucial with regard to the interpretation and application of legislation and would it apply with regard to that geographical context and in relation to that contextual principle and the application of the notion of reasonableness and proportionality.

Mr. Jack Harris (St. John's East, NDP): Madam Speaker, I know we will be studying this in committee in great detail but I noticed the term "proportionality" is relevant to the defence of persons. Does the member believe there is a place for a similar concept in defence of property?

Obviously, some people have different notions of what is the proper way to defend one's property from a trespasser. Is the word "reasonable" enough or should we have more? Is that something that the member would give some consideration to?

● (1130)

Hon. Irwin Cotler: Madam Speaker, as I mentioned, I was addressing most of my remarks to the issue of self-defence. I was not addressing the matter of property, which I felt was not the particular provisions that were eliciting concern.

I do believe the issue of reasonableness, as my hon. colleague mentioned, while being the generic principle, would apply clearly to both self-defence and in relation to property and proportionality in matters of self-defence.

I also tend to regard the notion of proportionality as being a relevant principle, if not also a generic principle and may also be applicable in matters of property as it is with regard to self-defence.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Madam Speaker, I appreciate the speech by the hon. member for Mount Royal, particularly for bringing us back to the need for broader Criminal Code reform, particularly to look at bringing back the Law Reform Commission of Canada.

We have a situation where we generally agree with the objects of the bill, as I know the hon. member for Mount Royal and I did back in June when we looked at the megatrials bill. The efforts made to improve that bill so that it would work were gavelled out of order and we went right through to passing a bill with no changes.

We have just experienced the same thing with Bill C-10. The efforts made to improve that bill in the government's interest and toward the goals that it put forward were rushed through and, unfortunately, the amendments put forward yesterday by the Minister of Public Safety, which were so closely parallelled with what the hon. member for Mount Royal had put forth before, were ruled out of order, and appropriately, by the Speaker.

What chance do we have of his very sensible approaches being taken seriously at committee? Does he have any indication that we will have a different atmosphere around the committee with respect to Bill C-26 from what we have had with previous bills in this session?

Hon. Irwin Cotler: Madam Speaker, the hon. member has been very attentive and present at the deliberations of the Standing Committee on Justice and Legal Affairs, and knows of what she speaks.

I hope that when our committee deliberations return, we will do so in a way that permits for the informed and considered appreciation of legislation before us. I still believe the real problem with regard to the deliberations on Bill C-10 was that it was not, as some feel when they look at it, one bill; it was nine bills. They should have been unbundled. We should have addressed each of them separately.

My colleague mentioned the justice for victims of terror bill. I proposed four amendments, which were rejected by the committee. The government then reintroduced those same four amendments that it had rejected in committee. The Speaker, understandably, ruled them out of order. Maybe if we had time and consideration to put on that one bill alone, we could have come up with a better bill. The bill, as I have said, is transformative legislation that would have had a positive historical impact to give victims of terror a civil remedy that they had not yet had. It would have allowed them to hold their perpetrators liable.

I believe that is the same with the other eight bills that we had to consider altogether in one big bundle.

I would like to see the government take that principle of bundling and attach it to the whole question of a comprehensive reform of our criminal law, which is long overdue. Also, we need to reinstate the Law Commission of Canada to assist us in this very compelling, overdue and necessary task of comprehensive law reform in our country.

Ms. Kerry-Lynne D. Findlay (Parliamentary Secretary to the Minister of Justice, CPC): Madam Speaker, I am pleased to speak today to Bill C-26, An Act to amend the Criminal Code to address the issues of citizen's arrest and the defences of property and persons.

Bill C-26 represents a responsible expansion of the citizen's power of arrest as well as a simplification of the self-defence and defence of property provisions in the Criminal Code. These reforms are balanced and necessary. Today, I would like to address some of the details of the law of citizen's arrest.

Many members will know the background to the citizen's arrest reforms proposed in the bill. For members who perhaps are not as familiar with this issue, let me begin with a description of what arrest actually is. An arrest consists of the actual seizure or touching of a person's body with a view to detention. Uttering the words, "you are under arrest" can constitute an arrest if the person being arrested submits to the request.

Arrest powers are found in a range of federal and provincial laws. The Criminal Code provides for several distinct arrest powers. Currently, under section 495, the police officers are empowered to arrest, without a warrant, any person who they find committing a criminal offence. Police officers may also arrest without a warrant any person who they reasonably believe has committed or is about to commit an indictable offence.

For an arrest to be lawful, the arresting officer must personally believe that he or she possess the required grounds to arrest and those grounds must be objectively reasonable. This means that a reasonable person standing in the shoes of the officer would believe that there are reasonable and probable grounds to make an arrest, which depends upon reasonable and probable grounds to believe that an offence has been committed.

In comparison to the power of arrest that every police officer has, section 494 of the Criminal Code also authorizes private citizens to arrest, again without a warrant, those found committing indictable offences, those being pursued by others who have authority to arrest and those found committing criminal offences in relation to their property. In all cases of a citizen's arrest, there is a legal duty on the citizen making the arrest, under section 494, to deliver an arrested person to the police forthwith. This term "forthwith" basically means as soon as reasonably practicable in all the circumstances.

As members can see, there is a clear distinction between the power of arrest for police officers and the power given to citizens. There are good reasons for these differences, many of which are obvious. Police officers are professionally responsible for enforcing the criminal law. They are trained in the use of force, including how not to get hurt themselves and how to minimize any injuries that may be inflicted on others, as well as being trained in the legal requirements for lawful arrest. As well, police officers are subject to oversight so that in cases where things go wrong, a citizen who may have been unlawfully assaulted can seek redress.

Private citizens are not subject to any of these conditions but, nonetheless, the law does recognize that sometimes only the private citizen is in a position to act in the face of criminality. The law would not be doing its job of promoting public peace if it left the citizen with no choice but to stand and watch as criminals committed their crime. No, the law must and does empower the citizen, in limited circumstances, to take part in the administration of justice where necessary.

In this regard, the particular power of citizen's arrest we are concerned with is the power to arrest people found committing an offence on or in relation to property. As I have already mentioned, the 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 the offence for a private arrest to be lawful. This is a limited power and the law does not permit an arrest even a short while after the offence was detected.

I think we can all appreciate that the limitation of "found committing" can produce unjust results in certain situations. Canadians do not agree with criminal charges against a citizen who tries to arrest someone a short while after he or she was found committing a crime, for instance where the person returns to the scene and is readily identified as the person who stole property a few hours before.

Bill C-26 therefore proposes a straightforward reform to extend the period of time allowed for making a citizen's arrest. Specifically, the bill would expand subsection 494(2) of the Criminal Code of Canada to permit property owners, or persons authorized by them, to arrest a person, not just when found committing a criminal offence on or in relation to property but also within a reasonable time after the offence is committed.

● (1135)

Many questions have been asked about what constitutes a reasonable period of time for making an arrest. It is not feasible to impose a rigid time limit on an arrest, such as an authority to arrest within four hours of an offence. A rigid time limit would likely produce unfairness in some cases, just as the existing rule that limits arrest at the time of the commission of the crime does.

It is also not possible to define or describe what constitutes a reasonable period of time. Whether an arrest was or was not made in a reasonable period of time must be determined on a case-by-case basis based on all the relevant facts and circumstances. Facts and circumstances that are likely to be relevant to such a determination include the length of delay, the reasons for the delay and the conduct of the suspect and the arrester, among others.

The proposed reforms also add an additional requirement where the arrest is made after the crime has been committed. This requirement is that the arrest will only be lawful if the person making the arrest reasonably believes it is not feasible for police officers to make the arrest themselves. This is a new safeguard that Bill C-26 would bring into law to ensure the law would not encourage or promote vigilantism. This requirement would ensure that citizens would only use this expanded power of arrest in cases of urgency and only after they turned their minds to the question of whether polices officers would be able to make the arrest.

It should not be forgotten that this new safeguard complements other safeguards already in the law of citizen's arrest. For instance, as I mentioned earlier, there is a duty upon any citizen who arrests someone to deliver that person as soon as possible to the police. This is another safeguard that ensures citizens are not in a position to apprehend a possible criminal and keep him or her confined for an extended period of time. Once apprehended, the suspect must be turned over to police. Failure to do so puts the lawfulness of the arrest in jeopardy and leaves the arresting person subject to prosecution.

These requirements are reasonable and appropriately balance the right of the citizen to take steps to prevent crime and apprehend criminals against the overarching objective of ensuring that it is the police who deal with suspects. The police have a duty to preserve and maintain the public peace and must remain our first and foremost criminal law enforcement body. This new safeguard, especially when coupled with existing ones, would ensure that they will so remain.

Finally, for even greater certainty, the reforms also specify that the existing provisions in relation to the use of force and effecting an arrest apply to citizen's arrest. These rules are set out in section 25 of the Criminal Code and apply to all actions taken by police officers and private citizens where they are acting for the purpose of administering or enforcing the law. According to section 25 of the Criminal Code, an individual who makes a citizen's arrest is "if he acts on reasonable grounds, justified in...using as much force as is necessary for that purpose".

However, I would note that a person making an arrest will never be justified in using force that is intended or is likely to cause death or grievous bodily harm unless he or she believes on reasonable grounds that it is necessary for self-preservation or to protect anyone under his or her protection from death or grievous bodily harm. This is the same rule that applies to the police. Its benefits and objectives are clear and obvious.

These are important reforms that will give Canadians confidence that when they act to arrest someone they have found committing an offence, the law will view them as law enforcers in an emergency situation and not as criminals.

However, Bill C-26 would do more than this. It would also simplify the law relating to defence of property and defence of persons, which are in dire need of clarification. Law societies, bar associations and judges have been calling for such reforms for decades. It is not that the law does not give Canadians the power they need to defend themselves. Rather the problem is that the way the law is written is so confusing that it makes it very difficult to understand what is and is not permitted.

However, there are additional consequences. Once they are raised in court, confusing laws require prosecutors and defence counsel to devote energy and arguments about the proper interpretation and they cause judges difficulty in explaining to juries how they should govern their decision making. The end result is lengthier trials, unnecessary appeals and additional cost to the system.

In a nutshell, the legislation seeks to simplify both defences so Canadians can understand the rules and govern their ability to defend themselves, their families and their property. Simpler laws would also provide better guidance to police officers who are called to the scene of a crime. They will be better able to make appropriate decisions about whether charges are or are not warranted.

● (1140)

The proposed new defences would boil down to a few simple considerations. In the case of defence of the person, did the defenders reasonably perceive that they were or that another person was being threatened with force or were they actually being assaulted?

In the case of defence of property, did the defenders reasonably perceive that property they 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 defenders respond for the purpose of protecting themselves 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 circumstances?

These are the key components for defences which allow a person in emergency situations to engage in conduct that would otherwise be criminal. Just as it is not possible to provide a definition or an answer in the abstract to the question of what is a reasonable period of time for making an arrest, it is also not possible to set out what actions are reasonable in self-defence or in defence of property.

What is reasonable depends entirely on the circumstances and the reasonable perceptions of the person faced with the threat. There are many relevant considerations; in fact, a list of factors that may be considered is provided in relation to self-defence and defence of another. This list includes a range of factors which frequently arise in self-defence cases, such as the nature of the threat, the presence of weapons, and any pre-existing relationship between the parties, and the proportionality between the threat and the defence of response.

In the case of defence of property, the nature of the threat to the property is likely to be the most important consideration. If someone is threatening to burn down their neighbour's house, such a threat would likely permit a greater defensive response than if the threat were merely to place an unwanted sticker on a neighbour's car.

I trust that it is now apparent why the reasonableness of the defensive conduct can only be assessed in relation to all the facts.

I would just like to address a few small points that relate to the defence of property. It is crucial to understand the limits of the legal ability to use force to defend property. This is not a defence that allows people to use force to protect or assert ownership rights.

Ownership rights, and many other legal interests in property, are matters of property law, which is a matter of provincial responsibility. Disputes over these types of issues must be decided by the civil courts if the parties cannot agree among themselves.

The defence of property only applies where there are real time threats to physical possession of property or threats to the state of property in someone's possession, such as a threat to destroy or render property useless and ineffective. That is because in emergency situations there is no recourse to the courts. If someone steals or destroys another's belongings, they are gone before the civil courts can assist.

The overarching function of the criminal law is to promote public order and public peace. The law therefore cannot sanction the use of force to protect property in any circumstances other than where a present lawful situation is threatened in a manner such that seeking civil recourse at some later date creates the risk of a permanent deprivation or loss of the property in question.

The law allows people to preserve the status quo, not to solve ongoing disputes with violence.

There is one last matter that I must address in relation to the defence of property. The new law of defence of property, like the current law, does not put any express limits on what can be done to defend property; however, I would like to note for members that our criminal courts have unequivocally rejected the use of intentional deadly force in defence of property alone as unreasonable.

In the case of self-defence or defence of another, these defences allow for the use of intentional deadly force, depending on the circumstances. This is because it is a life that is being threatened. It is only reasonable for individuals who face a serious threat from another person to protect themselves. If the nature of the threat is such that it is reasonable to counter that threat with deadly force, that may be acceptable, depending on the circumstances.

Threats to property are not the same. Human life always outweighs our interest in property. So when the situation is one where damage or destruction of property must be balanced against the determination of human life, the property interest must give way to the greater interest in human life.

Some conflicts which appear on the surface to involve threats to property only do in fact also pose a risk to human life. For instance, individuals whose homes are invaded are likely to feel that their property is being interfered with and on that basis does have the right to use force to evict the trespasser; however, this does not mean that a homeowner is without recourse and must submit to anything the trespasser intends. Rather the homeowner is also likely to feel personally threatened by the presence of the trespasser in such circumstances.

● (1145)

In any case, where a person has succeeded in entering a home without permission, especially if it is at night, that presents a situation in which any reasonable individuals would perceive danger to themselves and other occupants. Where such a threat is reasonably perceived, self-defence and defence of others becomes available and indeed may be the operative defence if deadly force is ultimately used.

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

I urge all members to support this important legislation.

● (1150)

[*Translation*]

Ms. Lysane Blanchette-Lamothe (Pierrefonds—Dollard, NDP): Madam Speaker, this week, the hon. member for Delta—Richmond East said that it was not necessary to consult experts or do research to draft a bill and that it was enough to simply consult Canadian families.

I find this somewhat worrisome since, today, the opposition is trying to pass this bill at second reading so that a serious discussion can occur in committee. The hon. member for St. John's East mentioned that he expected to hear from legal specialists about self-defence and defence of property in committee.

Today, what does the hon. member think about these specific expectations?

[*English*]

Ms. Kerry-Lynne D. Findlay: Madam Speaker, this matter will be referred to the Standing Committee on Justice and Human Rights where it will be considered, as any legislation is considered.

The member may have misunderstood me last week. I did not say that research was unnecessary. I said that, in fact, there are so many comments about the justice system and the lack of confidence in it generally that this is something we can also take into account. However, this matter will definitely go to committee to be studied there. We will await those outcomes.

Mr. Jack Harris (St. John's East, NDP): Madam Speaker, I wonder if the parliamentary secretary would like to comment on the circumstances which gave rise to the citizen's arrest changes because they were concerning. The owner of the store was charged by the police who arrived on the scene, after being called by the individual. He was then charged with kidnapping, possession of a dangerous weapon, unlawful confinement and assault.

This gave rise to a lot of the publicity and concern about the case. Does that indicate some lack of clarity in the citizen's arrest provision?

Does the member think that what we are doing here is the minimal amount that needs to be done because we do not want to encourage people to effect citizen's arrests when other alternatives are available?

One would not know the state of mind of the person, and quite often those effecting citizen's arrests do not have any training as to how to handle people.

Would the member comment on that and whether she thinks there are sufficient safeguards in the citizen's arrest provision?

Ms. Kerry-Lynne D. Findlay: Madam Speaker, I thank the hon. member for his question and his hard work on the justice committee.

This is not in response to any particular situation and I really cannot comment on the specifics that the hon. member has alluded to.

There are many areas in the Criminal Code where the law has been so long standing. In the modern world and the unfolding of many different circumstances, it is very hard to comprehend for all involved, the judicial system, judges, law enforcement and citizens, as to what is appropriate and what they can and cannot do in a given situation. Of course, for law enforcement it is much clearer. We are trying to modernize the law and simplify it to the extent that it makes it clearer what the citizen's arrest powers are.

This would allow for the understanding that it may not be just at the exact time of the committing of an offence but a certain time after, if the police cannot be brought into the situation, where a citizen's arrest would still be appropriate within reasonable circumstances.

Mr. Don Davies (Vancouver Kingsway, NDP): Madam Speaker, I am pleased to stand in the House today and speak to Bill C-26, an act to amend the Criminal Code (citizen's arrest and the defences of property and persons).

This is an excellent example, an all too uncommon example I would submit, of a government making sound legislation because consensus was sought and achieved with respect to the substance of the bill.

All parties agree with the essence of this legislation. All parties have commented publicly and foreshadowed to the government over the last two years that this legislation would be a positive amendment to our Criminal Code. As I will touch on a bit later in my remarks, that does not mean that certain provisions of the bill do not require careful scrutiny. That, I am sure, will happen at committee.

The bill would basically alter a person's ability to make a citizen's arrest. It clarifies the times when a person is entitled to defend either his or her person or property. These are both positive and overdue steps.

This legislation is an example of good law being made. The government can ensure widespread support when it seeks consensus. That also ensures smooth and timely passage of legislation, which all Canadians want to see as opposed to seeing contentious legislation put forward that eventually gets slowed down, obstructed and criticized heavily.

I want to contrast this legislation briefly for a moment with what I think is the typical and common approach of the government, and that is to generally plow ahead with highly partisan, ideological and often controversial pieces of legislation that do not reflect the majority of support in Canada.

Government members have obviously memorized their speaking lines well. It is a rare day in the House when we do not hear four or five government members stand up and say that they received a strong mandate from the Canadian people for their platform. We know that is political spin and is not correct because we all understand math.

We know that in the last federal election 61% of Canadians voted and the government secured the support of 39% of that 61%. We also know that 61% of Canadians did not give a mandate to the Conservative government. It is useful for the government to keep that in mind. In order for the government to have a positive and successful legislative agenda, it would do well to remember the fact that seeking consensus, as the government has done on the bill, is a much sounder and more democratic way to proceed as a government.

I do want to congratulate the government on this piece of legislation. Our late leader, Jack Layton, valued fairness above all other attributes in political life. He often stated that it is the job of an opposition to propose as well as to oppose, and when we do oppose to do so constructively. He would have been the first person in the House to advocate that we should give credit where credit is due.

In this case, I am pleased to give credit to the government for introducing this legislation. That is not hard to do in this case because the substance of this legislation was really an idea that was proposed by the New Democrats, in particular, by my hon. colleague from Trinity—Spadina. I will talk about that in a moment.

I want to talk a bit about the bill and where it came from. Bill C-26 would specifically amend section 494 of the Criminal Code, dealing with citizen's arrest, to provide greater flexibility. These changes would permit a citizen's arrest without a warrant within a reasonable period of the commission of the offence. Currently, section 494 requires any citizen's arrest to occur while the offence is being committed.

● (1155)

As I go through the history of the genesis of the bill, members will see why the current definition in the Criminal Code has proven to be problematic.

Bill C-26 would do more. It would also change sections of the Criminal Code that relate to self-defence and defence of property currently encoded in sections 35 to 42 of the Criminal Code of Canada. According to the government, these changes would bring much-needed reforms to simplify and clarify complex Criminal Code provisions on self-defence and defence of property. They would also clarify where reasonable use of force is permitted.

I am advised that the current language has been in the Criminal Code for a very long time. I am led to believe it may even be original language or language that certainly is well over 50 years old, or even closer to 100 years old. It is always positive for us as legislators to review language in our statutes to ensure the language is up to date and clear to Canadians.

As we know, it is one of the precepts of Canadian law that citizens are presumed to know the law. In order for citizens to be able to comply with the criminal law in this country, obviously they must understand it.

It is a positive step that we are actually looking at these sections of the Criminal Code. I am not 100% sure that the language in the legislation is exactly what we want it to be. However, I commend the government for putting the focus on these sections. I do think the bill goes a long way, even in its present form, in clarifying those complex provisions.

Half of the bill proposes measures that New Democrats have called for previously through my colleague from Trinity—Spadina's private member's bill which she introduced a year and a half ago. Therefore, it follows that we will support the bill at least at second reading. The part of the bill that we proposed is the part that amends section 494, which deals with citizen's arrest, to permit arrest without a warrant within a reasonable period of the commission of the offence.

I want to make it clear that we must tread a careful line, because expanding the role of citizens to become involved in arrests or to use force to defend themselves or their property is a carefully balanced one. We want to ensure that we do not encourage an unhealthy or dangerous form of vigilantism. The balance between ensuring our citizens have the right to act rationally, logically and reasonably in protecting themselves and their property and doing their part to ensure that criminals are apprehended can be done so in a fair, safe and legal manner.

I will talk briefly about the background to the bill, which is what brought the legislation to the attention of the House.

On May 23, 2009, Mr. David Chen, who is the owner of the Lucky Moose Food Mart in Toronto, apprehended a man, Mr. Anthony Bennett, who had stolen previously from his store. After Mr. Bennett was initially caught on security camera footage stealing from the store, he left the store, but returned to the Lucky Moose one hour later. At that time, Mr. Chen, the proprietor, and two employees apprehended Mr. Bennett. They tied him up, locked him in the back of a delivery van, and called the police. When the police arrived, they assessed the situation and applied the Criminal Code as it currently reads. They ended up, perversely, charging Mr. Chen with kidnapping, carrying a dangerous weapon—a box cutter, which most grocery store workers would normally have on their person—assault, and forceable confinement.

We were left with the perverse situation of a person who was defending his property in his store, who had 100% concrete evidence that the person had stolen from him not only hours earlier but I believe on several occasions in the past, did what I think any reasonable person would do in that circumstance. He apprehended that person and called the police.

Crown prosecutors later dropped the kidnapping and weapon charges, but proceeded with the charges of forceable confinement and assault.

● (1200)

Again, 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. Ultimately, Mr. Chen and his two co-accused were found not guilty of the charges of forcible confinement and assault on October 29, 2010. We often talk about court cases that we do not like, or we criticize judges when we feel they have not made the right decision. This is a case where all Canadians would applaud the wisdom of the judge who, notwithstanding the Criminal Code's provisions, saw that justice was done.

Anthony Bennett for his part pleaded guilty in August 2009 to stealing from the store and he was sentenced to 30 days in jail.

I want to pause for a moment and say to those people who feel that the bill encourages vigilantism, I would respectfully suggest that is not the case. It does not expand any powers of a citizen to make an arrest over what he or she has now. It simply alters the timeframe in which that arrest can be made. Right now if Mr. Chen had caught Mr. Bennett in the act of stealing from his store, he would have been perfectly entitled to do what he did, but the fact that it happened an hour later, under the current law renders that same act a criminal act. I think all Canadians would join with all members of the House in asserting that this is not a reasonable or logical approach to the law.

In February 2011, the government introduced Bill C-60, which was based on my hon. colleague from Trinity—Spadina's private member's bill. I should pause and say that immediately after Mr. Chen was charged, it was my colleague from Trinity—Spadina who met with Mr. Chen, helped translate his position to the media and to the public. She then went to work as she often does so diligently and drafted and introduced a private member's bill that would have done exactly what Bill C-26 proposes to do with respect to lengthening the amount of time that a citizen's arrest is possible.

Again, I will commend the government one more time in saying that the government, wisely and to its credit, adopted that bill. The Conservatives saw a good idea when one was introduced. That also shows that Parliament can work very well, contrary to what some Canadians might think about this place. It is sometimes the case that we do co-operate and make a law of general improvement to our country.

Unfortunately, my colleague's private member's bill and Bill C-60 died on the order paper when Parliament dissolved in March 2011. Bill C-26 was introduced in the 41st Parliament in a virtually identical form to Bill C-60 from the previous Parliament.

I want to turn to the other sections of the Criminal Code that the bill deals with. In addition to amending section 494 of the Criminal Code, Bill C-26, like its predecessor Bill C-60, also proposes amendments to the sections in the Criminal Code dealing with self-defence of property and person. Bill C-26 proposes a substantive overhaul of the statutory language in sections 34 to 42 of the Criminal Code. Five of these sections are from the original Criminal Code of 1892. As I said earlier, modernizing and clarifying this language is long overdue.

The courts for their part have also indicated that there are problems with clarity with respect to these sections. For example, the current self-defence provisions of the Criminal Code have been described as unwieldy and confusing and have been much criticized as a result. In the Supreme Court of Canada case of Regina v. McIntosh, Chief Justice Lamer, as he then was, stated that sections 34 and 35 are "highly technical, excessively detailed provisions deserving of much criticism. These provisions overlap, and are internally inconsistent in certain respects".

The judgment of the majority in the McIntosh case, however, has itself been called highly unfortunate for further muddying the waters around the self-defence provisions. The majority in McIntosh held that section 34(2) of the code was available as a defence when the accused was the initial aggressor. The argument was that Parliament must have intended for section 34(2) to be limited to unprovoked assaults because it enacted section 35 to deal specifically with situations where the accused was the initial aggressor.

● (1205)

That argument failed. The ruling seemed to go against the history of self-defence law, which pointed to a sharp distinction between unprovoked and provoked attacks.

I have read the bill from beginning to end. This bill does a commendable job of clarifying that confusion which the highest court in our land pointed out.

As I said before, crime and complying with the law has been a dominant theme of the government. We all want Canadians to comply with the law. It is incumbent on us as parliamentarians to review that law and make sure it is clear and understandable. It is hard to expect people to comply with law that they do not understand. I must say that in reading this bill, it does a great job of clarifying when a person can use self-defence when the person is feeling a threat to his or her physical security and also when there is a threat to the person's property.

There are important considerations to this bill that I certainly expect the committee will study when it reviews the bill.

A citizen's arrest is a serious and potentially dangerous undertaking. Unlike a police officer, a private citizen is neither tasked with the duty to preserve and maintain public peace, nor properly trained to apprehend suspected criminals. In most cases, an arrest consists of either actually seizing or touching a person's body in an effort to detain the person, or where the person submits to the arrest. It can be dangerous both to the person making the arrest and the person being arrested, and in fact anybody that is around those two people.

A citizen's arrest 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: his or her safety and the safety of others; reporting information to police, which is usually and I would say overwhelmingly the best course of action instead of the person taking action on his or her own; and ensuring that the person has correctly identified the suspect and the criminal conduct.

I would hasten to add that the bill does not authorize a person making an arrest to undertake whatever actions the person believes are possible under law. What it does is put careful constraints around when a person may make a citizen's arrest and when a person may actually employ the defence of self-defence, whether it is against the person or his or her property.

For instance, the bill has a number of provisions that import the concept of reasonableness. This is a concept that is well known and often used in Canadian law in many different respects, both civil and criminal. It ensures that before people can avail themselves of these provisions of the Criminal Code, they must be acting reasonably; they must have a reasonable basis to act before they do; and in the course of carrying out their self-defence, they are not entitled to break the law themselves. They are not entitled to assault someone. They are not entitled to use unreasonable force. They are entitled to take reasonable, minimally invasive steps that are necessary to accomplish three basic goals: make the arrest, if that is the only reasonable prospect in the circumstances; defend their person; or defend their property.

This is something the committee, when it goes over the bill, should keep firmly in mind. We must make sure in clarifying, improving and modernizing the law that that balance is carefully met. Some people have criticized the concept of the bill because they are worried that this is going to open the door to some form of unreasonable vigilantism. They are right to have that concern. That is what we must make sure is not done in this bill.

● (1210)

I conclude by pointing out that what is more concerning is the defence of property as opposed to defence of person. I believe those are two slightly different circumstances and what is reasonable in terms of people defending the integrity of their physical persons may be a different circumstance than what may be reasonable in defending property. Although property is important to defend, I believe there is a meaningful distinction between those two things.

I congratulate the government on bringing the bill forward. The New Democrats support this at second reading and look forward to working co-operatively in making this bill law for all Canadians.

● (1215)

[*Translation*]

Ms. Hélène LeBlanc (LaSalle—Émard, NDP): Mr. Speaker, I would like to thank the hon. member for his speech and the clarification he provided.

He mentioned the importance of judges and the judicial system in the rendering of decisions. In the case he presented, the judge rendered a very wise decision, which showed that he had taken into account all the circumstances. This case also shows the importance of our judicial system and the trust we must have in it and in judges.

I would like the hon. member to expand upon the importance of our judicial system and the profession of judge.

[*English*]

Mr. Don Davies: Mr. Speaker, that question raises a number of important considerations. In order for people to have respect for criminal law and the public to have broad public buy-in to our law, they must believe the law accords with their own common sense and what are reasonable circumstances. That is what the genesis of bill raises.

Canadians from coast to coast were legitimately shocked and very opposed to the concept that a store owner who was doing nothing more than apprehending someone, without assaulting the person, while defending his property and waiting for the police to arrive, would be arrested. It is that kind of application of the law that can breed disrespect. As parliamentarians we must be vigilant to guard against that.

In terms of judges, I again point out that there is a live issue in the House about how much discretion judges should have. We often point to cases in which we do not like what the judges have done. However, in this case there was a very wise and prudent decision by the judge and I think that in itself has helped to engender greater respect by the public for our legal system.

[*Translation*]

Ms. Anne Minh-Thu Quach (Beauharnois—Salaberry, NDP): Mr. Speaker, I thank my colleague for providing some explanations, especially concerning the care that was taken in drafting this bill and the importance of having the time to study each of these measures in committee.

I would specifically like to talk about the potential dangers facing crime victims. I worked for 10 years in a corner store and I was the victim of armed robbery. It ended well, but you do not know how you will react in such a situation. You do not know the kind of strength you have when you are scared or when your adrenalin is pumping. Serious accidents can happen.

I would like to know what he thinks about the danger that this bill could present. This bill is very important, but we have to frame it in order to minimize the risks.

[*English*]

Mr. Don Davies: Mr. Speaker, that is an excellent point that cuts to the essence of where the balance must be found in this bill. An individual who is unlawfully threatened or attacked must be accorded the right to respond. I think we would all agree with that concept.

If Canadians are at home and awaken at 2:00 in the morning to find an intruder in their living room, down the hallway from where their children are sleeping, I do not think anyone would disagree with the concept that they must, as citizens, have the right to defend their person, their family and their property. However, that right of response is not an unlimited one. It is not currently unlimited under the present law and it would not be unlimited under this legislation either.

The law does require, and under this bill would require, a person who uses force to do so in a measured way and to only utilize force that is necessary and proportionate to the threat and only in circumstances where it would be reasonable to do so. We can all imagine situations where people could abuse this right, just like we can imagine situations like the example I just gave where people should be able to utilize force.

This is why it is very important for a committee to examine that balance, to hear from witnesses and ensure the language carefully meets that balance. I personally think the government has done a very good job in achieving that balance in its draft of the bill in its present form. I do not want to second-guess committee. As it studies the bill further, there may be improvements made to the language. However, the government has recognized that a balance needs to be struck. We want to send a message to Canadians that they have the right to defend their persons or property, but they are not entitled to abuse that right for the purposes of assaulting someone or defending their property in unreasonable circumstances.

Our law is filled with those kinds of balances and I am confident we can achieve that balance in the current legislation.

● (1220)

Mr. Brent Rathgeber (Edmonton—St. Albert, CPC): Mr. Speaker, it is an honour for me to rise and add my contribution to the debate regarding Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons).

Bill C-26 will clarify for Canadians how they may respond to immediate threats to their property or to any person and the criminal acts necessitating urgent arrest situations.

Many members of the House will be familiar with well-publicized stories about Canadians being charged with crimes arising from situations where they were defending themselves, their family or their property. We can all imagine cases where people charged with a violent offence would claim that they had used violence to defend themselves without that necessarily being the true story. It is also likely that, from time to time, someone would use a minor threat or insult as a pretext to launching a violent attack against another.

We want to ensure that our laws do not allow for such cases, because if this were so, many innocent Canadians could be victimized with no repercussions against the wrongdoer.

On the other hand, the law must also provide greater clarity for force that is authorized and must set out the conditions which the aforementioned defensive action is acceptable. It is these very conditions that distinguish between revenge and genuine defence and between reasonable and unreasonable conduct.

Bill C-26 would extend the power of citizen's arrest in relation to property offences and would clarify the laws of self-defence and defence of property. These reforms are first and foremost about ensuring that Canadians understand the law in this area and that they are able to defend their vital interests and apprehend wrongdoers.

They are not required to stand by and watch their property be taken or destroyed or a stranger get assaulted. When the police are not around, Canadians need not be helpless. They can help themselves and their fellow citizens and, where necessary, assist in bringing wrongdoers to justice.

The reforms are also intended to assist police officers and prosecutors who exercise their discretion on a daily basis in respect to the charging and prosecuting, so as to minimize criminal charges being laid in situations where a defence is clearly available. Clarity in the law will hopefully weed out the cases of reasonable action, which need not result in criminal charges at all, and distinguish them from cases where there are discrepancies in the accounts given by witnesses, or where the threat posed was small, relative to the harm or injury caused. or other cases where there is some uncertainty about the reasonableness of the actions that were taken.

Finally, clarity in the law will help speed up trial process when charges are genuinely justified. It will also reduce unnecessary appeals and save precious time for our admittedly overworked court system.

How will Bill C-26 accomplish all of this?

First, it makes a modest extension of the existing power of citizen's arrest in the cases of property crime. Right now people can only arrest another if they find the person committing an act. This means that if there is no opportunity to arrest at the very moment, say for instance because the thief is faster and runs away, but there is an opportunity to arrest at some reasonable time afterwards, the law currently says that the arrest is unlawful. One literally has to catch the person in the act under the current law. This applies to people who try to bring to justice people who have committed an offence on or in relation to their property and stand to be charged and potentially convicted of a serious Criminal Code offence that they may have committed in the course of apprehending the suspect under those circumstances.

I hope all members can agree, and it sounds like all members do agree, that allowing people to arrest within a reasonable time of having witnessed a crime makes good sense. We do not want to criminalize otherwise law-abiding citizens and business owners who are trying to protect their property from thieves and mischief-makers. We know that situations occur where the person observed to have committed an offence returns to the scene of the crime or is seen elsewhere and can be easily identified. Arrest should also be possible in these limited circumstances.

Let us be clear that this proposal is a modest extension of the existing law. However, I know some Canadians are concerned that the proposed expansion of citizen's arrest powers will encourage vigilantism, but I do not agree.

● (1225)

The law of citizen's arrest already contains a very important safeguard against the arrester using the laws for improper purposes. The safeguard is a requirement in 494(3) of the Criminal Code, which states:

> Any one other than a peace officer who arrests a person without warrant shall forthwith deliver the person to a peace officer.

This requirement ensures that a citizen's arrest becomes a matter of police attention as soon as is possible.

A new safeguard against vigilantism is included in this legislation, Bill C-26, in relation to the expanded powers of citizen's arrest. A person would now be able to arrest someone who they have witnessed committing an offence in relation to property within a "reasonable period of time" after the offence was committed.

However, where a person seeks to use this expanded power as a precondition, he or she must first determine whether it is feasible for a peace officer to make the arrest instead. There would now a double safety net against abuse of arrests where the arrest happens at some point in time after the original offence was witnessed.

The citizen arresters must turn their mind to the possibility of the police making the arrest. If they determine that under the circumstances that is not feasible, once they have made the arrest they must contact the police as quickly as is practicable and turn the suspect over.

Of course, the overarching rules with respect to using force during an arrest continue to apply. These rules ensure that a person making an arrest can use force but any such force must be reasonable in the circumstances. If the suspect willingly submits to the arrest, then no force is necessary. If he or she resists, then some force may be called for but the force must still be reasonable under the circumstances.

Excessive force, is, by definition, not reasonable. Deadly force, whether used by the police or by the citizen, can only be justified where human life is at risk. These rules are clearly set down in section 25 of the Criminal Code. Bill C-26 makes a reference to section 25 so that it is clear to everyone which rules apply.

This legislation would not increase the potential for vigilantism. The government discourages vigilantism. Bill C-26 is designed to allow citizens to protect themselves and their property only when police are not able to do that for them. It strikes a reasonable balance.

Bill C-26 would do more than increase the period of time in which a citizen's arrest can be made. A citizen's arrest situations often overlap with the defence of property, so Bill C-26 would ensure that the law governing the defence of property is clear and effective.

Currently, the defence of property is set out over five provisions that make many distinctions between slightly different circumstances, such as where the property in question is an object or land.

There is no need for different variations covering different cases when they are all based on the same general principle, that people should not be held responsible for a criminal offence if they act reasonably in an effort to protect property in their possession from being taken, damaged, destroyed or trespassed upon.

Bill C-26 would replace all of the existing rules with a single general defence that is capable of being applied to any type of property defence situation.

I must admit that I read the existing provisions just prior to standing up in the House and they are complicated and complex. I had a difficult time applying each rule to a specific fact situation. This is why Bill C-26 clarifies the rules with respect to defence of property. This is precisely the sort of simplification that will help the police gather evidence and make decisions or recommendations about whether criminal charges are appropriate. It is also the kind of simplification that Canadians need.

Property disputes often arise when someone is doing something unlawful, such as stealing a car or breaking into a house, but the defence can also arise in cases of genuine property disputes involving people who are all behaving lawfully but simply disagree about which of them is entitled to a particular item of property and what exactly they are allowed to do or not do with it.

For instance, disputes over access to a right-of-way or over where the a boundary is between two houses can and do lead to violence, just as conflict between a property owner and a thief or a criminal intruder can. The defence of property can apply to all these situations.

● (1230)

For that reason, it is inescapable that matters of property law must inform the criminal defence of property. That is why the defence of property is premised on the concept of "peaceable possession" of property. This concept has been interpreted by the courts to mean that the possession of property must not be seriously challenged by others. The seriousness of the challenge is assessed by looking to whether the challenge to the possession is likely to result in a breach of the peace. Of course, anyone who actually possesses property in circumstances that would involve a breach of the peace, such as protestors occupying a government building, should not be entitled to use force to defend their possession of that property in that circumstance.

Another aspect of the law that Canadians should know is that our courts have consistently held that intentionally causing death in defence of property alone, as opposed to in the defence of a person, is never reasonable. This principle is founded on the greater value to our society and to the value that it accords to human life over the value accorded to property. I am sure we can all agree with this reasonable approach. Nothing in this approach limits the availability of self-defence, which is the other defence that would be simplified by Bill C-26.

Any situation that creates a reasonable perception of a threat to a person, and this would clearly include a home invasion, or could even include a carjacking and other types of situations, gives rise to the ability to defend the person being threatened. Deadly force is permitted in defence of the person but, of course, as always, it must be a reasonable response given all of the circumstances.

The proposed new defences in Bill C-26 would capture the essence of the current law but in a much simpler way. The new laws would clearly and simply set out the conditions for a defensive action.

First, there must be a reasonable perception of a threat to property that someone possesses. Threats to property can involve threats to damage or destroy the property or to somehow render it inoperative. It can also include threats to enter certain types of property without lawful position, such as dwellings or other buildings or even a vehicle.

It is important to note that people can be mistaken about the threat that they perceive. What matters in these cases is whether the mistake was one a reasonable person could also make in identical circumstances. We cannot take away a defence where a person behaved reasonably and perceived the situation in a reasonable manner, even if the person were factually mistaken.

However, on the other side, if people make an unreasonable mistake, that is to say, if they fall below the standard of reasonable action and perception, they would lose the defence.

My friend from Vancouver Kingsway talked about the importance of the concept of reasonableness and the reasonable man in both civil and criminal law. I agree with his interpretation and its importance to both these situations and to this legislation.

The second element of the defence is that the person must genuinely act for a defensive purpose. Defence of property can never be a pretext for revenge. If the person does not really care about the property but to use the other person's threat as an excuse to assault him or her, the law would not justify that conduct.

Third, whatever actions are taken for that defensive purpose, they must be actions that a reasonable person in the same circumstances could also have contemplated and taken.

There is no way to describe what reasonable actions are because what is reasonable to defend a particular item of property against a particular type of threat is likely to be different from actions that could be reasonable to defend other property from a more or less serious type of threat. That is a very long sentence to say that these situations are all fact specific. It all comes down to the circumstances of each case.

These conditions are easy for Canadians to understand. They should also be relatively easy for the police to assess and juries as well, if charges are appropriate. Canadians will understand that they must genuinely be acting to protect property and not acting to take revenge against someone. They should also understand they must conduct themselves within socially acceptable standards within which a range of conduct is likely to be reasonable. As long as Canadians bring themselves within this range, they will be justified in using the force that they need to in order to keep themselves, their families and their homes safe.

● (1235)

Bill C-26 would also bring greater clarity and simplicity to the defence of self-defence. The proposed new defence would also apply in cases where a person uses force to protect a third person.

Today, the Criminal Code says that a person can only defend another person who is “under his protection”. The courts have given this phrase different meanings. It is not as clear as it should be that citizens can defend not just their children or their elderly parents, but they can also defend their fellow Canadians, even strangers, when they come upon them in a situation that presents a grave threat. The bill would clear up this aspect of the law, and appropriately so.

However, the reforms to self-defence would do more than just that. They would simplify the law in other ways and bring a variety of different rules into one single rule that would be applied no matter what the circumstances. The basic elements of self-defence mirror those of defence of property but they are even simpler because complicated property concepts are not involved.

Right now, four separate sections of the Criminal Code set out various versions of the defence of the person, each of which applies in a slightly different set of circumstances. The law simply is way too complicated and confusing. The fact is that such complexity is unnecessary because the basic elements of the defence are relatively straightforward. Bill C-26 seeks to reduce the defence to its core elements.

The conditions for defence of the person under Bill C-26 can be stated relatively briefly. First, the person reasonably believes that he or she or another person is being threatened with force. Second, the person acts for the purpose of defending himself or herself or the other person from that force. Third, the person's actions are reasonable in the circumstances.

As with the defence of property, mistakes can be made by the defending person as long as those mistakes are reasonable. The defending person must genuinely be acting with a defensive purpose and must not be using the threat as a pretext to engage in violence that he or she would otherwise desire to engage in. The reasonableness of the actions taken in defence of the person must be assessed in relation to all of the relevant facts and circumstances.

Bill C-26 proposes a list of factors to help guide this determination. These factors frequently arise in the self-defence context. Factors on this list include: whether any party had a weapon; the nature of the threat the person was facing; whether the individuals involved had a pre-existing relationship, especially if it is a relationship that involved violence or threats; and the proportionality between the threat and the response will be a critical factor in determining whether under the circumstances the defence was reasonable.

These factors are drawn from real cases and from the courts' interpretation of the current law. The purpose behind these provisions is to signal to courts, as well as to police and to prosecutors, that the essence of self-defence is not changing. Reasonable actions under the current law should continue to be reasonable under the proposed new law.

These are the sorts of determinations our courts make regularly. However, by simplifying the law, by clearing away the clutter and putting in the Criminal Code the crucial questions and crucial factors, Bill C-26 would clear the path for them to get straight to the important questions.

The bill would also make it easier for police at the scene of a crime to apply the law before making charging decisions. Bringing clarity to the law will mean that legitimate self-defence actions lead police and prosecutors toward the decision that laying a charge would not be in the interests of justice. In this way, the bill continues to stand up for victims.

The bill is a delicate balance but, as previous speakers have said, this is the appropriate balance to balance the rights of individuals versus the rights of people who cause threat to those individuals or to their property.

● (1240)

[*Translation*]

Ms. Lysane Blanchette-Lamothe (Pierrefonds—Dollard, NDP): Mr. Speaker, earlier, my colleague said that we would support this bill at second reading so it can be studied in committee. He also said that we had to ensure that we did not encourage vigilante justice or excessive force.

Does my colleague think that we should perhaps modify the wording of Bill C-26 to ensure that it does not open the doors to using force to protect oneself against theft or to having people take the law into their own hands and perhaps misinterpret this law, which could lead to things we would not want?

[*English*]

Mr. Brent Rathgeber: Mr. Speaker, the hon. member is right. I am on the justice committee and public safety committee, and I know that when this bill was being drafted, great consideration given not to send the signal that vigilantism is to be promoted or encouraged, or that individuals ought to take the law into their own hands.

This bill, as other members from that side of the House have correctly pointed out, strikes a very close balance. I admit there are cases that come close to that line. Nonetheless as legislators we have to try to balance the rights of individuals to protect themselves, their families and property against those who would cause harm. The issue becomes one of reasonableness. The test will vary from situation to situation.

I represent urban constituents where access to police is relatively expeditious. Individuals in rural and remote areas have different challenges. The test in each circumstance, which I said in my comments will be fact specific, is one of reasonableness. If people act reasonably, they will have the protection of this law. If they do not act reasonably, they will be charged.

[*Translation*]

Mrs. Anne-Marie Day (Charlesbourg—Haute-Saint-Charles, NDP): Mr. Speaker, we currently have groups of citizens who essentially form their own patrols to defend themselves or protect an area in their city or municipality. These people replace police officers, use force and arrest other citizens. In the heat of the moment, they often do not take the time to call the police or to see whether a police officer could intervene.

Does the member think that this bill could encourage people to take the law into their own hands? This is similar to the previous question, but we are talking about groups here.

[*English*]

Mr. Brent Rathgeber: Mr. Speaker, in my constituency there are those types of groups, although they are very passive, such as Neighbourhood Watch, for example, where people watch out for suspicious activity in their neighbourhoods and then contact police. I do not know exactly which groups she is referring to in her riding or elsewhere, but I am not concerned that this legislation would give licence to vigilantism, whether it is organized or otherwise.

This law would make it very clear and specific that police are to be called as soon as possible when it is practicable, and that the right for citizens to make arrests are very limited to circumstances where it is not practicable to call the police, when they use only reasonable force and turn the individual over to the police as soon as it is practicable.

It is quite the opposite. This law would clarify to potential groups that take it upon themselves to provide safety for their neighbourhoods what they can and cannot do legally.

● (1245)

Ms. Hélène LeBlanc (LaSalle—Émard, NDP): Mr. Speaker, I thank the member for Edmonton—St. Albert for his presentation and clarifications. Reasonably discussing Bill C-26 presently before the House is a very good exercise and I really appreciated his presentation.

I understood from his presentation that he has a legal background. He mentioned that just for this special provision in this bill the Criminal Code is very complicated and complex. I want to compare and contrast that with Bill C-10 that we just passed at report stage in the House, which contains many provisions of the Criminal Code. Why did we not have the same approach in breaking down Bill C-10 as we are doing right now with Bill C-26?

Mr. Brent Rathgeber: Mr. Speaker, I am not sure that I fully understood that question. What I said in my comments was that the bill before the House, Bill C-26, clarifies the existing provisions, specifically sections 34 to 42, which create a rather complex and convoluted set of circumstances with respect to when reasonableness in defence of property would apply, depending on whether it is real property or personal property. This bill aims to, and I think succeeds in that aim, clarify when the defences of property and person would apply.

The member made some reference to Bill C-10 that I did not quite understand. However, certainly this bill fits in the entire umbrella philosophy between this bill and Bill C-10 in that the government continues to stand up for the rights of victims. This bill fits into that umbrella because when victims of crime take measures to defend themselves or to defend their property, as long as they act reasonably they ought to have the protection of the law.

[*Translation*]

Ms. Lysane Blanchette-Lamothe (Pierrefonds—Dollard, NDP): Mr. Speaker, the member for Edmonton—St. Albert said he is a member of the Standing Committee on Justice and Human Rights. So he no doubt knows how complex the Criminal Code is when it comes to self-defence and defence of property.

A little earlier, my hon. colleague from St. John's East said he would like to see this bill get a thorough examination in committee in order to see if it could be improved significantly. For instance, he said he expected to hear from legal experts on self-defence and defence of property.

I would like to hear what the member thinks of those expectations. Does he believe it would be worthwhile to hear from such experts, and would he be open to receiving their recommendations on how to improve this bill?

[*English*]

Mr. Brent Rathgeber: Mr. Speaker, assuming this bill passes second reading, and it appears it will because I think it has support from all sides of the House, the bill will go to committee and the committee will call expert witnesses. As I indicated in my comments and as was stated, I think, by the NDP justice critic and certainly the member for Vancouver Kingsway, this is a good bill in principle, but it is a delicate balance to weigh the rights of citizens versus the rights of those who potentially cause harm to citizens.

Yes, we will vet the language. We will call on experts from victims groups, from police groups and presumably from academia, as we do with every other bill. If it is appropriate to make technical or linguistic amendments to this bill to make it more precise, we will do it.

In fact, the opportunity for making modest amendments is presumably more likely in a bill where there is philosophical agreement with the contents of the bill and we do not use the committee as simply another mechanism for the opposition to oppose the bill. This committee will actually meet purposely to ensure that the bill has the appropriate language and balance between citizens and those who cause harm to citizens.

● (1250)

Mr. Malcolm Allen (Welland, NDP): Mr. Speaker, I am pleased to join the debate on Bill C-26, albeit not as eloquently perhaps as my colleagues before me since I am not a lawyer. I know they have billable hours, but I am not sure if they have billable words. Nonetheless, it has been very insightful to listen to folks talk about what is and is not codified in law, subsection this and that. However, for lay folks living in communities, they do and have seen the reality.

Fortunately, my family has not gone through the trauma of someone breaking into our home. Someone did make off with my brand new snow blower last year, but it was in the shed. They did not break into my house, just my shed, but twice they broke in and made off with the snow blower and other sundry items. This did not affect me or my family personally as we were not there. I am sure the dogs barked like crazy, but they were in the house. The snow blower is out there somewhere in this country and someone is using it quite happily I guess.

Although I was joking earlier about billable hours and billable words, clearly there is a delicate balance of these difficult aspects. We are trying to balance the needs of those folks who are victimized by someone breaking into their home or assaulting them, with what my colleagues term, reasonableness. As my colleague for Edmonton —St. Albert said, eventually the issue would be determined by fact, which then becomes making a determination.

Clearly, there are difficulties in the present law, such as in the R. v. McIntosh case. When the rendered judgment came back to us, the lawyers said it was more muddied than before. What people thought may have been a clarification, for the legal profession, it became a muddied place.

If it is a muddied place for those folks who work with the Criminal Code on a daily basis, whether they be lawyers or judges, what is it for the rest of us who do not study the law? For those of us who may be trying to make a citizen's arrest or something in self-defence, how do we determine what is a reasonable or unreasonable act?

This reminds me of the old adage: if one can flee, then one should flee. It there is an opportunity to get away, one should, in some cases, rather than fight. We need to take that into consideration.

I am not for a moment suggesting that this amendment to change the legislation tries to suggest that somehow one should fight more often than flee. I simply raised this so that folks would keep it in mind when they find themselves in a position where they are present during a break and enter or a violent act is committed against them. There are times when if one can get away, one should just simply get away and call the appropriate authorities. Unfortunately, there are moments in life when that is not going to be the case and one has to take into consideration how that can happen.

There are instances dating back to the 1100s in English common law where a citizen's arrest was allowed. Therefore, this is not a new practice. The legislation being brought forward by the government is certainly not a new practice. It seems to be an attempt to clarify the waters that we presently have with the present act or code as to what exactly it is.

The member for Trinity—Spadina in the last Parliament brought forward somewhat similar legislation, albeit not quite the same. It talked about the incident in her riding with Mr. David Chen. Many of us will remember that he had arrested someone who had burglarized his store on multiple occasions. Mr. Chen made a citizen's arrest and then was charged himself for forcible confinement, kidnapping and all manner of charges. Fortunately, most of those charges were dropped and eventually he was acquitted.

● (1255)

We do not want to see another Mr. Chen or Ms. Chen somewhere down the road going through that experience. All Mr. Chen wanted to do was protect his property and make what turned out to be a reasonable citizen's arrest. The perpetrator eventually pleaded guilty to stealing from Mr. Chen and spent 30 days in jail. Clearly, Mr. Chen, in a reasonable way, had tried to stop the person who had been victimizing his property by stealing from him on numerous occasions.

It seems the gentleman who was stealing from Mr. Chen felt like he was a regular customer, except he never paid for anything. He simply would take what he needed. I guess he thought he had an account and would pay it off later, but clearly, that was not true.

How do we balance those things in the legislation that comes before us is the trick.

I am heartened by what I heard from the government benches, that those members want to take the time to listen to experts, to victims and folks who have great expertise in this area. They want to sit down and find a balanced law that will defend the rights of both sides. There are rights on both sides of this issue. There are the rights of those who have taken reasonable grounds to protect property and persons, themselves and their family, and there are the rights of the accused. Ultimately, making a citizen's arrest is simply allowing one to say that a person is accused of something. It is for the courts to decide, not those who make the citizen's arrest, whether someone is guilty of a particular offence.

We have to strike a balance. We cannot have more Mr. Chens where a regular law-abiding citizen in the due course of his business is victimized and then finds himself in a predicament where he has to hire a lawyer and go to all that expense, as well as the trauma of going to trial, for doing what he thought was a reasonable thing.

It strikes me that when the government is saying it intends to do something, I am not too sure why we did not do it in some of the other aspects. Bill C-10 is a prime example. The member for Mount Royal brought forward some amendments to Bill C-10 in committee. The government did not deem them to be worthy enough or was not interested enough at the time, and said no thanks, which is the government's right to do. Unfortunately, the minister brought ostensibly the same amendments forward and was ruled out of order because it was too late because the government had cut off the time available to make any reasonable amendments.

If the government believes this is worthy of study, and it is, I would suggest that when we work on big pieces of legislation such as Bill C-10, that they are also worthy of the same type of consideration, analysis and due process. We should go through them item by item.

Here we have one single solitary bill, Bill C-26, that speaks to one aspect of the law, not multiple parts. It speaks to citizen's arrest and what a reasonable person is expected to do.

I know it is hard for some of us to define what is a reasonable person. My colleagues, the member for St. John's East, the member for Edmonton—St. Albert, and the member for Mount Royal,, have engaged in these things in their previous careers. Lawyers and judges of this land find it hard to figure out what a reasonable person ought to be allowed to do, but by the right of sitting on the bench or being called to the bar, we give them that right and then we live by their decision. That is how we have the rule of law.

Ultimately it is about ensuring we find a balance. It gets to the very point of why we need to do it.

● (1300)

We have seen things happen in the past that some of us would say were egregious against those who we see as the victim. People have been assaulted, or mugged, or their houses have been broken into while they were sleeping, as we pointed out in a couple of examples. How do we find a way to say to people that they can protect their property and family if someone comes through the door of their house or steals from them? How do we determine how to do that? That is the balance ultimately all members should try to define.

Members on either side of the House do not want to victimize a victim. That is the essence of what we are saying to Canadians. We understand they have been victimized once already and because of a law we have the powers to change and enact, we do not want to victimize people once more. That is a fair thing to want to achieve.

As my colleague from St. John's East said earlier, the law has been there for over 100 years. It has been debated and decisions have been rendered to help build a body of decisions which the courts and the law profession can look to, to indicate when something is reasonable or not. As the government quite rightly has pointed out, it has been skewed in a few instances where folks are uncertain. If the courts are uncertain, how is the average person who is not in the legal profession supposed to understand what he or she can or cannot do?

If someone came through the door of our house, in a moment of an adrenalin rush we would not necessarily think about what the courts would say, or what the law says, or what section 494(1) says about when someone breaks in to a house. Folks know how to act in a responsible way to deter a person or persons from entering their home and they need to do the things to protect their children, their loved ones and their property. In my case I would have a couple of big dogs outside and I would lock the door. That might be a reasonable enough deterrent to discourage a teenager from breaking in because he or she would not want to be bitten by the dogs.

It may take a physical intervention by the person or persons who would want to restrain the offender. Most of us understand how to act in that moment of what could be described as panic, in a reasonable and responsible way. Ultimately, that is what we are trying to confer with the legislation, but that is why on this side of the House, as my colleague from St. John's East said earlier, we want to send the bill to committee and government members want to do likewise.

At committee we can study and have folks speak to the bill so that when we eventually pass the bill, victims who act, as is their right, as citizens to make an arrest or defend themselves in a legal way, will know that they will not face being charged. That is the balance we are trying to find. I welcome the government taking that opportunity with us to find that balance, because we do not want to have the waters just as muddied as they are now. Even the judicial branch is saying it is not helpful if it is muddied. Heaven knows, if the judicial branch is saying it has difficulties with it, then what are we to make of that. Clearly, as we go down that road, it is important to work to get the legislation right.

● (1305)

I would hope my colleagues on the justice committee would take their time and make sure we actually get it right. In haste, we can get it wrong. We will be doing a disservice to folks in the broader community if we rush it through simply because we think we have it right.

As my friend and colleague from Edmonton—St. Albert said, this is a balance. It is always the most difficult thing to do in life. We all remember when we were young, sitting on a teeter-totter with someone we hoped was of about equal weight or at least who did not get off the teeter-totter before we did, letting us slam to the ground.

One would hope we could find that scale of balance, so that it does not tip in one direction or the other. I know the government wants to find the balance between the rights of those who find themselves in those precarious situations when they are under threat of harm or threat of their personal property being taken from them, and they want to take that opportunity, as is their right under the law even at present, to protect themselves, their loved ones and their property.

Our party's critic has said that we welcome the opportunity to send the bill to committee after second reading, because we believe we can help the government make this good legislation. The Prime Minister has said on numerous occasions, "If you have good ideas, we welcome them". With this bill, we have some good ideas.

What I am hearing from the government side this morning is that this may be a time when, I would not go so far as to say we would join hands, we find ourselves singing from the same hymn book on this legislation. We will have some good suggestions and we hope the government will be open to those good suggestions. We could eventually find that this is a piece of legislation which members of the House have worked on together and which the House can then pass. We could say to the folks that we worked on this legislation together for all of them because it was important to them.

It may have taken a bit of time for us to get there, as quite often happens. Sometimes we have to build a body of evidence in law and see decisions to finally realize that what we thought was working reasonably well no longer is working. I think the government recognizes that we have come to that point, and I congratulate it for recognizing that.

My colleagues on the justice committee will be pleased with what we heard from the government this morning, that it welcomes the debate, and it welcomes bringing in experts to make sure that we find the balance that all of us are seeking.

This can be a good piece of legislation if we take the time to study it, if we take the opportunity to listen to each other. We need to build a piece of legislation that truly meets the balance of our broader society and the citizens across this country.

Mr. Brad Butt (Mississauga—Streetsville, CPC): Mr. Speaker, the official opposition is taking a very reasoned approach on this important bill. Most of us know the history behind the bill, the story of the shopkeeper in the riding of the member for Trinity—Spadina, and what led to where we are today. I am pleased to hear that.

I would like to express my condolences to the member on the loss of his snow blower. I hope he will express his condolences on the loss of my golf clubs, which were stolen out of my garage a few years ago. They had a lot of good shots left in them. I was hoping I would get to enjoy them much more.

The member represents Welland which has a combination of urban areas and a lot of rural areas. Does he see this type of legislation as being beneficial, particularly for people who live in communities underserved by the police, where people may have to take action to protect their own property? Some areas just do not have readily available services to deal with ensuring an individual is held to justice when the individual has committed a property crime or other minor crimes, perhaps on somebody's rural piece of property.

Would the member not agree that this bill is a good step forward to help those residents protect their own property?

● (1310)

Mr. Malcolm Allen: Mr. Speaker, I thank my colleague for his condolences on my snow blower. I am sorry there were good shots left in his golf clubs that disappeared. I am not sure if he slices to the right or hooks to the left with those shots. He is on this side, so maybe it is a hook to the left.

In any case, there is no question that in rural areas there are fewer services. It reminds me of a community where I was a municipal councillor. There was one police car. On any given night, that police car might find its way to Niagara Falls because there was a fight and then we would be left with no police in that community.

Yes, indeed, this might be something of some value. Although the law reasonably protects folks in rural areas if they engage in a citizen's arrest or protect themselves, their family or property from an aggressor, the law was muddy. This is perhaps a way to clarify it.

I would not want the law to be interpreted by folks who live rurally. I must admit I live rurally too. This might give them the sense that they are not being vigilantes. Although I do not believe that is what folks are thinking, it would give them a legal responsibility to act rather than reacting to an aggressive act toward them or their property. They might think that, as there are not many police officers, perhaps they should act on their behalf because they live in an underserved area.

We have to find a balance between folks reacting to an aggressive act toward them or their property and thinking they are the auxiliary police officers when they are not.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Speaker, the principle of citizen's arrest has widespread support. I have found that there seems to be a growing interest and members of our community want to be more engaged. There are law officers who go to local communities and encourage responsible behaviour. This will likely grow, for good reason. I wondering if the member might comment on how citizens are taking more responsibility for personal security issues.

Mr. Malcolm Allen: Mr. Speaker, my colleague is right. It is like going back to the future: community policing happened when I was a kid and police departments now talk about doing that again. They engage their citizens. We used to see officers walking the beat; now we are talking about getting police officers back into the community. That is a good thing.

Engaging communities helps them understand that they have certain rights and responsibilities of citizenship. One of the rights is that if people see a crime being perpetrated, they do not necessarily have to do something. They may have to in extreme cases, but what they ought to do is report it. That is a responsibility of citizenship. People ought to report crimes, not simply turn a blind eye, which we have seen as communities get pushed apart.

The idea of bringing communities together to look after one another is so that the likelihood of crime goes down. Those who want to commit crimes understand that close-knit communities look after themselves. This is not necessarily in a physical way, putting up their dukes and fighting, but looking after each other. When I was not home, my neighbour about a quarter of a mile away could have looked after my snow blower. However, he would have needed really keen eyesight in my particular case.

In communities where people stick together, like in Winnipeg where neighbours are very close to one another, the sense of community building can, indeed, help reduce the incidence of crime. This is a good and positive thing.

● (1315)

[*Translation*]

Mrs. Anne-Marie Day (Charlesbourg—Haute-Saint-Charles, NDP): Mr. Speaker, the hon. member for Welland might not be a lawyer, but he spoke honestly and sincerely, and I thank him for it.

I remember this incident at the Lucky Moose. The entire country heard about it, from coast to coast to coast. The case involved someone who defended his property, only to be taken to court himself and become the victim.

I asked a question this morning about the word "reasonable". The member spoke about it at length. Personally, I truly believe that this terms needs to be defined better, since its meaning can sometimes be quite elastic. I would like to hear his thoughts on this, since he seems to be concerned about it too. If we leave the word "reasonable" as is, it could mean one thing to one person and something completely different to someone else. Can the member tell me what effort will be made to try to define and qualify this word better?

[*English*]

Mr. Malcolm Allen: Mr. Speaker, that is the elastic piece in this legislation, without a doubt. I think with all the other pieces we probably are in agreement. The difficulty is with the term "what a reasonable person would do", which is used quite often.

In fact, in unemployment insurance case law, when we go before the board of referees at the Employment Insurance Commission to defend someone, they will talk about what a reasonable person would do. Even at that level, as much as it is not judicial, they face the same issues.

I think, ultimately, what it is going to take is a good definition. Hopefully, the committee will work hard at this. Otherwise, we are going to turn that term of "reasonableness" over to the courts and they are going to define it for us. If one judge defines it more loosely and one defines it more succinctly and in a more refined way, we will end up back in the Supreme Court with muddied waters again, the very thing we are trying to avoid. What is good law and how can we actually apply it?

I think my colleague is absolutely correct. One could say that the Achilles heel in this bill is the definition of "reasonable". As this is going to be codified in law, we need to find a way to draw the parameters of the definition, so that we would all agree that is what we want citizens to do, not more than that. We could take the action that the law would allow us to take and people would understand the definition, rather than being at wit's end on either side of the definition of a "reasonable" act.

[*Translation*]

Mr. Matthew Dubé (Chambly—Borduas, NDP): Mr. Speaker, the Lucky Moose case is interesting and shocking; however, I must admit that, quite frankly, this bill is the first opportunity I have had to really understand what happened and the problems that Mr. Chen had with the law. Mr. Chen lives in my colleague's riding of Trinity—Spadina. I think that the intentions of the bill that she introduced during the 40th Parliament are more or less identical to those found in Bill C-26, which we are discussing today.

I think there are two important factors to consider. We are talking about the power to make citizen's arrests, as in Mr. Chen's case, but I also think that we have to qualify that. Mr. Chen is the owner of a local business that does not necessarily have the money for insurance or security the way a big business such as McDonald's does.

The members of the NDP—and I am sure the members opposite will agree—believe that this is one very important aspect. We want to give ordinary citizens, particularly entrepreneurs who are at risk of becoming the victims of such crimes, the ability to defend themselves. That is very important. However, there is also another factor to consider, and that is the fact that we all live in a community, we all have the right to protect ourselves—at least we should have it—and we all have the right to help and protect each other.

The hypothetical example that came to mind as I read this bill and thought about it was that of seniors in my riding. There are many seniors in my riding and we know that they need help with many aspects of their daily lives. This is the perfect example because, if a person wants to help someone in need but is not certain of the provisions of the Criminal Code, it becomes very difficult and worrisome for that person to help. We should not have to worry when we find ourselves in a situation where we want to help someone in a reasonable manner, as mentioned in the bill. Once again, the word is "reasonable", and it is used again and again; I will come back to this point a little later.

I think that is what is important. To go back to what the hon. members for St. John's East and Mount Royal said, we have to truly find a way to create clear legislation when we are talking about citizen's arrest, defence of property and self-defence. As the hon. member for Welland said—it seems we are all essentially in agreement—we want to have clear legislation to ensure that the defender acts swiftly in an urgent and critical situation. We have to avoid the situation where the person wonders what is in subsection 494.2 and how it will affect them. People should have the power to react.

That being said, I think we have been quite clear on this side of the House, that this has to be done within reason. I am not a legal expert, but it is common knowledge that the term "reasonable" is well defined in the legal field. It is everything considered reasonable by any reasonable person. That is usually what it means. Hon. members with law degrees will correct me if I am wrong or add clarification. With a bill like this one, we want to be certain that it not only includes these terms, but that they are understood by the public.

We have a perfect example when we look at the self-defence or defence of property provisions.

● (1320)

I would like to take this opportunity to quote the Supreme Court ruling in R. v. McIntosh, where Chief Justice Lamer said:

> ...ss. 34 and 35...are highly technical, excessively detailed provisions deserving of much criticism. These provisions overlap, and are internally inconsistent in certain respects.

This is very important because it shows us that even the Supreme Court of Canada justices are unable to fully understand the Criminal Code. Hence, it would certainly not be clear to an individual who is not necessarily a legal expert, especially, as I mentioned, if they were to find themselves in a dire or urgent situation where their life was potentially in danger.

What is being proposed is fairly straightforward and clear. This has been said many times and I will repeat it. We must allow experts, victims and lawyers to thoroughly examine this in committee. I know that most of my hon. colleagues who sit on the Standing Committee on Justice are lawyers or are quite knowledgeable about the law. Like my colleague from Welland, I am very pleased to see that our colleagues opposite feel the same way.

We also want to study this bill because we want to ensure that the bill is clear, not just so we have the right to defend ourselves, as I already mentioned, but also so that we do not get caught up in what I call the "Clint Eastwood phenomenon", where we all become cowboys acting in self-defence. By defending ourselves, we end up causing more harm than good. We all assume the role of police officers. That would go against what we believe to be the purpose of this bill. Once again, we come back to the term "reasonable". I believe this concept will be very important.

A few years ago, there were some cases of home invasions in Quebec—in Brossard and Montreal's West Island—that received a great deal of media coverage. In these highly documented and very revolting cases—which sometimes had tragic consequences—there was a great deal of reporting and commentary, by both the media and the public, as to the fact that it was not clear. We must be in a position to fully understand our rights and the restrictions in order not to have to think in such circumstances and to be able to defend ourselves. We also have to agree that, in some cases, we must use some judgment.

Let us take the hypothetical example of a couple. The man pushes the woman and she attacks him very violently, in a way that could be classified as too violent, excessive or unreasonable—to use that term again. However, we do not know the history between them.

We must really take the time to study the bill to ensure that in specific situations, such as ones where there is a known history, measures are in place to ensure that police officers and judges can take adequate and appropriate action.

The work we do in committee is very important. We are talking about experts. I am not a legal expert and many of my colleagues are not, either. That is where our responsibilities as parliamentarians become very important, both during debate in the House and in committee. We must make good use of the resources available to us. Those include not only legal experts, but also victims and people who have experienced serious situations, like Mr. Chen. Although this was a very high profile and surprising case, there must certainly be other circumstances that are similar.

● (1325)

I must talk about another aspect. I mentioned seniors, but there are other groups too.

I am not entirely familiar with Mr. Chen's case, so I will be careful about what I say. In his case, there was some racial profiling, as happens in other ethnic communities.

Mr. Chen belongs to an ethnic community and he was charged with kidnapping, when in reality, he was simply defending his business. Making the bill more specific gives police officers tools so that they will be less likely to judge or accuse people who act in this manner.

I find it unfortunate to have to raise the next point, but since my colleague from Welland already did, I would like to take the opportunity to do so now. Since the beginning of this parliamentary session, work in committee has been very rushed, as have our debates in the House of Commons. That is too bad, since we talk about the bills.

Let us take the example of Bill C-10, which has to do with the Criminal Code. There is no doubt that this is a very complex issue.

We should have been taking advantage of these opportunities, both in the House and in committee, and deferring to the expertise and wisdom of our colleagues. As we all know, the hon. member for Mount Royal is very knowledgeable in this area, as are many other members. We should be taking advantage of our colleague's knowledge in order to fine-tune this very complex matter. Indeed, the Criminal Code is very complex. It is full of nuances that we need to pay attention to. That is what we are looking for.

The NDP's position is very clear: we want to find the nuances. We want to defend victims, but we also want to ensure that the measures are reasonable in that regard. That is where the nuances become important.

In the clauses of the bill, some examples talk about timeframes. In the case of Mr. Chen, the time that passed between when the crime was committed and the citizen's arrest was too long.

We need to have some degree of flexibility. However, we must also ensure that if a business owner thinks he or she recognizes someone who committed a crime 10 years ago—someone who stole candy in a corner store, for instance—that individual cannot be arrested. Business owners are vital to the local economy and must be able to defend themselves.

As MPs, we all go through these kinds of situations. My colleague's riding of Welland is half urban and half rural. Earlier he talked about cuts to police services. We have to remember that rural areas are not the only areas with more limited services. My riding is considered to be located primarily in the suburbs, and we are experience the same thing. In some cases, different municipalities are even sharing police officers. The municipalities do not necessarily have the same resources, so they are sharing them in order to provide better services.

That happens in some cases, but in others, when something is considered more urgent, the police forces focus on that, and rightly so.

At other times, there is no chance to benefit from these advantages. I can think of a few examples, such as petty thefts committed in small, local businesses.

● (1330)

In those cases, the response time can be quite long, at least in my experience and in others' experiences. That is where the problem lies.

Given that our police officers work very hard and do not necessarily have the resources to do everything they would like to do, we all have to help each other.

I also mentioned that we have to be careful that we do not all become police officers. We have to consider other aspects, including students who work part-time at a store to pay for school.

If a thief enters the store, public pressure—if I can use that expression—should not make the clerk feel forced to intervene.

Although we have the right to make a citizen's arrest, we also have the right to protect ourselves and to not necessarily intervene in a potentially dangerous situation.

To come back to this example, pressure might come from colleagues who feel pressured by the boss. The legislation should not be drafted in a way that a person feels pressured by his or her boss, a store owner for example, to intervene at all costs. That would not be appropriate.

As I was saying earlier, this would cause more harm than good in some circumstances. It is not worth risking one's life for a petty theft. Everyone agrees that life is priceless.

What is more, we must not lose sight of the fact that many situations are hypothetical. That is the problem. Not all of us have experienced what Mr. Chen went through, but the important thing is peace of mind, as I was saying earlier. We all share the desire to live free from such concerns in our communities.

I want to mention the Supreme Court's decision once again. There was also a problem in that case. However, cases involving a citizen's arrest are usually much more straightforward. If someone is caught in the act of stealing from a corner store, the case is fairly black and white. The person was apprehended while actually committing a crime.

Cases involving self-defence are harder to judge. Earlier, I mentioned cases in which we are less aware of the previous history.

The way in which the incident is reported to the police is also important. To use an example that is something of a cliché, a person who is in a dangerous neighbourhood or an area that is less safe gets attacked. That person would then exercise his right to self-defence.

He may defend himself and then run away. He calls the police because, clearly, he would not wait there with the attacker against whom he just defended himself. Clearly, he had to run away and think about his own safety.

Later, depending on how the facts are reported, the police will have to use a certain amount of judgment, and they are very qualified to do just that.

However, our responsibility as parliamentarians is to provide the tools need by both the police and judges—when the time comes—to exercise that judgment.

It is thus very important to work together to ensure that all the nuances are clearly understood. Together, we can come up with a very good bill.

● (1335)

[*English*]

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Mr. Speaker, my colleague highlighted the fact that the situation of Mr. Chen probably brought this to our attention more dramatically perhaps than others. However, I think the member would agree, as my colleague would agree, that this is certainly not the first time there has been controversy around the issue of citizen's arrest.

My colleague points out, rightly, that it is important this place and committees take time to study the bill carefully to ensure we get it right. My colleague has said that it is important we hear from more people like Mr. Chen. It is also important we hear from people who may have been faced with a similar situation, but perhaps did not act out of fear that the law would not stand behind them, as well as from those who may have acted and found themselves unbelievably on the wrong side of the law having taken some actions to protect their property.

If we will be hearing from more people like Mr. Chen, would my colleague agree that it is important to also hear from those who may have experienced loss of property through a criminal offence that may never have gone reported?

● (1340)

[*Translation*]

Mr. Matthew Dubé: Mr. Speaker, I would like to thank the hon. member for his question and comments. I completely agree that we must hear from people with a variety of perspectives. In my speech, I talked a lot about hearing from legal experts but we could also hear from victims who took action. As the hon. member pointed out, we could also hear from victims who did not take action because they were afraid of breaking the law, which is why it is important to carefully examine the nuances and how they are perceived by the public. That is very important.

If we find ourselves in the same situation as certain victims have, we should not have to think about the law. The law should be designed to protect everyone: victims who choose to act and those who choose not to. It is an excellent idea to gather all these comments. That is exactly how we on this side of the House would like to proceed, and I am certain that the members opposite will agree.

[*English*]

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Speaker, I was encouraged by the question from the member of the Conservative Party. It is always nice when a member stands and indicates that he or she would like to get feedback to get a better understanding.

However, I think most members in the chamber would recognize that the principle of the bill is very supportive. There are some questions and maybe some concerns that need to be dealt with. We need to open up the system in a way in which we can have people come to committee to share their stories and allow them to express their concerns. As I will be the next one up to speak, I will get the chance to share a couple of stories. However, by listening to what the average Canadian has to say on issues such as this, we might be able to ensure we pass the right bill to address the concerns that everyday Canadians have on this issue.

Is that a fair comment?

[*Translation*]

Mr. Matthew Dubé: I would like to thank the hon. member for his comments, which are very fair. If the issue the bill addresses is so complex, it is because there seem to be nuances in every case. Each case has a certain complexity. No two cases are identical. If every member of the House were given the opportunity to speak about this bill, we could hear hundreds and even thousands of different stories.

That is why it is very important to hear from as many people as possible within the specified time period. It is very important to hear from all the parties, to hear the comments of both academic legal experts and ordinary citizens, and to give the people we represent here in the House a chance to be heard.

In this way, Bill C-26 will enable us to live in a society where we are safe, and where we can protect ourselves but do not take the law into our own hands by deciding to act like police officers. The goal is to make our communities safe and we want to work together to achieve that goal.

Mr. Pierre-Luc Dusseault (Sherbrooke, NDP): Mr. Speaker, I have a question for my NDP colleague. He talked about the word "reasonable" a number of times. He said that this word is often used in court rulings. When used outside a legal context, the word "reasonable" is rather vague. Case law gives us a somewhat better idea of its meaning.

The term "reasonable" is used in section 34. This section deals with self-defence and sets out the factors that a court may consider in paragraphs (*a*) through (*h*). In the section dealing with defence of property, this term is used only in paragraph (*d*), which states, "the act committed is reasonable in the circumstances."

Could the term "reasonable" be defined a bit more clearly in the section on defence of property?

● (1345)

Mr. Matthew Dubé: Mr. Speaker, I thank my colleague for his question and comments. Thanks to him, I am going to put off the members of this House even more with the term "reasonable".

As my colleague from St. John's East said earlier today in his speech, when we want to make changes to the Criminal Code, one of the challenges we face is this idea that once the law has been changed, we cannot refer to the jurisprudence to the same extent. That is a risk. It is for that reason that this word can be very specific in certain contexts and very broad in others. It is our responsibility, as parliamentarians, to ensure that the legislation is flexible enough for the legal sense of the word to be clearly understood.

As for the sections that my colleague quoted, there is a slight imbalance in some cases. We could be more specific about some things and broaden certain provisions. That is the sort of work we hope to do in committee. We could really fine-tune this aspect by hearing from experts, which we all seem to want to do.

Mrs. Anne-Marie Day (Charlesbourg—Haute-Saint-Charles, NDP): Mr. Speaker, this morning, a member across the floor talked about the importance of ensuring that the police are not available to respond. So people have to know that the police cannot respond before they defend their property. Although I am no expert in law—nor is my colleague—does he really believe that it is realistic and feasible to do this when something happens?

Mr. Matthew Dubé: Mr. Speaker, I thank my hon. colleague for the question. That is the kind of issue we need to examine in the legislative process. There are so many factors to consider. Each case must be looked at individually, because the needs vary.

Like other members here, I talked about the police's ability to respond in my speech. That must be taken into account, because it will have an impact on what people decide to do. Knowing that help is not coming right away could push them to act, as in the well-documented case of Mr. Chen. However, knowing that help is on the way soon might prevent people from doing anything, even in a case where it might have been better to act. No one can know. In situations like that, adrenalin takes over. It would be really hard to come up with a perfect law that takes all these factors into account.

Our responsibility is to come up with the best thing to do in order to give the best possible tools to ordinary Canadians, to police officers and to judges so that they can deal with these situations. After that, whatever happens happens. Things will never be perfect. These situations are often dangerous, but we can at least try to come up with a compromise that will be acceptable to all communities and everyone involved.

[*English*]

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Speaker, I agree with the comment by the member for Kitchener—Conestoga. I think his point is this is a bill that he would like to ultimately see passed, even if there is a need to make some changes, and the government is open to some changes at committee. That is the reason why we want to listen to what people might have to say on this. Those are the types of encouraging words that members of the opposition like to hear for the simple reason that if the government is true to those sentiments, it means we have the opportunity to improve the legislation if it is deemed necessary.

We have some concerns with the legislation, but we are very supportive of the principle of it. We talk about individual cases. One member talked about a snow blower that disappeared out of a garage. Another member made reference to golf clubs. True to form, I have had two bicycles disappear from my garage over the years. There are many different crimes and some are less severe. Having a bicycle disappear is disappointing and disheartening. We feel violated in the sense that someone has walked into our garage in broad daylight and has taken our property.

An individual who works for me, Henry Celones, is a wonderful man. He just turned 70 and he does a lot of walking. One day early in the morning he was walking around the area of Sheppard Street and Jefferson Avenue when he was approached by two larger individuals. Now Henry is a small guy. He is no bigger than I am. These two people told him to hand over money or cigarettes and he felt quite intimidated by this. One of them started to reach toward him. It is amazing how Henry was able to respond and defend himself. Both men in their late twenties or early thirties were tall, but they were literally taken to the ground by Henry. We shared the story with a few others who said, "Good for Henry, he did the right thing by defending himself". There are those different types of extremes where some crimes are petty, but other things could be life threatening. People respond in different ways.

We have talked about a store that is robbed, then a period of time elapses and the individual comes back. This is a person's livelihood. Should people not have the right to protect their property? The vast majority of Canadians would say absolutely, that people have the right to protect their property and livelihood. I do not think anyone would question that right.

There are issues related to what is reasonable and what is not reasonable. We have to look at situations on their individual merits and then make that determination. That is why, in good part, we have our court process.

Bill C-26 in essence complements our law enforcement agencies. It is not there to say that our police forces, whether it is RCMP or local policing units, are not doing their job. They are doing a wonderful job, in terms of protecting and making people feel safe and secure in our communities, given the resources they have.

● (1350)

When I was a bit younger, a number of years ago, and in university, one summer I was employed to canvass the community. I had to go door to door and ask about issues like community safety. I can remember that in older communities, people would say that they remembered when Ralph, an officer of the law, used to walk up and down the streets. He knew the individuals who were causing the problems and he was able to provide a sense of security.

Then we evolved away from the community policing that Canadians respected for many years. We started to get more individual police officers in police cars because of suburban growth and things of that nature. We have seen more of an investment in the number of officers, and in many communities today, we see that more policing is actually being supported through having more police officers and, ultimately, more community police officers

When I look at the future, I think we need to invest more into community policing, because I think that is the best way for us to enable citizens to be more involved in our communities. I would suggest that citizens do want to get involved. There are many examples of citizens' wanting to be involved. The bill today is just one of those examples.

I could talk about concerns raised in the area I represent. Out of the blue, out of goodness, a number of individuals said they wanted to form a group to walk up and down some of our streets in some of our communities. These are citizen action groups. There is nothing wrong with that. Individuals who take that kind of action should be applauded. They wear bright vests and are well identified. They are not vigilantes looking to cause issues or problems. They are just more concerned about our communities. They are watch groups. They all play a role.

What is really encouraging is to see our law enforcement officers supporting those groups. Part of that support is through providing education on what we can or cannot do. When we make a citizen's arrest, we do have to be careful. We have to size up the situation. Is it situation we really want to get directly involved in? Is there a better way? Maybe there might be a community police office nearby; maybe we would recognize a particular individual in a store, identify that person to the local police office and resolve it in that way, as opposed to making a citizen's arrest.

I can tell members the story of what happened to a lady in an office right beside my constituency office. She was robbed and stabbed in the neck by a young offender. She recognized the person who committed the crime. Instead of running out of the store and trying to administer a citizen's arrest, she stayed in the store and contacted the police. After a while the police got to the store; it took them a little while, but they got there. Because she was able to describe the person and even point out the person's house to the police, proper actions were taken. The youth was taken into custody. Hopefully we will see some justice with regard to that particular issue.

● (1355)

I would suggest that this person made a good decision in this instance. It was an appropriate thing to do. That is what people have to look at when they are faced with the necessity of taking action because their property is threatened. In this case it was not only property but, to a certain degree, her life as well. She was stabbed; she had to go to the hospital and have stitches. She had taken a personal assessment of the situation and had made the determination that the best way to deal with it was to contact the police.

However, sometimes that is not the way to go. Sometimes it is necessary for someone to—

● (1400)

The Acting Speaker (Mr. Barry Devolin): I must interrupt at this point. The hon. member for Winnipeg North will have nine minutes remaining when the House returns to this matter.

STATEMENTS BY MEMBERS

[*English*]

THE ENVIRONMENT

Mr. David Tilson (Dufferin—Caledon, CPC): Mr. Speaker, the Highland Companies group, backed by a Boston-based hedge fund, proposes to dig a 2,300-acre limestone quarry on prime farmland in Melancthon Township in my riding of Dufferin—Caledon.

The company wants to dig down 200 feet, well below the water table. The end result is that 600 million litres of water per day, enough for over one million Ontarians, would have to be pumped out, treated, stored and injected back into the local aquifers. The project proponents say this procedure would pose no risk to the local environment.

Melancthon Township is home to the headwaters of four major river systems flowing in all directions. To claim that there would be no effect on the headwaters and beyond stretches the realm of possibility.

I call upon the Minister of the Environment to order that the Canadian Environmental Assessment Agency conduct a full environmental assessment. The residents of my riding and of Canada deserve no less.

* * *

[*Translation*]

THE ENVIRONMENT

Mr. François Choquette (Drummond, NDP): Mr. Speaker, my constituents in Drummond are demanding that the government take practical action to protect the environment and mitigate the impact of climate change.

In the meantime, the Conservatives are collecting fossil awards at the UN climate change conference in Durban, and the Minister of the Environment is throwing sand in the gears of post-Kyoto negotiations.

The Conservatives' lack of action on climate change is causing Canadians to lose jobs. Our trade partners are slamming doors on Canadian energy because of the Conservatives' environmental policies. The Conservatives do not have a plan to tackle climate change; they do not have a plan to improve the quality of the environment; and they do not have a plan to create jobs in the new energy economy.

What will it take for the government to become a leader in green energy and to take a leadership role in the Durban negotiations?

[*English*]

NATIONAL DAY OF ROMANIA

Mr. Corneliu Chisu (Pickering—Scarborough East, CPC): Mr. Speaker, I rise to pay tribute to Canadians of Romanian descent on this first day of December, the National Day of Romania. It was first celebrated 93 years ago and is of great significance to all Romanians.

While visiting Romania this past August, I was fascinated to see how far the country and its institutions have progressed since the Romanian revolution of 1989. In these last 22 years of freedom from one of the most despicable and oppressive Communist regimes in world history, the country has made tremendous progress, and the will to continue to build a democratic and vibrant society is stronger than ever.

Today Romania and Canada enjoy excellent relations at all levels, and both countries are allies in NATO.

Today I invite all hon. members to join me in congratulating our Romanian Canadian friends for their achievements and in wishing them all the best for the future.

God bless Canada. Vive la Roumanie. Traiasca România.

* * *

CHAMP AMBASSADOR

Ms. Judy Foote (Random—Burin—St. George's, Lib.): Mr. Speaker, I rise today to recognize Erica Noonan, who is from Stephenville in my riding of Random—Burin—St. George's. Erica was born without the lower part of her right arm but has never allowed this to hold her back.

Since she was six months old, Erica has been involved in the War Amps child amputee program, and she credits the organization with making her a more confident person. Today Erica is a junior counsellor at War Amps seminars and spreads a message that we can all adhere to: "Believe in yourself and live your life with a positive attitude. It is not about winning and coming first, but winning in life and doing the best you can".

A gifted athlete, she was chosen as flag-bearer for Team Newfoundland at the 2011 Canada Winter Games in Halifax.

Erica, who is a primary-elementary education student at Memorial University, was presented recently with a CHAMP Ambassador certificate for her work in the War Amps' Operation Legacy.

I ask all members to join me in paying tribute to Erica Noonan, an extraordinary young woman, who reminds us that with the right attitude and determination, there is no reason anyone cannot lead a full and rewarding life.

* * *

MISSISSAUGA FIREFIGHTERS

Mr. Wladyslaw Lizon (Mississauga East—Cooksville, CPC): Mr. Speaker, on Friday, November 25, I had the honour of visiting the Mississauga fire halls. I visited with several crews who risk their lives every day to keep our families and communities safe, sometimes at risk to themselves.

I was given a demonstration on how to use the jaws of life and a life-saving defibrillator, tried on firefighting equipment, and went up on a 105-foot aerial platform. Most importantly, I had the opportunity to sit and talk with the men and women of the Mississauga fire department about their needs and how we can keep them safe while they are risking their lives for their communities.

I urge all members of the House to contact their local fire department to meet the everyday heroes in their communities.

I want to thank Mississauga fire chief John McDougall, along with firefighters Mark Train, Ryan Coburn and Chris Varcoe, for giving me an unforgettable experience, and I want to thank all of the Mississauga firefighters and firefighters across Canada for their hard work, dedication and tremendous contribution to Canadian society.

* * *

● (1405)

INTERNATIONAL CUP, KIDS PLAYING FOR KIDS

Ms. Isabelle Morin (Notre-Dame-de-Grâce—Lachine, NDP): Mr. Speaker, it is a great pleasure to announce to the House a wonderful event that took place in my riding in Dorval this past summer. The sixth annual 2011 International Cup, Kids Playing for Kids was not only an amazing opportunity for all the children to take part in an international sporting event, it was also a very serious fundraising campaign in which $40,000 was raised for the Sainte-Justine Hospital Foundation and the Montreal Children's Hospital.

It is extremely important that our children stay active in their bodies but also in their minds. Children are our future and instilling values of community engagement is something that we as a Canadian public should support. The international cup gave the participants the pride to know that they were trying to improve the lives of others.

Let us respect their goals by using the tools of the House to continue their work and improve the lives of all Canadians.

* * *

ORDER OF CANADA

Mr. Earl Dreeshen (Red Deer, CPC): Mr. Speaker, on November 4, I was honoured to attend the Governor General's Order of Canada ceremony to support and thank one of Red Deer's most valuable citizens, Joan Donald. She received this prestigious award for her contribution to business and her philanthropy across our community. Joan is the co-founder of Parkland Income Fund, one of Canada's biggest privately owned gas outlets and sits on its human resources and corporate governance committee.

Her passion for her community is evident with her devotion to the Festival of Trees campaign and her support for Red Deer College, where she sits as a member of its board of governors. She is also a member of many other boards, including the Alberta STARS Society and Foundation.

In addition to being awarded the Order of Canada, Joan has also won Red Deer's Citizen of the Year, Corporate Citizen of the Year and Generosity of Spirit from the Association of Fundraising Professionals.

Joan Donald is a wonderful asset to our country and a great example of a well-deserving Canadian. I thank her for her service and ask her to keep up her good work.

* * *

UKRAINE

Mr. Peter Goldring (Edmonton East, CPC): Mr. Speaker, 20 years ago, the people of Ukraine held a referendum, overwhelmingly choosing democracy and independence.

Their choice was affirmed during the 2004 Orange Revolution, where, from Independence Square, came a wonderful message of a nation's people peacefully demanding and getting democratic reform. However, that democratic light is now fading as the newly-elected regime slips backward toward totalitarianism, abusing the very courts and laws intended to protect citizens, democratic and civil rights. The arrest, show trial, conviction and jailing of former prime minister Yulia Tymoshenko is politically motivated, intended to prevent her candidacy in upcoming elections.

All free nations, along with the Organization for Security and Cooperation in Europe, must remain vigilant and continue to speak out against this abuse of rights and democracy. The President of Ukraine must be told that it is not just Tymoshenko he has put on trial but democracy itself.

* * *

[*Translation*]

POVERTY

Ms. Marie-Claude Morin (Saint-Hyacinthe—Bagot, NDP): Mr. Speaker, according to the most recent report of Montreal's Director of Public Health on social inequalities in health, residents of Westmount live longer than residents of Hochelaga—Maisonneuve. The report indicates that people living in poverty have a far lower life expectancy than those who are more affluent. In 1998, the gap was seven years, but a rich man today lives six years longer than a poor man.

The report recommends increasing the income of the less fortunate in order to improve their quality of life. The poor are entitled to housing and a decent income. Funding to build social housing and to invest in daycare centres in poorer neighbourhoods is crucial.

We cannot live in a country where being born into a wealthy family gives you an automatic headstart.

That is why we are calling on the government to provide more funding for the fight against poverty in order for Canada to really become a country where the distribution of wealth is a priority.

● (1410)

[*English*]

STATUS OF WOMEN

Ms. Joyce Bateman (Winnipeg South Centre, CPC): Mr. Speaker, Canada and the world are marking the 16 days of activism against gender violence because it affects us all. It destroys families and is a black spot on our society. It takes a heavy toll on our communities and our economy.

Community resources are vital to ensuring women have access to all kinds of relief and assistance they need when dealing with abuse. In the past year, Status of Women has approved over $2 million of funding for projects to enable second stage shelters and other community organizations improve access to high-quality services for abused women leaving emergency shelters.

By supporting the development of new and innovative service delivery models, these organizations can now better assist women dealing with violence and abuse and their transition to violence-free lives.

* * *

WORLD AIDS DAY

Ms. Libby Davies (Vancouver East, NDP): Mr. Speaker, on this World AIDS Day we remember those who have died of AIDS and express hope for the 34 million people who are still living with HIV-AIDS, as the rate of new infections and AIDS related deaths continue to decline.

On behalf of the NDP, we thank the many organizations and people in Canada whose dedicated and inspiring work has helped here at home and abroad. Advocates on the front line are providing critical services and education that makes a real difference to the lives of those living with HIV-AIDS. They need to know now that their funding is secure.

We also express our concern that the Global Fund to Fight AIDS faces its greatest challenge yet. Funding to this organization has been drastically cut due to the global financial crisis and it is more important than ever that Canada uphold its commitment to this effort.

The potential to ends the AIDS crisis is within our collective grasp. This is a challenge that, if we face it together, I believe we can overcome.

* * *

SUPER VISA

Mr. Kyle Seeback (Brampton West, CPC): Mr. Speaker, it is with great pleasure today to inform the House that starting today Canadians can apply for the new parent and grandparent super visa. This convenient 10-year, multiple entry super visa allows parents and grandparents to visit their loved ones in Canada for up to two years at a time, and the applications will be processed in only eight weeks.

No one should just take it from me. The super visa is earning rave reviews from Canadians across the country and from all parties. Whether it is the Liberal and NDP critics, immigration experts, like Richard Kurland, or presidents of associations, like Success and the Chinese Canadian Community Alliance, they all agree that the parent and grandparent super visa is super great.

I am proud to be part of a government that keeps its commitments by introducing this new super visa. Our Conservative government has kept its commitment to provide a more convenient way for families to be reunited with their loved ones.

* * *

WORLD AIDS DAY

Ms. Joyce Murray (Vancouver Quadra, Lib.): Mr. Speaker, over the past decade, British Columbia has begun to turn the tide on HIV and AIDS. The key has been treatment as prevention, a strategy developed by the BC Centre for Excellence in HIV-AIDS that calls for the widespread testing for HIV and immediate treatment with highly active anti-retroviral therapy.

New evidence shows that the treatment as prevention strategy is so successful it could stop the spread of AIDS. Think of that: In our lifetime, zero new infections.

Expanding the treatment as prevention strategy is critical to curbing the HIV-AIDS pandemic. The pivotal first test is in Swaziland where a shocking one in four adults are infected. The world is committed to cutting Swaziland's new infections in half over 10 years but it needs funding. Canada must pitch in and support this pilot project. What better time than on World AIDS Day for Canada to honour its pledges to the underfunded Global Fund to Fight AIDS.

Treatment as prevention is an innovative, made in B.C. beacon of hope. It is time for Canada to finally support this strategy in Canada and globally so we can move toward a world without AIDS.

* * *

CENOTAPHS AND MONUMENTS

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Mr. Speaker, across the country, our cenotaphs and monuments serve to remind Canadians of the sacrifices made so that we might live free.

I was saddened to hear news reports that a cenotaph in Regina was spray painted with graffiti. When individuals deface war memorials they dishonour the men and women who have bravely served this country and those who wear the Canadian uniform with pride today.

I am pleased that the Minister of Veteran Affairs announced that the government will be supporting Bill C-217, which would make it an offence to commit mischief in relation to a war monument. While it is unfortunate that such a bill is necessary, we have an obligation as a nation to respect and protect these monuments and to honour the sacrifices that they symbolize.

I thank the member for Dufferin—Caledon for bringing forward this legislation. I hope the individuals responsible for the vandalism to the cenotaph in Regina are found and held responsible.

* * *

● (1415)

IMMIGRATION AND REFUGEE BOARD

Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP): Mr. Speaker, the Minister of Immigration has so many friends that he cannot keep track. He said that only two Conservative friends sit on the Immigration and Refugee Board but the facts tell a different story.

[*Translation*]

Following the Prime Minister's example of making Senate appointments, the Minister of Citizenship, Immigration and Multiculturalism has now put at least 16 Conservative supporters on the Immigration and Refugee Board: defeated Conservative candidates Rose Andrachuk, Douglas Cryer, Gilles Guénette, Atam Uppal and Harriet Wolman; former Conservative employees Normand Forrest and Paul Beaudry; and at least eight Conservative donors.

Canadians are much smarter than the minister thinks. Canadians know that the Conservatives always give preferential treatment to friends of the party.

[*English*]

The Conservatives came here to change Ottawa, instead Ottawa changed them. Six years and sixteen IRB appointments later, they have become everything they used to oppose.

* * *

WORLD AIDS DAY

Mr. Ron Cannan (Kelowna—Lake Country, CPC): Mr. Speaker, today is World AIDS Day. Canadians, my family included, will be wearing a red ribbon to acknowledge those who have died and the courage and spirit of those who are living with or are affected by HIV-AIDS.

We are proud of the work our government has accomplished to help combat HIV-AIDS here in Canada and around the world. This year, our government is investing over $72 million to support prevention, care and support programs for HIV-AIDS across Canada. Today, we announced $17 million for five new innovative research teams dedicated to accelerating the development of a safe and effective HIV vaccine.

Partnered with the Bill & Melinda Gates Foundation, Canada is a world leader in our work toward the development of a safe, effective, affordable and globally accessible HIV vaccine.

It is also Aboriginal AIDS Awareness Week. Aboriginal people continue to be identified as one of the most HIV-vulnerable groups in Canada. As we have heard, working together we can stop HIV and AIDS.

ORAL QUESTIONS

[*Translation*]

ABORIGINAL AFFAIRS

Mrs. Nycole Turmel (Leader of the Opposition, NDP): Mr. Speaker, the Prime Minister's response to the crisis in Attawapiskat is shocking. What the people in that community need is heating, housing, homes and running water. But what does the Prime Minister do? He sends accountants and auditors.

Does the Prime Minister realize that the message he is sending by placing the community under third-party management is that, if people need help, they had better keep quiet about it or else they will be punished. That is his response.

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, on the contrary, the government actively responded to the community's needs right away, and not just now. Over the past five years, the government has invested over $90 million in this community. However, clearly, a significant part of our responsibility involves ensuring that the people in these communities are receiving the full benefit of this funding.

Mrs. Nycole Turmel (Leader of the Opposition, NDP): Mr. Speaker, it is interesting to see that the Prime Minister realizes that the community has needs, but he believes they are related to accounting and not to the current human crisis in the community.

People are living in tents, shacks and trailers. Young people have been without a school for 10 years.

On October 28, the council declared a state of emergency. The Minister of Aboriginal Affairs and Northern Development admitted that he found out about that last Thursday. That is very interesting. It is also not surprising that he did not do anything.

How does the Prime Minister respond to that?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, once again, the department responded right away to the urgent needs. However, the community has many needs. More services are needed. The government has already invested a lot of money. There is a need for better management of public funds, and the government is going to take responsibility for ensuring that those needs are met.

[*English*]

Mrs. Nycole Turmel (Leader of the Opposition, NDP): Mr. Speaker, federal officials travelled to Attawapiskat at least 10 times this year. No red flags were raised. Why? We need an answer.

Does the Prime Minister want to talk about numbers? Outside of first nations, social spending in Canada is about $18,000 per year per person. According to his own numbers, federal spending in Attawapiskat per person per year is about half of this amount. How is that possible? Why is he blaming the community?

● (1420)

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, unlike the NDP, which has voted against investments in this community and elsewhere, this government has made tens of millions of dollars of investments in this community, infrastructure investments of over $50,000 for every man, woman and child. It is obvious there continue to be needs.

The government is working to fulfill those needs, but they are twofold. There is a need, obviously, for more services and infrastructure. There is also clearly a need for better management. The government will ensure both of those things are dealt with.

Mr. Charlie Angus (Timmins—James Bay, NDP): Mr. Speaker, all across northern Canada are these isolated little Bantu-style homelands where people live on top of each other in mouldy shacks and where dying in slow motion is a way of life. The Minister of Aboriginal Affairs was not aware of any of this. He told the committee yesterday that he first became aware of Attawapiskat's cry for help on Thursday.

So now that he has deposed the elected council and blamed the community for years of chronic underfunding, where is his long-term plan to get this community out of this disgraceful level of poverty?

Hon. John Duncan (Minister of Aboriginal Affairs and Northern Development, CPC): Mr. Speaker, the Mushkegowuk Tribal Council invoked a declaration of emergency on October 28.

On November 7 we got our first funding proposal from Attawapiskat First Nation.

On November 8 we approved $500,000 immediately to be used for some housing renovations. We responded quickly.

On Thursday, November 24, we got an emergency declaration from Attawapiskat and on Monday, November 28, my officials were in the community. That is why we appointed a third party manager.

Mr. Charlie Angus (Timmins—James Bay, NDP): Mr. Speaker, if he were a leader, he would be there.

I will tell him what the situation is on the ground. Beyond the tents, the unheated cabins, and the mouldy condemned homes, there are still 90 people living in a trailer that has no sprinkler water suppression and very few washrooms. Now that he has personally taken command of this community, what plan does he have to get those people into long-term housing? Does he have a plan or is this a desire to punish an impoverished little community for making him look bad?

Hon. John Duncan (Minister of Aboriginal Affairs and Northern Development, CPC): Mr. Speaker, our priority is to address the urgent health and safety needs of the people of Attawapiskat. We informed the chief that the community will be placed in third party management to ensure that community needs are addressed.

We are working with the community and with the province of Ontario, through Emergency Management Ontario, to quickly implement the community's existing emergency management plan to ensure that residents have access to warm, dry and safe shelter.

Hon. Carolyn Bennett (St. Paul's, Lib.): Mr. Speaker, yesterday in committee I asked the Minister of Aboriginal Affairs when he first knew of the state of emergency in Attawapiskat. After a painful 20 second pause he answered, "Last week, about Thursday". The first question on this issue in the House was a month ago. The minister's answer was truly unbelievable.

When did the Prime Minister first know of this crisis and what is he doing about this incompetent minister?

Hon. John Duncan (Minister of Aboriginal Affairs and Northern Development, CPC): Mr. Speaker, I just pointed out that on October 28, the Mushkegowuk Tribal Council invoked a state of emergency for three communities.

Nine or ten days later we received a request from Attawapiskat and we responded.

On November 24, last Thursday, we received an emergency measure from Attawapiskat.

Hon. Carolyn Bennett (St. Paul's, Lib.): Mr. Speaker, the minister really does not know what he is talking about. This is not an isolated incident. First nations communities across this country are in crisis. There are hundreds of communities without clean running water and safe housing.

The buck stops with the Prime Minister. When will he stop blaming others for this crisis and fix this Canadian tragedy?

● (1425)

Hon. John Duncan (Minister of Aboriginal Affairs and Northern Development, CPC): Mr. Speaker, we understand that there are many challenges in first nations communities. We have spent in an unprecedented fashion on improving the lives of first nations across the country. We have spent more than any other government on basic infrastructure and housing. We have involved ourselves in improving child welfare and the education file, and we will continue to do those things.

* * *

GOVERNMENT EXPENDITURES

Mr. Marc Garneau (Westmount—Ville-Marie, Lib.): Mr. Speaker, while Canadians are being asked to accept cuts, the government is setting a very bad example. It spends $3 billion more in outside contractors than under the Liberals. It sends military helicopters to pick up a minister at a fishing camp. It has the most expensive cabinet in the history of this country, not to mention an unbelievably bloated Prime Minister's Office that never stops growing.

How can the Prime Minister look Canadians in their eyes and tell them that he is acting responsibly on their behalf?

Hon. Tony Clement (President of the Treasury Board and Minister for the Federal Economic Development Initiative for Northern Ontario, CPC): Mr. Speaker, as the hon. member knows, we have a plan that has been sanctified by the people of Canada to make sure that our government spends within its means, that we eliminate unnecessary spending, and focus on the issues and services that Canadians need. We have that mandate from the Canadian people.

The other part of the mandate is to have a low tax jurisdiction that creates jobs and growth. That is what we are focused on. It is unfortunate that the hon. member and his party are not.

CITIZENSHIP AND IMMIGRATION

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Speaker, the immigration minister's story keeps changing on his patronage appointments to the IRB.

First, he claimed that only two appointees to the IRB had Conservative connections, but when faced with the facts about the many patronage appointments Conservatives actually made, the minister claimed he was not aware.

The minister brags about the pre-screening process, but if the pre-screening process was so rigorous, how could the government have appointed 16 Conservative insiders, including five former candidates, without the minister knowing?

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism, CPC): Mr. Speaker, that is nonsense. I said that since I have been minister I was aware of two people whom I have recommended for appointment with a connection to the Conservative Party out of about 169 appointments and reappointments that I made.

According to the list that he has come up with, it includes one-time donors to a provincial party 25 years ago. So basically, it includes anyone who has ever voted Conservative, which constitutes about 5% of the people appointed to the IRB by this government.

Under the new system that we put in place in July 2007, we have received 2,400 applications, only 240 of whom were recommended as being qualified for appointment. We have the most rigorous system in the history of the IRB.

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Speaker, Conservatives refuse to clean up their act. They have refused to appoint a public appointments commission. They are as addicted to patronage as the Liberals were.

Even the screening committee is stuffed with partisan appointments, including—

Some hon. members: Oh, oh!

The Speaker: Order. The hon. member for Vancouver Kingsway has the floor.

Mr. Don Davies: Mr. Speaker, even the screening committee is stuffed with partisan appointments, including a former aide to a Conservative minister. Peter Showler, the former chair of the IRB, is describing the Conservative appointments process as secretive and political. He is saying there is no political accountability.

Why will the Conservatives not stop forcing their partisan immigration system—

The Speaker: The hon. Minister of Citizenship, Immigration and Multiculturalism.

Hon. Jason Kenney (Minister of Citizenship, Immigration and Multiculturalism, CPC): Mr. Speaker, it is really a shame to hear this member denigrating what the United Nations High Commissioner for Refugees says is the fairest and most independent asylum determination process in the world.

It is unfortunate to hear him denigrating the people of quality who managed to come through a screening process where only one out of every 10 applicants were accepted. What is even more disappointing is to hear the Liberals, including a former immigration minister over there, talking about this.

I have four pages of names of people appointed to the IRB who were former Liberal campaign managers, spouses of MPs, and spouses of senators. We have cleaned up their mess.

* * *

● (1430)

[*Translation*]

THE ENVIRONMENT

Ms. Megan Leslie (Halifax, NDP): Mr. Speaker, instead of making progress and creating jobs by supporting clean energy industries, as everyone else in the world is doing, Canada is lagging behind. The only plan this government has is to go to the climate change conference in Durban and sabotage the discussions. Our partners are already shutting us out because of this out-of-touch government's policies.

What is the government waiting for to come up with a policy centred on the green economy?

[*English*]

Hon. Joe Oliver (Minister of Natural Resources, CPC): Mr. Speaker, the hon. member finally understands that her party is vulnerable because it is fighting a major job creating project.

She is now claiming, incredibly, that blocking Keystone would be good for Canadian jobs. That is like saying blocking the export of grain would be good for Canadian jobs because there is employment in baking bread.

In fact, the oil sands will generate 500,000 jobs, including union jobs, and trillions of dollars of economic activity. Is there not at least one leadership contender who will take the side of Canadian workers?

Ms. Megan Leslie (Halifax, NDP): Mr. Speaker, someone needs to press reset. That was not exactly a winning answer,

I will give the Minister of the Environment kudos for one win that he has had on the environment file. For the third straight day, Canada received a fossil award as the country that has done the most to block progress on climate change.

Some hon. members: Hear, hear!

Ms. Megan Leslie: It is unbelievable that they are applauding that.

Even China is now saying that Canada pulling out of Kyoto will mess up the negotiations. Conservative inaction is—

Some hon. members: Oh, oh!

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

Ms. Megan Leslie: Mr. Speaker, Conservative inaction is killing Canadian jobs.

When will the government finally commit to working on a plan with the world community on a plan for the new energy economy of the future?

Hon. Peter Kent (Minister of the Environment, CPC): Mr. Speaker, Canada is indeed working toward a single new international climate change regime that will include all major emitters, including China.

The Cancun agreements, based on the Copenhagen accords, provide a solid foundation for such a regime, and in Durban our Canadian delegation will work to implement these agreements.

* * *

HARMONIZED SALES TAX

Mr. Peter Julian (Burnaby—New Westminster, NDP): Mr. Speaker, yesterday the Prime Minister sent the premier of B.C. home empty-handed with no agreement to reduce the $1.6 billion payback on the hated HST. That is money that will have to come from health and education B.C. families rely on. There was no recognition of two years of HST revenue already collected and no agreement to fast track the dismantling of the HST British Columbians voted against.

Why is "no" the only word B.C. families ever hear from the Ottawa Conservatives? The HST was a Conservative mistake. Why is the Prime Minister making B.C. families pay for it?

Hon. Jim Flaherty (Minister of Finance, CPC): Mr. Speaker, as we have said all along, provincial taxation is a provincial responsibility. The Government of British Columbia decided to enter into an agreement with the Government of Canada in order to harmonize its provincial sales tax with the GST. Subsequently there was a change of mind.

In the meantime, pursuant to the terms of the agreement, a certain sum had been provided by the federal government to the provincial government. Since the agreement is not proceeding, that sum needs to be returned and the B.C. government has acknowledged the accuracy of that.

Mr. Peter Julian (Burnaby—New Westminster, NDP): Mr. Speaker, I was in the House on December 9, 2009, when the Prime Minister and the Ottawa Conservatives voted to impose the HST on British Columbians. They are the ones who are responsible.

When we talk about B.C. government ministers, they are saying that they could move faster to remove the hated HST if they would get co-operation from the federal government. The Conservative government is not co-operating. The government has no transition plan and is stalling. It is taking nearly twice as long to remove the HST than it took to bring it in in the first place.

Why are Conservatives refusing to take their hated HST off? Why will they not listen to B.C. families? Where is the transition plan?

Hon. Jim Flaherty (Minister of Finance, CPC): Mr. Speaker, what total nonsense. There is a member of the House of Commons who stands and says that the federal government, the federal Parliament, voted to impose something on a provincial government that is solely a matter of provincial responsibility. Have you never read the BNA Act? Have you never looked at the Canadian—

● (1435)

The Speaker: Order, please. The Minister of Finance should remember to address his remarks through the Chair and not directly at other members.

[*Translation*]

The hon. member for Abitibi—Témiscamingue.

* * *

NATIONAL DEFENCE

Ms. Christine Moore (Abitibi—Témiscamingue, NDP): Mr. Speaker, it would have taken the Minister of National Defence just two hours to leave his fishing resort in Gander, but that was too long for him. So he monopolized a search and rescue helicopter and military staff for his personal use. That cannot be justified. That is why the Canadian Forces were opposed to the airlift.

When will the minister confirm that he fabricated the whole story about participating in a military exercise in order to get out of this mess?

[*English*]

Hon. Peter MacKay (Minister of National Defence, CPC): Mr. Speaker, I will ignore the hyperbole and the hyperventilating. I have said before that I was leaving personal time to go back to work early and before doing so, took part in a search and rescue exercise that we had been trying to arrange for some time.

Mr. David Christopherson (Hamilton Centre, NDP): Mr. Speaker, on September 26, the Minister of National Defence told the House, "I took part in a previously planned search and rescue demonstration". Documents released today contradict this. There is no mention of the minister wanting to see search and rescue crews at work. In fact, the documents say, "this mission will be under the guise of…SAR (training)". Why did the minister mislead this House?

Hon. Peter MacKay (Minister of National Defence, CPC): Mr. Speaker, as I just said, and as I have said before in the House a number of times, I took part in a search and rescue demonstration. That in fact happened. It has been confirmed by Brigadier-General Bédard who stated:

> —the mutual gain was realized in the sense that we had been looking to showcase the Cormorant's abilities and the search and rescue capabilities of the Canadian Forces to the minister.

Mr. Matthew Kellway (Beaches—East York, NDP): Mr. Speaker, the government continues to show gross and unrelenting incompetence when it comes to providing our forces with the equipment they need.

In 2006 the government started the process of replacing rusting transport trucks. Yesterday we started all over again, six years behind schedule. Seven years ago the federal government announced the contract to purchase 28 maritime helicopters. The first of these was due over three years ago. We have yet to receive it.

When will we see some accountability in the government's military procurement program?

Hon. Julian Fantino (Associate Minister of National Defence, CPC): Mr. Speaker, if I may with respect to the member, he ought not to be reading his own headlines. We have created the process by which we are creating all the due diligence. We are ensuring that the process is transparent, fair and available to the industry. We are providing our men and women with the tools they need to do their job effectively and to the best ability for the taxpayers of the country as well.

Mr. Scott Simms (Bonavista—Gander—Grand Falls—Windsor, Lib.): Mr. Speaker, if the minister is going to start using quotes about search and rescue, then let us take a look at this one, which was uncovered by the Toronto *Star*. It states:

> If we are tasked to do this we of course will comply...Given the potential for negative press though, I would likely recommend against it.

That was about the flight, but yet he did it anyway. The next day is when they said that it would be under the guise of a training mission of some sort. Not only that, but they also said that the landing area was too small, but political staff said that it was not too small because he—

The Speaker: The hon. Minister of National Defence.

Hon. Peter MacKay (Minister of National Defence, CPC): I am not sure that was a question, Mr. Speaker. As I said before, I left personal time to go back to work.

What is also a guise is for the hon. member, who we know also flew in a Cormorant helicopter on several occasions, to stand and criticize.

Some hon. members: Oh, oh!

The Speaker: Order, please. We are only about halfway through the list, so I will ask all hon. colleagues for a bit of co-operation.

The hon. member for Mount Royal.

* * *

JUSTICE

Hon. Irwin Cotler (Mount Royal, Lib.): Mr. Speaker, during committee deliberations on Bill C-10, I introduced a series of amendments to the important justice for victims of terrorism act, but these amendments were regrettably rejected by the Conservative majority on committee. The government then tabled the same amendments at report stage in the House, which the Speaker rightfully ruled out of order.

Now that we agree that these amendments are warranted and that they should never have been rejected in the first place, what will the government now do to see that these desirable amendments are in fact implemented?

● (1440)

Hon. Vic Toews (Minister of Public Safety, CPC): Mr. Speaker, Canadians gave our government a strong mandate to keep our streets and communities safe. That is why we have made passage of the safe streets and communities act a priority.

We are always interested in measures that put victims first.

Oral Questions

HEALTH

Hon. Mark Eyking (Sydney—Victoria, Lib.): Mr. Speaker, today being World Aids Day we have good news and bad news.

The goods news is researchers state that beating AIDS globally can be done with today's science, that it is just a matter of funding. The bad news is the international global fund for fighting AIDS, TB and malaria is hitting a funding wall. It has effectively frozen all new spending for the next three years. The global fund states that Canada owes it $180 million for this year and it has yet to receive a penny.

With only one month left, will the Prime Minister send a cheque to the global fund to fight AIDS?

Mr. Colin Carrie (Parliamentary Secretary to the Minister of Health, CPC): Mr. Speaker, I am proud of the work our government has accomplished in helping combat HIV and AIDS not only in Canada, but also in the developing world.

For example, today our government announced that we are investing $70 million for five new research projects to accelerate the development of a safe and effective HIV vaccine. Also, the Canadian HIV vaccine initiative led by our government, along with the Melinda Gates Foundation, highlights Canada's world-class HIV and vaccine research expertise. This initiative will help advance the science for the development of a safe and effective HIV vaccine.

[*Translation*]

Ms. Anne Minh-Thu Quach (Beauharnois—Salaberry, NDP): Mr. Speaker, the government is dragging its feed on funding for community organizations through the federal initiative to address HIV/AIDS in Canada. Organizations had to wait months before applying for funding and a number of them may now have to close their doors because of the delays. Today, we are still in the dark about the Conservatives' proposed new funding formula.

On this World AIDS Day, will the government finally announce the funding criteria and provide an explanation for the delays?

Mr. Colin Carrie (Parliamentary Secretary to the Minister of Health, CPC): Mr. Speaker, several community groups across the country are doing excellent work in this area. Other proposals will be made in the future. Last year alone, our government invested $42 million in HIV/AIDS research.

[*English*]

Ms. Libby Davies (Vancouver East, NDP): Mr. Speaker, if these organizations are doing excellent work, as the parliamentary says, then why is the government stalling on giving the information to these organizations?

The fact is these organizations need secure funding now before their doors close. These organizations work on the front line every day and their services are vital to the quality of life of those living with HIV-AIDS. Without reliable information from the government, their ability to plan for the future is at risk. There is no rationale for the delay in AIDS funding in Canada.

Why will the government not immediately give stable funding and make it clear that—

The Speaker: Order, please. The hon. parliamentary secretary.

Mr. Colin Carrie (Parliamentary Secretary to the Minister of Health, CPC): Mr. Speaker, no other government has done more for AIDS and AIDS research than our government. As I had said in French, there are some community groups across the country that are doing excellent work. Call for proposals will be done in the near future.

Last year alone our government provided $42 million in HIV-AIDS research funding through the CIHR. If we look at the past, since 2006, CIHR has invested $203.6 million in the fight against HIV-AIDS. I wish the NDP would get on board with those very important initiatives.

* * *

PUBLIC SAFETY

Mr. Dany Morin (Chicoutimi—Le Fjord, NDP): Mr. Speaker, over a month ago, following the tragic death of Jamie Hubley, I asked the Conservatives to tell us their plan on youth bullying. The Minister of Foreign Affairs replied, “Bullying and intimidation have no place in our schools. Our society needs to engage in promoting tolerance and acceptance”.

The tragic suicide this week of Marjorie Raymond, a bullied teenage girl in Gaspésie, proves once again that we must act now.

Ontario is acting. Quebec is acting. What will the federal government do to protect our children from bullying and how long do we have to wait for this?

● (1445)

Ms. Candice Hoeppner (Parliamentary Secretary to the Minister of Public Safety, CPC): Mr. Speaker, our hearts go out to the family and friends of Marjorie Raymond, as well as anyone who has been victimized by bullying. Bullying is completely unacceptable and it should never be tolerated. We do support the measures that provinces take.

I encourage anyone who is a victim of bullying to reach out to an adult and know that he or she is not alone. Call Kids Help, do something, there are people there to help. We support them as I think all of us in the House do.

[*Translation*]

Mr. Dany Morin (Chicoutimi—Le Fjord, NDP): Mr. Speaker, that answer tells me that the Conservative government does not believe that the federal government can play a role in this area. I believe it can.

The NDP introduced a bill to establish a national suicide prevention strategy. It is part of the solution that made the headlines one day and was written off by the Conservatives the next. We have to put in place a coordinated plan to fight bullying. Ontario and Quebec are taking action; now it is Ottawa's turn to do so.

I will be introducing a bill in the near future to directly attack this serious societal problem. I am asking the Conservatives to set aside partisanship and work with the NDP to effectively fight bullying and its devastating effects on our children.

[*English*]

Ms. Candice Hoeppner (Parliamentary Secretary to the Minister of Public Safety, CPC): Mr. Speaker, we all have a role to play in combatting bullying. I am very proud of the work our government has done in funding some specific projects. For example, in Ontario we help fund My Webworld: Truth for Rural Youth, which deals specifically with bullying.

We all need to work together and lead by example, even the House, as individuals, MPs and parents, that we do not tolerate bullying on any level at all.

* * *

FOREIGN AFFAIRS

Mr. Costas Menegakis (Richmond Hill, CPC): Mr. Speaker, this week's brazen attacks on the British Embassy in Tehran were extremely disturbing. Iranian authorities failed to uphold their responsibilities under the Vienna Convention, which specifically safeguard diplomatic missions. Following this outrageous act, the British have pulled their ambassador to Iran.

Could the Minister of Foreign Affairs please update the House on the status and well-being of our diplomats in Tehran?

Hon. John Baird (Minister of Foreign Affairs, CPC): Mr. Speaker, I know I speak for all members of the House that the safety and security of our diplomatic staff in Tehran is a top concern when we hear about the outrageous attack on the British High Commission. We are in very close contact with the embassy in Tehran. We have had a limited engagement strategy for the last four years and we are following the situation very closely.

I have asked my deputy minister to conduct a complete security review and we will do what is best for the Canadian officials who are doing the important work of Canada. We will ensure their safety if that requires evacuating them earlier.

* * *

SERVICE CANADA

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Mr. Speaker, the government has replaced 1,000 real people at Service Canada with voicemail and it calls that progress. Any Canadian who has ever been stuck on hold knows that is just not true. As phone lines jam and service levels drop, the minister has no plan except to blame the remaining front-line workers.

The solution is clear. Instead of blaming staff, will the minister just commit to getting Service Canada job postings out the door today?

Ms. Kellie Leitch (Parliamentary Secretary to the Minister of Human Resources and Skills Development and to the Minister of Labour, CPC): Mr. Speaker, our government's top priority is job creation and economic growth. We are committed to providing timely service to all Canadians who access the system. Service Canada is modernizing its EI processing systems to ensure that Canadians receive the best possible service.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Mr. Speaker, first the human resources minister blames front-line workers for the problems at Service Canada and now the President of the Treasury Board is calling federal public servants unconstructive and self-serving. Meanwhile, Canadians are waiting on the phone for their EI and pension cheques that they have paid for and that they deserve.

Why is the government blaming hard-working Canadians when Conservative mismanagement is really the problem?

Hon. Tony Clement (President of the Treasury Board and Minister for the Federal Economic Development Initiative for Northern Ontario, CPC): Mr. Speaker, I said no such thing. I wrote to the president of the union, who I had asked several months ago to join us in a collective effort to find savings on programs that had outlived their usefulness or that could be delivered better to Canadians. He, instead, decided to go on full rhetorical mode.

We on this side of the House are focused on the issues that Canadians care about: jobs, economic opportunity, economic growth and making sure governments spend within their means. It is clear that union bosses do not have the same agenda and they are joined at the hip with the NDP.

● (1450)

[*Translation*]

Mr. Claude Patry (Jonquière—Alma, NDP): Mr. Speaker, this government's logic makes me weep.

It cuts 1,000 positions at Service Canada and then blames the few employees who remain for the delays in service. That is what it is doing.

Canadians are paying the price in unreasonable delays in processing employment insurance claims.

Will this government finally realize that it is the problem and stop blaming others for its inaction?

[*English*]

Ms. Kellie Leitch (Parliamentary Secretary to the Minister of Human Resources and Skills Development and to the Minister of Labour, CPC): Mr. Speaker, we are committed to providing Canadians with the best possible service. Service Canada is modernizing its EI processing systems to ensure that Canadians have the best possible service.

While this Conservative government continues on its strong direction, reducing taxes and creating jobs for Canadians, we urge the opposition to stop obstructing this great plan to create efficiencies and provide better services for Canadians.

[*Translation*]

Mr. Claude Patry (Jonquière—Alma, NDP): Mr. Speaker, as if that were not enough, this week, the President of the Treasury Board described Public Service Alliance leaders as self-serving. He criticized them for not offering any constructive recommendations with regard to the $4 billion in cuts this government wants to make.

Is that this government's tactic? Is that how it goes about finding solutions to return to balanced budgets: blame everyone else and try to shirk responsibility?

Instead of attacking public servants, will this government take action to help the Canadians who have to deal with unacceptable delays at Service Canada?

Hon. Tony Clement (President of the Treasury Board and Minister for the Federal Economic Development Initiative for Northern Ontario, CPC): Mr. Speaker, I already said that we are trying to work with the unions to ensure there is an action plan that works, but the union leaders are saying no. They are saying no to Canadians. They are saying no to the fact that it is important to have more jobs in our society. They are saying no to the decisions that work for Canadians. We have said yes.

* * *

FINANCE

Hon. John McCallum (Markham—Unionville, Lib.): Mr. Speaker, according to section 26 of the Financial Administration Act:

> no payments shall be made out of the Consolidated Revenue Fund without the authority of Parliament.

We have now learned that the government transferred over $100 million from the green infrastructure fund to other departments, without even bothering to inform Parliament.

Why are the Conservatives breaking the law?

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, the transfer of the $170 million was clearly indicated, as stated in Industry Canada's 2011-12 Report on Plans and Priorities.

This money was transferred to achieve important government priorities. The government and the Treasury Board gave all the necessary approvals.

[*English*]

Hon. John McCallum (Markham—Unionville, Lib.): There was no approval by Parliament, Mr. Speaker. That is the point.

The law states that "no payments shall be made out of the Consolidated Revenue Fund without the authority of Parliament". We know the government transferred $50 million from the border infrastructure fund to spend money on gazebos in Muskoka without Parliament's approval. Now we have learned it transferred more than $100 million from the green infrastructure fund to other government departments without parliamentary approval.

Why does the government continue to think that it is above the law?

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, all Treasury Board approvals for the transfers were obtained. The transfers were referenced in various parliamentary reports beginning last fall. In particular, they were detailed in the 2011-12 reports on plans and priorities and again in 2010-11 departmental performance reports. This is nothing new.

* * *

SENIORS

Ms. Irene Mathyssen (London—Fanshawe, NDP): Mr. Speaker, Canadian seniors built this country, but the government is letting too many older Canadians live in poverty. An HRSDC study found that, despite being eligible, more than 125,000 seniors are not receiving the old age security benefits they deserve. The government has known this since 2009. It has known about the problems in the program.

Why has the government not acted to ensure that all Canadian seniors receive the benefits to which they are entitled?

Ms. Kellie Leitch (Parliamentary Secretary to the Minister of Human Resources and Skills Development and to the Minister of Labour, CPC): Mr. Speaker, our government has made great progress in providing for seniors. We have increased the GIS and appointed a minister to ensure that we have enhanced opportunities for seniors. We have expanded the new horizons fund to encourage seniors to mentor students and their family members to get involved in their communities.

This government understands what seniors have done to build our country. We will continue to support them.

● (1455)

[*Translation*]

Ms. Lysane Blanchette-Lamothe (Pierrefonds—Dollard, NDP): Mr. Speaker, the government keeps going on and on about what it has already done in order to justify turning its back on seniors in desperate need.

Figures from the task force on financial literacy completely contradict what the Parliamentary Secretary just said. Every year, $1 billion in old age security benefits goes unclaimed. Furthermore, 70% of seniors who do not receive benefits have an income of less than $10,000. They are spending their golden years in poverty.

Is the government trying to save money at the expense of seniors, by refusing to pay them their pensions?

[*English*]

Hon. Alice Wong (Minister of State (Seniors), CPC): Mr. Speaker, our government continues to take strong action to support seniors. Since 2006, our government has provided billions in annual tax relief for seniors and pensioners, removed hundreds of thousands of seniors from the tax roll completely, introduced the largest GIS increase in a quarter century, and made significant investment in affordable housing for low-income seniors.

What did the opposition do? It voted against all of these measures.

* * *

ROYAL CANADIAN MOUNTED POLICE

Mr. David Wilks (Kootenay—Columbia, CPC): Mr. Speaker, Canadians gave our government a strong mandate to keep our streets and communities safe. Part of that means ensuring that a strong and effective RCMP continues to provide policing services in communities from coast to coast to coast. The red serge of the RCMP is a national icon and my constituents want to ensure an RCMP presence in their communities for years to come.

Would the Minister of Public Safety please update the House on the status of negotiations with contract policing jurisdictions?

Hon. Vic Toews (Minister of Public Safety, CPC): Mr. Speaker, I want to thank the member who, I might note, is a former member of the RCMP.

Canadians gave our government a strong mandate to keep our streets and communities safe. That is why our government is committed to assisting the provinces in offering strong and effective policing across the country.

I am proud to report that we have arrived at an agreement in principle with the provinces. This is a good deal for provinces that would strike an appropriate balance between giving police the tools they need to do their jobs and ensuring fairness for Canadian taxpayers.

* * *

PHONE CALLS TO MOUNT ROYAL CONSTITUENCY

Hon. Geoff Regan (Halifax West, Lib.): Mr. Speaker, the Conservatives have admitted the phone campaign of lies to the citizens of Mount Royal.

The government House leader has actually said he is proud of these unsavoury tactics that seem to be straight from the era of Watergate.

Would the Prime Minister heed the calls of commentators, even Conservatives, apologize for this outrage against democracy, shut down his dirty tricks team and call on Elections Canada to investigate?

The Speaker: I did not hear anything in that question that fell under the administration of government. It seems to be a question of a third party. I just heard a question about a political party.

The hon. member for Trois-Rivières.

[*Translation*]

PYRRHOTITE

Mr. Robert Aubin (Trois-Rivières, NDP): Mr. Speaker, today we have set an unfortunate record. As of today, over 1,000 families in my riding and neighbouring ridings are victims of the disaster known as pyrrhotite.

Imagine a huge earthquake: except for the time factor, this is the extent of the harm caused by pyrrhotite. The problem is the result of the federal standard—or lack thereof—for the aggregates used in concrete. For years, people have been calling for the review of this standard and for adequate financial support to put an end to this problem.

Will this government finally listen to the people of Canada or will it turn its back on them?

[*English*]

Hon. Peter Van Loan (Leader of the Government in the House of Commons, CPC): Mr. Speaker, issues of standards are regularly revisited by our government to ensure they recognize the most up-to-date science. We will be pleased to continue to look into that matter.

* * *

JUSTICE

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Mr. Speaker, Canadians are concerned about crime. They gave our government a strong mandate to keep our streets and communities safe.

Our Conservative government is committed to ensuring that serious offenders receive sentences which reflect the serious nature of their crimes. Our government introduced and passed legislation to repeal the faint hope clause, to end sentencing discounts for multiple murderers, and passed the safe streets and communities act.

We are restoring Canadians' confidence in our justice system.

Would the Minister of Justice please update this House in respect of the legislation and where it stands today?

● (1500)

Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, I am pleased to say that, thanks to this government, after today anyone charged and convicted of murder will no longer benefit from the faint hope clause. No longer will Canada be a country that gives automatic discounts for multiple murderers. We believe in standing up for victims. This government is on the right track.

* * *

[*Translation*]

CANADA POST

Mr. Jonathan Tremblay (Montmorency—Charlevoix—Haute-Côte-Nord, NDP): Mr. Speaker, day in, day out, the Conservatives refuse to recognize the importance of rural post offices. Cuts to Canada Post and the closure of postal outlets will deprive these communities of essential services and an important economic development tool. The Conservatives' campaign slogan was "our region in power". If they want to give power to the regions, we have

to work together. We know where the regions are, but we are still looking for the power.

Will the government commit to maintaining services everywhere, in all the regions?

[*English*]

Hon. Steven Fletcher (Minister of State (Transport), CPC): Mr. Speaker, our government is committed to universally effective and economically viable postal services for all Canadians. That is why we introduced the Canadian Postal Service Charter and we are protecting rural mail delivery by banning closure of rural post offices. All Canadians deserve reliable postal service and that is what they are going to get.

* * *

[*Translation*]

GOVERNOR GENERAL

Mr. Louis Plamondon (Bas-Richelieu—Nicolet—Bécancour, BQ): Mr. Speaker, the Governor General is upholding tradition. Like others before him, he does not seem to have a problem spending taxpayers' money for personal reasons. On October 7, 2011, the Queen's representative used a Challenger jet as though it were a taxi, leaving taxpayers to foot the $5,000 bill, despite his tax-free salary of $134,000.

Will the Prime Minister get over his obsession with the monarchy and will he ask the Governor General not only to pay that money back, but also to pay taxes on his salary, like all Quebeckers and Canadians?

[*English*]

Hon. Peter Van Loan (Leader of the Government in the House of Commons, CPC): Mr. Speaker, our government is always concerned about ensuring that government aircraft are used in the most cost-efficient manner to reflect the interests of the taxpayers. We are also very proud of the work done by the Governor General, standing in for our head of state, the Queen. We are very pleased that he is doing outstanding work on behalf of Canadians all across this country; we make no apologies. I think all members of this House should embrace that spirit and embrace the good work done by the Government of Canada.

* * *

[*Translation*]

BUSINESS OF THE HOUSE

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Mr. Speaker, I would indeed like to ask the Thursday question. The government is continuing this week with its antidemocratic use of closure for the 11th time since the beginning of this session, this time, for Bill C-10, the omnibus crime bill.

[*English*]

The end result of forcing bills like that through the House is that we end up with the ridiculous spectacle we had earlier this week of one minister of the Crown standing up and making amendments to the bill of another minister of the Crown and then having those amendments ruled out of order by you, Mr. Speaker. That is the end result of trying to force bills through the House this quickly.

We also end up with the result, if this bill does go through, of a severely flawed crime bill that will do this country absolutely no good.

Why does the House leader not agree with the official opposition, take the bill off the order paper and send it back to committee so it can be properly dealt with in an appropriate period of time?

We would also like to know when the last allotted day will be for this supply period and what will be the rest of the calendar for the coming week?

Hon. Peter Van Loan (Leader of the Government in the House of Commons, CPC): Mr. Speaker, this is here for law-abiding Canadians week.

[*Translation*]

This afternoon, we will continue debate on Bill C-26, the Citizen's Arrest and Self-defence Act. If we finish that before 5:30, we will get back to Bill C-4, the Preventing Human Smugglers from Abusing Canada's Immigration System Act.

● (1505)

[*English*]

We will conclude here for law-abiding Canadians week tomorrow, with third and final reading of Bill C-10, the safe streets and communities act. I expect the vote will be deferred until Monday before the bill moves to the other place where I am sure the senators will deal with the bill swiftly in keeping with our commitment to Canadians to pass the bill within 100 sitting days.

I noted the offer from the member for Mount Royal, which appears to be at least somewhat endorsed by the opposition House leader, and I will propose a motion in response, hopefully later today, that can address the amendments in question.

Monday will be the final allotted day for the supply period, which means that after debating an NDP opposition motion all day we will also be dealing with the supply bill that evening. I understand that the NDP has removed all its opposition motions from the order paper so we really have no idea what we will be debating that day. The House will have to await word from the NDP.

I am pleased to announce that next week in the House will be democratic reform week. During this week, we will be debating bills that are part of our principled agenda of democratic reform, specifically bills that would increase fair representation in the House of Commons, reform the Senate and strengthen Canada's political financing regime by banning corporate and big union loans.

The key part of democratic reform week will be Tuesday with report stage debate on Bill C-20, the fair representation act, which seeks to move Canada toward the democratic principle of giving each citizen's vote equal weight. I thank the procedure and House affairs committee for the consideration of this important bill. Report stage debate will continue on Friday, December 9.

[*Translation*]

On Wednesday, December 7, we will resume debate on Bill C-7, the Senate Reform Act , which seeks to give Canadians a say in who represents them in the Senate and limits the terms of senators. If more time is needed, which I hope will not be the case, Mr. Speaker, we will continue that debate on Thursday morning.

Filling out our democratic reform week agenda, on Thursday, we will start second reading debate on Bill C-21, the Political Loans Accountability Act. It is a bill which seeks to close the loophole which allowed wealthy individuals to bankroll leadership campaigns, thus circumventing the legal contribution limits.

[*English*]

Finally, there have been consultations, and in the interests of having members of the House use their place here in the forum of the nation to draw attention to an important issue that knows no party divisions and to encourage Canadians to sign organ donor cards, I, therefore, move, seconded by the Minister of Labour:

> That a take-note debate on the subject of the importance of organ donations take place pursuant to Standing Order 53.1 on Monday, December 5, 2011.

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

Some hon. members: Agreed.

(Motion agreed to)

Hon. Peter Van Loan (Leader of the Government in the House of Commons, CPC): Mr. Speaker, I believe you would also find unanimous consent for the following and related motion. I move:

[*Translation*]

> That, notwithstanding any Standing Order or usual practice of the House, during the debate on Monday, December 5, 2011, pursuant to Standing Order 53.1, no quorum calls, dilatory motions or requests for unanimous consent shall be received by the Chair.

[*English*]

The Speaker: Does the hon. government House leader 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)

* * *

POINTS OF ORDER

ORAL QUESTIONS

Hon. Geoff Regan (Halifax West, Lib.): Mr. Speaker, I am rising on a point of order arising out of your ruling that my question did not relate to a matter of responsibility of the government.

I want to point that I was asking about Elections Canada, which, of course, reports through a minister of the Crown. There have, in the past, certainly been questions in this House about the in-and-out scheme, for example, which is under Elections Canada, that were not ruled out of order.

It seems to me that this is a matter that ought to be answered in this House. It is certainly within the power of the Prime Minister to call upon Elections Canada to investigate a matter where a political party appears to have been involved in improper activities.

Mr. Speaker, I would like your further ruling on the matter.

● (1510)

Hon. Peter Van Loan (Leader of the Government in the House of Commons, CPC): Mr. Speaker, with regard to the point of order just raised, as the minister responsible for Elections Canada, I was listening closely. I heard the words "Elections Canada" spoken, but I did not hear a particular question about how it was conducting its affairs or anything that would be appropriate for me as minister responsible for Elections Canada to respond to. That is why I did not rise in that case. Perhaps I did not hear the question accurately. There is occasionally some tumult at that end of the House.

Mr. Speaker, I invite you to consult the blues. My hearing was obviously in accord with yours, but a consultation might be appropriate.

[*Translation*]

Hon. Denis Coderre (Bourassa, Lib.): Mr. Speaker, with all due respect for the Leader of the Government in the House of Commons, you rose as soon as he asked his question. He could at least have risen to say that, but you immediately ruled the question out of order because it did not relate to the administration of government. We want to make sure that when we ask questions and a minister is responsible, he rises and tells us he is not. We already know he is not.

[*English*]

The Speaker: As members know, the Speaker is called upon to make decisions about the admissibility of questions or statements on the fly. As I heard it, I did not hear anything related to the administration of government, but I will go back and look at the blues and look at previous questions along a similar line. I will get back to the hon. member for Halifax West with further clarification.

[*Translation*]

On another point of order, the hon. member for Vaudreuil-Soulanges.

STANDING COMMITTEE ON TRANSPORT

Mr. Jamie Nicholls (Vaudreuil—Soulanges, NDP): Mr. Speaker, yesterday evening, the Minister of Transport, Infrastructure and Communities was supposed to appear before the Standing Committee on Transport. Unfortunately, the chair cancelled the meeting without consulting the committee members. We hope to be able to organize another meeting to question the minister about the supplementary estimates.

[*English*]

We are very concerned that our duty as opposition to hold the minister to account will be compromised. As vice-chair of the committee, I asked the minister and the chair whether we would be able to question the minister as is our democratic duty.

There are billions of taxpayer dollars are stake. We will be talking about the health of our democracy within the next two weeks. I would have to ask why the government is seemingly ducking Parliament on this very crucial matter?

Hon. Gordon O'Connor (Minister of State and Chief Government Whip, CPC): Mr. Speaker, we are not ducking our responsibilities. I think there were some difficulties yesterday with the timing of votes. We will investigate it and get back to the House as quickly as possible with an answer.

The Speaker: I should just maybe inform the hon. member for Vaudreuil-Soulanges that there are mechanisms through which members of the committee can arrange for meetings to take place. If he would like to ask questions about the schedule or agenda for committee meetings, he can certainly do so during question period.

However, these are not points of order for the Chair to rule on, as the Chair leaves these matters for the committee to sort themselves out in terms of when they hold their meetings and who they invite to appear before them.

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 second time and referred to a committee.

The Speaker: The hon. member for Winnipeg North has nine minutes left to conclude his speech.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Speaker, with this particular bill, we need to acknowledge that the citizens of our country do have a role to play when it comes to complementing that sense of security in our communities. Community policing is one of the ways in which we try to reach into our communities in a positive way to make people feel safe but there are other aspects to it.

At the beginning of my comments, I spoke to how this particular bill is not there, in any fashion whatsoever, to take away responsibilities from our policing agencies but rather is there to complement the services that we are currently receiving. It is there to provide assurances to those individuals who find themselves in difficult positions where they might require to either defend themselves or to protect their own personal property.

Over the years, we have seen more and more citizens take an interest in assisting and providing that sense of security throughout our communities, whether it is with respect to the community streets on which we walk or drive, or our shopping centres, the small store outlets and so forth. I think we can find ample examples in each one of those different types of situations where we will see the average citizen saying that they want and must play some role and be involved in making our communities a better, safer community in which to live.

I was making reference to some specific examples and I will highlight the one that deals with community streets. We have members of outreach groups who walk along the sidewalks in our communities and look for what would quite often be classified as inappropriate behaviour. We have found that it is very effective when three or four individuals walk around communities, especially around community schools. A lot of these groups will identify blocks of time that they believe are most important for them to go out into the communities. For example, one of those timed walks is after school hours. There is a great deal of interest from many neighbourhoods for them to walk around our schools in and around that time because it discourages any sort of inappropriate activity. Quite often, they will see everything from bullying to minor drug type transactions occurring very close to our school facilities. Therefore, by getting individuals, whether it be one person or a group, who are well-identified and live in or are a part of the community, involved in doing things of that nature, it discourages that sort of activity from taking place in the first place. We have citizens who are prepared to get involved at that level.

I was involved with the justice committee for many years out in the area which I represent. Although I stepped down about a year and a half ago or so, I was involved for over 10 years. When I was a full participant, and in fact at one point I was the chair of the group, we had the opportunity to get a number of volunteers who lived in the community to sit on this committee as honorary probation officers.

In that situation, if we had young offenders who might be stealing from a local store, instead of going through a court they would come before a justice committee. The big push was more toward restorative justice. We would try to bring the victim and the young offender together where the victim would have a role to play in terms of what sort of disposition or consequence should be given to that young offender for the offence that he or she caused. I see this as something that is very positive.

● (1515)

When victims sit down with offenders, they see first-hand that there is some justice coming as a direct result of community involvement and the fact that they are being afforded the opportunity to interact with the people who made victims out of them because of an offence, such as a theft or minor assault. This bill provides the opportunity for individuals to take direct action to protect their property and themselves.

Today more and more women are taking self-defence courses. More and more young people are engaged. Sikaran is a wonderful Filipino martial arts program. Kids as young as three and four years of age and adults are being schooled in this martial art. A good number of parents enrol their children in self-defence classes because they want to know that their children can defend themselves from an assault if they ever need to.

A member said that we need to approach this with an open mind in committee. Because of some of the changes to the wording, some might be somewhat suspicious. If someone looks at me the wrong way, raises a hand and makes an obscene gesture and I feel threatened by that, I may think it gives me the right to enter into a physical fight with the individual because I thought I was going to be assaulted. That is why we have to define such words as "reasonable".

We have to look at specific situations, whether it is a potential physical assault or an individual protecting his or her store. A store owner who sells widgets sees that as his or her livelihood. If someone attempts to take that property, there needs to be some sort of consequence. The store owner should be able to protect his or her property and livelihood.

The vast majority of Canadians support the principle of what is being said here. I would encourage the government, once the bill gets to the committee stage, to approach it with an open mind so the member for Mount Royal and others can be afforded the opportunity to make amendments—

● (1520)

The Speaker: I am afraid the hon. member is out of time.

* * *

MESSAGE FROM THE SENATE

The Speaker: I have the honour to inform the House that a message has been received from the Senate informing the House that the Senate has passed the following bill: Bill S-2, An Act respecting family homes situated on First Nation reserves and matrimonial interests or rights in or to structures and lands situated on those reserves.

* * *

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 second time and referred to a committee.

The Speaker: Questions and comments, the hon. member for Kitchener—Conestoga.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Mr. Speaker, I certainly agree with my colleague on the emphasis to be placed on restorative justice initiatives. In my region of Waterloo, there are many great restorative justice initiatives that are achieving excellent results. I think he and most of my colleagues would agree that particular approach is not always effective. We still need an effective criminal justice system to be in place.

I was somewhat surprised at his innuendo in the first part of his comments. He implied that there are times when the Conservative Party is not open to input. This party is very eager for input, to have discussion, dialogue, collaboration and consultation, but there comes a time when it is necessary to take action. For example, Bill C-13 was before the House recently. We had been having discussions about the budget since last March and it was time to implement the initiatives in it. Canadians expect us to take action.

He also referred to his concerns about ensuring that there be reasonable grounds that the person under suspicion is actually the criminal. I want to be sure he understands that the current bill before the House is not similar to the one that was tabled in the previous session where only reasonable grounds were necessary. This bill actually identifies that it—

The Speaker: I will have to stop the hon. member there to allow the hon. member for Winnipeg North the chance to respond.

Mr. Kevin Lamoureux: Mr. Speaker, we do recognize that there have been some significant changes. That is why I am somewhat optimistic with the member's comments in terms of the bill going to committee. We might be able to make it better. We will have to wait and see.

The member said that the government is open to input in general. He will have to excuse me for having a tough time with that comment, especially given such things as the time allocation motion on Bill C-10, which is a crime bill. That bill encompasses eight or nine significant pieces of legislation which could have been separate bills. Very little time was afforded to members for debate.

For members who were first elected a few months back, the chances of having the opportunity to speak to the bill was not there. There was no opportunity for all members to participate fully in the debate. Nor was there an opportunity for governments, such as the governments of Quebec and Ontario, to provide input. British Columbia also has huge concerns in regard to Bill C-10. They did not think the government was doing the job that was needed in answering basic questions such as what the costs will be.

● (1525)

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Mr. Speaker, the member is quite willing to share his previous experience at the provincial level on dealing with justice issues.

I am of two minds on the bill. There are lots of occasions where we recognize it could be a scenario where a gang is running down the street and knocks down an elderly woman and grabs her purse. People intervene and hold that person until the police arrive. It is done expeditiously and the police are immediately alerted and the people only hang on to the perpetrator until the police arrive.

There might be some concerns with the bill and perhaps at committee we should look at whether it needs to be constrained somewhat. Let me give a couple of examples.

In Summer Village where I have a cottage, we have been unable to have any RCMP or regular police surveillance. The communities do their own surveillance. There have been many occasions when there has been a break-in with some violence. Those are occasions where if the property owner intervened, there might be harm to both parties. Should we be encouraging direct intervention?

There have been a lot of circumstances in Alberta where there has been some level of violence between farmers and land men who are surveying for oil and gas activity. I am wondering if perhaps we should be exploring potential constraints in these scenarios where there may be encouragement to take some level of violence against people who come onto someone's property.

Mr. Kevin Lamoureux: Mr. Speaker, the most important thing is that we recognize that each situation needs to stand on its own merit. There has to be an understanding of the actual situation. In some situations it would be ill-advised for someone even to attempt to make a citizen's arrest. In other situations a citizen's arrest can be executed quite easily. It is the same thing in terms of personal assault. People have to be cognizant of the fact that different situations dictate different responses. I would hope people would use common sense before jumping into something that could get pretty ugly very quickly. I would hope that no one would encourage people to get into such situations where our communities become unsafe or individuals are seriously hurt by inappropriate actions.

[*Translation*]

Mr. Sylvain Chicoine (Châteauguay—Saint-Constant, NDP): Mr. Speaker, the Conservative government introduced Bill C-26, which covers and provides clarification on citizen's arrest. This bill is very similar, identical even, to Bill C-60, which was introduced by the hon. member for Trinity—Spadina during the last Parliament.

The changes made by Bill C-26 will allow citizen's arrests without a warrant within a reasonable period of time. Right now, under section 494(2) of the Criminal Code, a citizen's arrest must be made while the crime is being committed. Bill C-26 also includes changes to the Criminal Code related to self-defence and the defence of property.

Sections 34 to 42 of the Criminal Code pertain to self-defence and the defence of property. Sections 34 to 37 of the Criminal Code are repealed and replaced with a single self-defence provision that applies to any offence. The current distinctions between provoked and unprovoked attacks, as well as any intention to use deadly force, are eliminated.

Bill C-60 also sets out a non-exhaustive list of factors that the court may consider in determining whether the act committed is reasonable under the circumstances. The bill will repeal sections 38 to 42 of the Criminal Code, which pertain to defence of property, and replace them with a single defence of property provision. As a result, the bill will eliminate the current distinction between the defence of personal and real property.

The bill amends the citizen’s arrest section of the Criminal Code, but only section 494(2). Thus, the powers of citizens to make arrests set out in section 494(1) remain as they are. These powers mean that anyone may arrest without warrant a person whom he or she finds to be committing an indictable offence or believes, on reasonable grounds, has committed a criminal offence and is escaping from and freshly pursued by those with lawful authority to arrest that person.

The bill amends section 494(2), which applies to the owner or person in lawful possession of property or a person authorized by the owner or lawful possessor. At present, such a person may arrest without warrant a person whom he or she finds committing a criminal offence on or in relation to that property. But the amendment goes on to allow such a person to make an arrest within a reasonable time after the offence is committed. Such an arrest can be made if the person making the arrest believes on reasonable grounds that it is not feasible in the circumstances for a peace officer to make the arrest.

In addition, a new section 494(4) is added to the Criminal Code, clarifying that a person who makes an arrest under section 494 is authorized by law to do so for the purposes of section 25 of the Criminal Code. The purpose of this amendment is to make it clear that use of force is authorized in a citizen’s arrest, but that there are limits on how much force can be used.

The government says that it is bringing forward this bill in order to make necessary changes to the Criminal Code that will clarify the provisions pertaining to self-defence and defence of property. The changes will also clarify the reasonable use of force.

We are very pleased that the Conservative government has decided to clarify the changes to citizen's arrest, especially since we had introduced a similar bill to that end.

Just like the Conservative government, we do not want honest Canadians who are victims of crime to be victimized again by our judicial system.

We support the amendments to the legal provisions on citizen's arrest, particularly because various courts have indicated that there are problems with the interpretation of the law. For example, they have said that the Criminal Code provisions concerning self-defence are too complicated and confusing. The provisions have been subject to much criticism. In R. v. McIntosh, Chief Justice Lamer wrote that sections 34 and 35 "are highly technical, excessively detailed provisions deserving of much criticism. These provisions overlap, and are internally inconsistent in certain respects."

● (1530)

The judgment of the majority in R. v. McIntosh has been called "highly unfortunate" for further muddying the waters around self-defence provisions.

However, we believe that a more in-depth study will be required, given the complexity of this issue, as the courts have indicated. We must ensure that the bill clarifies the sections of the Criminal Code to help the justice system do its job. We will also have to look at the impact and consequences of this bill to ensure that these clarifications are acceptable to the Canadian public. We want to avoid having the clarifications to the Criminal Code encourage self-proclaimed vigilantes. In addition, we do not want people to put their lives in danger. We know that that is not the objective of this bill. However, a number of concerns about this have been raised by some of our constituents. That is why it will be important to allow parliamentarians to properly discuss this bill in committee.

We are obviously asking the Conservative government not to limit debate in committee, as it did with Bill C-10, for example. Bill C-26 will have serious repercussions on Canadians who must defend themselves or their property. That is why it is so important to properly debate this bill in committee.

I would like to remind the House of the facts that gave rise to the recent legislation on citizen's arrest. On May 23, 2009, David Chen, the owner of a grocery store in Toronto, arrested Anthony Bennett, who had stolen something from his store. After being caught in the act on security cameras, Mr. Bennett went back to the store about an hour later. At that time, the owner and two employees managed to tie Mr. Bennett up and held him in a delivery truck. When the police arrived, they charged Mr. Chen with forcible confinement, kidnapping and carrying an edged weapon—a box cutter, a tool that many merchants have in their possession. The crown attorneys later dropped the charges of kidnapping and carrying an edged weapon, but they maintained the charges of forcible confinement and assault.

According to the Criminal Code as it is currently written, a property owner can make a citizen's arrest only if the alleged wrongdoer is caught in the act. Mr. Chen and his two co-accused were found not guilty of the charges of forcible confinement and assault on October 29, 2010. In August 2009, Anthony Bennett pleaded guilty to theft and was sentenced to 30 days in jail.

At present, the citizen's arrest authority is very limited and is authorized only when an individual is caught in act of committing an offence on or in relation to one's property. Accordingly, this bill authorizes an owner, a person in lawful possession of property—or a person authorized by them—to arrest a person within a reasonable amount of time after having found that person committing a criminal offence on or in relation to their property.

The bill authorizes a citizen's arrest only when it is not feasible in the circumstances for a police officer to respond, which is often the case in the event of shoplifting, for example. The time it takes for the police to respond is often too long and they arrive much too late. Furthermore, this bill stipulates that the use of force is authorized in a citizen's arrest. However, a person is not entitled to use excessive force.

In addition, the person making the arrest must take the risk factors into account and ensure that their safety or the safety of others is not threatened. They must also ensure that they have correctly identified the suspect and their criminal conduct. Furthermore, reporting the incident to the police remains the best solution.

I would like to point out that thousands of Canadians work as security guards in buildings or businesses. Many of those guards have told me about the problems they have properly protecting the property of the merchants. They have to catch the criminal in the act and that is not easy. Often, they discover the crime after the fact, after reviewing the security camera footage. However, that is often done after the fact and the security guards cannot take any action against the wrongdoer. The worst part is that some wrongdoers return a number of times to commit theft and the guards hired by the businesses cannot do anything about it even if they saw the individual in question commit a crime before.

● (1535)

They have to again catch the wrongdoer in the act and they cannot arrest him for the previous offence. What is more, the complexity of a citizen's arrest makes security jobs risky. Security guards have to be 100% certain of what they are doing because if they are not, there could be legal consequences for their company and their own job could be on the line. It is very important that the provisions on citizen's arrest be clear so that these security guards are in the best position possible to protect businesses and the property of the merchants.

The new provisions on self-defence will also help these guards enforce the law, because the current provisions are too restrictive. Many security guards have told me that when they intercept an individual who committed a criminal offence, the individual generally becomes aggressive and does not want to be arrested by the security guard on duty. For a number of reasons, that individual will simply be asked to leave the premises, because the guards do not want to risk their safety or the safety of others. They would not want to risk being tried for assault. As a result, the individual who commits the crime gets away with it.

In summary, we support this bill at second reading so that it can be sent to committee and some of its provisions, which are quite complex, can be examined in greater detail. That is why the opinions of experts and legislative drafters will be key in the examination of some provisions of this bill. I would like to emphasize the importance of not limiting the debates, as the Conservative government has a tendency to do. I am asking the Conservative government to let parliamentarians do their job properly.

● (1540)

[*English*]

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Mr. Speaker, I want to thank my colleague for his speech and for his affirmation that his party will support this bill at second reading and get it to committee for further study. We are definitely open to that idea.

I want to thank him as well for highlighting the key elements that the bill talks about: that an arrest needs to be made within a reasonable amount of time and that there must be reasonable grounds to believe it was not feasible, in the circumstances, for a police officer to make the arrest.

There is one comment that I may have misunderstood in the first part of his speech. I would like clarification, not just for my own purpose but also for people who are listening to this debate, that this bill differs substantially from the private member's bill tabled in the last Parliament, which required only reasonable grounds as the criterion. This bill clearly makes the point that the person must have seen an incident occurring, seen someone committing an offence, and that an arrest must occur within a reasonable period of time. I think it is an important improvement on the previous private member's bill that was tabled. Would my colleague agree?

[*Translation*]

Mr. Sylvain Chicoine: Mr. Speaker, I would like to thank the hon. member for his question.

I agree with his statement to the effect that the citizen must have seen the person committing an offence to be able to arrest him. What I said about probable grounds applies to sections 495 and 499 of the Criminal Code for police officers. It does not really apply to this bill. I agree with the hon. member's statement with regard to citizen's arrest.

[*English*]

Mr. Mike Sullivan (York South—Weston, NDP): Mr. Speaker, my question has to do with the nature of the part of the bill that deals with the revisions to the self-defence portions. My concern is that without more clarity in that section, we may end up with potential vigilantism or potential erroneous use of force that would cause harm or damage to people because the bill would apparently give more breadth or power to individuals who believe they are acting in self-defence. Could the member comment?

[*Translation*]

Mr. Sylvain Chicoine: Mr. Speaker, I would like to thank the hon. member for his question. Some parts of the current bill are indeed vague.

We want to prevent people from using greater force than necessary to make an arrest or defend themselves. Some provisions will have to be clarified in committee. I am not a legislative drafter, but some provisions of the bill seem unclear to me, including the part that the hon. member mentioned. I therefore think that it is very important to hear from legislative drafters and experts in the field in committee to clarify the situation. We do not want people to use more force than necessary in self-defence. It is important to clarify certain provisions in this part of the bill.

● (1545)

[*English*]

Mr. Scott Simms (Bonavista—Gander—Grand Falls—Windsor, Lib.): Mr. Speaker, I wish to thank all my colleagues in the House from all political corners for allowing me to speak to Bill C-26, which deals with changes and amendments to the Criminal Code regarding citizen's arrest and the defences of property and persons.

We have a bill that would streamline in many fashions many of the laws concerning the defence of property which are good and necessary. Some things need to be studied in committee to see if some of the provisions may be a little overbearing. Nonetheless, we do have the responsibility, and I think we are on the right track in dealing with this issue so far as we have evidenced in the media in the past year.

Several incidents took place, one in particular in Toronto. Other members in the House have talked about it so I will leave it at that for now.

The rationale of all this needs to be looked at in a broader context when it comes to self-defence. Self-defence, in many cases, has been used but with a very narrow definition. Other jurisdictions around the world have certainly made better use of it. I would look at it in the context of making it far easier for our court systems, our prosecutors, certainly, and our judges and juries.

In some cases the complex and out of date rules we are talking about were highlighted by recent high profile cases. Primarily the concern is that the old Criminal Code provision concerning self-defence provided that "Every one who is unlawfully assaulted without having provoked the assault is justified in repelling force by force". Thereby, it is confining self-defence to assault and noting that it could not have been the result of provocation.

The new legislation would remove the assault requirement entirely in speaking of force or threat of force, and also removes provocation. As such the bill may run into some aspects that may be going a little overboard, but nonetheless, it is certainly something we should analyze and discuss at committee. The principal thrust of the bill is one that is just.

People may invoke self-defence, both in common law and under statute itself. It is not as though, without the legislation, there is no right to self-defence in Canada. The legislation would reform and streamline the Criminal Code, which I have mentioned.

In regard to self-defence and defence of property, which is where the emphasis lies on that second part, the concern that should be addressed by committee is whether the Criminal Code would be changed too significantly.

The self-defence provision in section 34 now reads, "Every one who is unlawfully assaulted without having provoked the assault is justified in repelling force by force". That confines defence to assault, whereas this legislation makes no reference to assault or provocation, for that matter, and it speaks to the force or the threat of force.

Beyond the general risk that the bill may encourage vigilantism, there are concerns just how far the bill broadens itself with self-defence, which can be invoked and by whom it can be invoked.

I know we discussed this in the former bill, which was Bill C-60 in the last Parliament, and it was brought forth as a result of these high profile cases, one of which took place in Toronto.

The current law in Canada discussing self-defence is in section 34 of the Criminal Code, which defines the extent to which force is justified in repelling an unprovoked assault. Subsection 34(1) is a general defence that can be employed only by non-aggressors who never intend to cause grievous bodily harm or death through their actions.

This section requires that the following four elements be established by a person accused of using force against another person: first, the accused was unlawfully assaulted; second, the accused did not provoke the assault; third, the force used by the accused was not intended to cause death or grievous bodily harm; and fourth, the force used by the accused was no more than was necessary to defend himself or herself.

Back to section 34(1) of the Criminal Code. It states:

> —permits the accused to stand his or her ground, even when there is a possibility of escaping the situation. The question for the court is whether the force used was necessary to enable the accused to defend him or herself, not whether such a defence was wise in the circumstances.

● (1550)

Let us move on to subsection 34(2), which is interesting. It applies where the accused causes bodily harm or death, whether intentionally or unintentionally, in responding to an assault. Therefore, the accused is justified in using such force where he or she was under a reasonable apprehension of death or grievous bodily harm from the initial or continuing violence of the assault and believed, on reasonable grounds, that he or she must use such force to preserve himself or herself.

Section 35 of the Criminal Code outlines the application of self-defence in those instances where the person seeking to rely on self-defence initiated or provoked the assault. It applies where the accused first assaulted the other person, but without intent to cause death or serious bodily harm. The law permits a limited defence where the response of the person attacked escalates matters and the accused must respond to defend himself or herself.

Therefore, we see the myriad of circumstances that are being painted by all of this and how, by streamlining the legislation, this would certainly make a lot of sense.

The proposed amendments that we are discussing here to the Criminal Code, section 494.1(2) on citizen's arrest, would authorize a private citizen to make an arrest within a reasonable period of time after he or she finds someone committing a criminal offence that occurred on or in relation to property. This power of arrest would only be authorized when there are reasonable grounds to believe that it is not feasible in the circumstances for the arrest to be made by a police officer. Therefore, we must not take it upon ourselves to replace an existing security service that is in charge of maintaining peace and the law.

The reasonable use of force is also stressed in this particular application because it is very important that we outline this in order to make it easier for the courts to interpret, certainly for prosecutors, judges and juries.

It makes it clear in this legislation, by cross-reference to the Criminal Code, that the use of force is authorized in what we know is a citizen's arrest, but there are limits placed on how much force can be used.

In essence, the laws permit the reasonable use of force, taking into account all the circumstances of this particular case. A person is not entitled to use excessive force in a citizen's arrest. Therefore, we see, in this clear parameter that is set out, how this is to be enforced, how reasonable people, if we want to use that test, which we should, are to enact or protect themselves and their property.

Under section 494.(1)(ii), with respect to the current law itself, anyone may arrest a person whom they find committing an indictable offence of a person who, on reasonable grounds, they believe has committed a criminal offence and is escaping from, and freshly pursued by, persons who have lawful authority to arrest that particular person.

If we are caught in that situation where we are defending ourselves or protecting our property, and we are in a situation where we do not know if we have crossed the line in a particular case because we certainly do not want to, hopefully with legislation like this and the lengthy debate that hopefully will follow, we will be able to flesh out an idea as to just how in certain circumstances like this a reasonable person can behave.

A citizen's arrest may, without careful consideration of the risk factors, 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. In the current law there is safety or the safety of others, reporting the information to the police, which is usually the best course of action of course as we all know, instead of individuals just taking action on their own. Therefore, there is also a great deal of responsibility on individuals to notify the authorities in addition to defending themselves or their property.

One must also ensure that they have correctly identified the suspects and their criminal conduct. Therefore, we must be clear of mind on the offence.

Of course, being rational human beings, sometimes rationality takes over and, in particular cases, acts of desperation take place. Nonetheless, in these circumstances, I believe what we need to provide the courts with the ability to interpret and bring justice to the fore so that this particular case can be looked at in the right way. Again, I remind all members in the House that the function there is to provide that type of clarity for judges, prosecutors, and of course juries.

Moving on to the proposed amendments, there are new Criminal Code provisions being proposed to clarify the laws on self-defence and defence of property, so that again the police, prosecutors and the courts can more easily understand and apply the law. Clarifying the law and streamlining statutory defences may assist prosecutors, and certainly the police, in their discretion not to lay a charge or proceed with prosecution if it is found to be excessive.

● (1555)

Amendments to the self-defence provisions would repeal the current complex self-defence provisions I spoke of earlier. In particular, it ranges over four sections. The sections I speak of are sections 34 to 37. This is part of what this bill would do, which is to provide that clarification, certainly in this particular case. As we saw the high profile cases unfold, we realized that discrepancies took place and it was hard to interpret. Therefore, we have done this in a responsible way. When I say "responsible", it leaves this House, it goes to committee for further study, and that I look forward to seeing.

Amendments to the defence of property provisions would repeal the confusing defence of property language that is now spread over five sections, those being sections 38 to 42. One new defence of property provision would be created, eliminating the many distinctions regarding acts a person can take in defence of different types of property. The new provision would permit a person in "peaceable possession" of a property to commit a reasonable act. Again, that reasonable person test that I spoke of. Therein lies the key to this. The person has been defined as owning a piece of property, a possession, and therefore the spirit of this would assume that the person would be allowed to act accordingly to protect that peaceable property, and for the purpose of protecting that property from being damaged or trespassed upon.

Under sections 34 to 37 of the Criminal Code, distinct defences are provided for people who use force to protect themselves or another from attack, depending on whether they have provoked the attack and whether they intended to use deadly force. Again, I understand that the impacts of this could be severe in many cases. They are in defence of an irrational act and therefore, when in that position, defending their own property or person, under irrational behaviour. It is not an easy circumstance to be in. However, certainly for the sake of the courts dealing with and prosecuting cases like this and coming to a logical conclusion, we must provide that clarity for prosecutors, judges and juries in many of these particular cases.

The use of deadly force is also something we have talked about, both with Bill C-26 and Bill C-60. We realize that the use of deadly force is talked about quite a bit and there is not a great understanding of it, but it is permitted in very exceptional circumstances; for example, where it is necessary to protect a person from death or bodily harm.

The courts have clearly stated that deadly force is never considered reasonable in defence of property alone. The legislative reforms currently being proposed would not make any change to the law relating to deadly force, so the courts would therefore continue to make any necessary changes on a case by case basis, developing the common law if and where applicable. As I mentioned before, this is the common law aspect and also the statutory law.

There are some issues that have been raised by stakeholders. Many people remember the high profile media reports that came from many cases where self-defence was used, not just for the right of individuals but also for property, as I mentioned in the high profile case that took place in Toronto. One of the issues that came up was that of encouraging vigilantism. People have been sounding the alarm bells over that and it is something that needs to be discussed and filtered when it comes to committee.

In principle, I think we are on the right track here, but certainly this is something that has to be of great concern. Obviously there are legal minds far greater than mine, as I have no formal training in law, so I look forward to hearing some of the witness testimony that will come at committee regarding the particular ways in which this could be abused. Nonetheless, I am sure that potential witnesses would agree that the intent here is to make this a clear, decisive law that allows our courts to function, and to prosecute any particular cases where the defence of one's self or property pertains.

● (1600)

A Canadian press article notes that "Several provinces have complained the new legislation will cost them millions as jail and prison populations inevitably rise". That is a debate we have had here before. It is an extension of Bill C-10. I have mentioned this before in my deliberations about Bill C-10 and I will not go into it further.

A lot of the provinces have complained that they are now in a position where the incarceration of individuals and the increased rate of incarceration will have an effect on how they handle their budgets and how they spend money on health care and education. That applies to people who are sentenced to less than two years. We have heard from several provinces over the past little while that this could be particularly onerous for them in light of some of the budget deficits that they want to downgrade.

Section 35 of the Criminal Code outlines the application of self-defence in those instances where persons seeking to rely on self-defence initiated or provoked the assault. That is an important part of this. This is the part of the Criminal Code that we need to consider.

Other criteria apply is that the defender did not at any time before the need to protect himself or herself from death or bodily harm endeavour to cause the death or bodily harm. There is an obligation upon the defender to decline further conflict and leave or retreat as far as is feasible before the need to defend from death or bodily harm arises. This could be contentious in many forms.

As I reiterated earlier, I believe there is a case here in principle and scope for us to push this legislation forward, send it to committee and take notice of potential witness testimony, so we are able to change legislation if need be by amendments and make the necessary changes to the Criminal Code regarding the defence of oneself and the defence of property. We can do this for the efficiency of our courts.

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Mr. Speaker, I always enjoy the presentations by the hon. member from my grandfather's homeland.

The hon. member made reference to a clause, which I cannot find in the bill. He may have been simply describing a situation. He referenced "escaping from", that the property owner is able to intervene and arrest or take some action against the person who the owner has reasonable grounds to believe is illegally doing something and that the action is allowed if that person is "escaping from".

Could the member clarify that. If those words are in the bill, they may be a bit of a problem because someone could be caught in the act, but not actually escape from the scene? Could he elaborate on that?

Mr. Scott Simms: Mr. Speaker, sometimes we meander on with little attention as to what we said. I apologize.

The member brought up a good point. The member may be talking about section 35. That is the overbearing part of the bill that has to be addressed. I hope we consider that because sometimes this stuff is not quite defined as to how one acts in particular situations.

My colleague brought up the point that in this case, if it is over excessive, then the courts need to have this legislation and that change in order to exercise due caution, certainly when it comes to prosecutors, judges and juries.

Mr. Glenn Thibeault (Sudbury, NDP): Mr. Speaker, we call this the "Lucky Moose" bill as it relates to what happened in Toronto in 2009. I can think of many small retailers in my great riding of Sudbury who would have done the same thing. The outcry right across the country was about what happened to the shopkeeper. He was charged with kidnapping and all of the charges that went along with that. We are seeing some important changes to the Criminal Code in the bill that would allow shopkeepers to move forward.

My hon. colleague talked a bit about the fact that we are not supporting anything that would encourage vigilante justice. We are not encouraging people to put their own safety at risk. That is important. We need to have a little more discussion and intervention at committee level on that.

Would my colleague comment on that piece of the legislation and what we should discuss at committee?

● (1605)

Mr. Scott Simms: Mr. Speaker, this situation, certainly for shopkeepers, must be incredibly difficult. I have seen this in small shops that do not have money to spend on a security system to put eyes everywhere. We know what is going on as a result of them not having the right amount of security. I am sure this happens in the member's riding as it does in mine. In many cases, people make a move to protect their own property, but then what do we do after that? We do not want to be too excessive.

On the other hand, on the point about vigilante justice, there are many cases that come forward, but we have to be incredibly measured as to what we do. Some of this stuff is decided well in advance and one may do a particular act to ensure justice is served. The problem then is that the courts have to deal with it in the case of an assault or theft of property. There is a myriad of rules involved with different interpretations and these cases get bogged down, which is unfortunate.

The one good thing of the bill is that those laws would be brought together so the courts could easily justify how they would go about bringing the right ruling for those involved, certainly for those who have assaulted someone or who have been assaulted. Where does that put them when it comes to protecting themselves or their property and how far do they go?

The member brings up a valid point. Like him, I certainly look forward to how the great legal minds of the land interpret this legislation.

Mr. Mike Sullivan (York South—Weston, NDP): Mr. Speaker, as always, my colleague for Bonavista—Gander—Grand Falls—Windsor has come right to the point.

I have some difficulty with the part of the bill that deals with self-defence. There was an incident in my riding last year in which an ice cream truck, with children all around it, was robbed at gunpoint by criminals. The bill appears to give permission for people to come out of their homes with a gun and start shooting at somebody else who also has a gun. I am concerned that a very dangerous situation could ensue.

This incident happened in full daylight. People everywhere saw what was going on and they saw the gun. It was all extremely upsetting to everyone. Luckily there are not a lot of guns in our neighbourhood and no one had a long gun that one could get to start firing. However, I am very concerned the bill appears to give that permission. The people believed there was a threat of force being made on the owner of the ice cream truck and the children who were standing around. This would have given them permission to come out with equivalent force.

Could the member comment on that?

● (1610)

Mr. Scott Simms: Mr. Speaker, I listened intently to the member's story and it is a great illustration of what we are talking about.

The member used the words, "equivalent force". I notice that the legislation and the Criminal Code mention "force met with force", or "force by force". We need to come up with a justified response as to what defending oneself and property is. As the situation was described, I agree, it could have easily escalated into being excessive. That is a situation that could get out of control incredibly quickly.

I would like to think that clarity would come to this in committee where we will be able to hear how this type of situation could be handled in the courts. The whole point of this is to provide our people who administer justice guidelines on how this would operate, how we are supposed to conduct ourselves within society and where we draw that line to say that we have the right to protect ourselves and our property, but to what degree. One cannot be too excessive with force in response.

I agree with the member's illustration. The problem is that irrational behaviour is met with irrational behaviour. Human nature is such that sometimes we are excessive without meaning to be.

I hope the legislation would look at cases and illustrations such the one my hon. friend raised. It is a good example of what we should be talking about in committee in order to make the legislation work for everybody, especially for the victims.

Mr. Tyrone Benskin (Jeanne-Le Ber, NDP): Mr. Speaker, for me, this is a troubling bill. We saw situations in Toronto and in Montreal where good Samaritans stepped in to help out in a situation and were shot and/or stabbed for their trouble. I think in both cases they were domestic disputes.

Police officers are trained to intercede and to think a certain way. In many instances, in many municipalities, police officers have actually been told after a certain point to break off car chases because of safety issues, and these are trained individuals.

My concern, and it kind of mirrors what was said before, is that we are opening a Pandora's box here, where people can take the law into their own hands, not fearing retribution by the law.

Could my hon. colleague comment on that?

Mr. Scott Simms: Mr. Speaker, let me preface this by saying this is why I do not like allotment and curtailing of speeches. The two illustrations brought forward by my colleague are very good examples of how a debate in the House can be furthered with the illustrations we bring out.

I did not mention this my speech, but how police officers go about their job is underrated. They know their job and are trained to do this. Sometimes when vigilante justice takes over, the problem is we do not allow the right people to be involved in the justice the way we see it. The member brings up a good point when he talks about when police officers engage and disengage as an illustration of how we handle these situations. These are trained people. I hope this comes up in committee as well.

The Acting Speaker (Mr. Barry Devolin): It is my duty, pursuant to Standing Order 38, to inform the House that the questions to be raised tonight at the time of adjournment are as follows: the hon. member for Sudbury, Financial Institutions; the hon. member for Jeanne-Le Ber, Arts and Culture; the hon. member for Rimouski-Neigette—Témiscouata—Les Basques, Employment.

Resuming debate, the hon. member for Sudbury.

● (1615)

Mr. Glenn Thibeault (Sudbury, NDP): Mr. Speaker, I am pleased to rise in the House today to engage and speak to Bill C-26, An Act to amend the Criminal Code (citizen's arrest and the defences of property and persons), commonly referred to as the Lucky Moose bill.

Let me begin my statements by highlighting the incidents that have led to the introduction of legislation of this kind by both the government and by the member for Trinity—Spadina.

On May 23, 2009, David Chen, owner of the Lucky Moose Food Mart in Toronto apprehended a man, Anthony Bennett, who had stolen from his store. After Bennett was initially caught on security footage stealing from the store, he returned an hour later. At that time, Chen, who was 36 and had two employees, tied up the man and locked him in the back of a delivery van.

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

Although Anthony Bennett, the suspect in question, ultimately pleaded guilty in August 2009 to stealing from the store and was sentenced to 30 days in jail, the crown moved ahead with the charges against Mr. Chen and his employees, since the Criminal Code, as it is currently written, stipulates that a property owner can only make a citizen's arrest if the alleged wrongdoer is caught in the act.

Obviously in this case the circumstances of the suspect's returning to the scene shortly after the offence was committed exposed a fatal flaw in the legislation, and this flaw has led us to this point.

It is also important to note that the suspect in question had stolen repeatedly from the same store, so this was certainly not a case of mistaken identity. We can be assured of that.

Eventually, after a court ordeal lasting a year and a half, Chen and his two co-accused were found not guilty of the charges of forcible confinement and assault on October 29, 2010. Obviously the process of a lengthy trial was distressing for Mr. Chen and his family, while also tallying significant administrative costs borne by taxpayers and tying up the valuable time of police, prosecutors and the courts.

In response to the ongoing concerns New Democrats heard from individuals across the country regarding a citizen's ability to make a lawful citizen's arrest, in September 2010 the New Democratic MP for Trinity—Spadina introduced a private member's bill to amend the Criminal Code in order to protect individuals like David Chen from facing criminal charges.

New Democrats have consistently welcomed the government's decision to incorporate the member for Trinity—Spadina's proposals into its legislation, first tabled in February 2011 during the 40th Parliament and now again in the 41st Parliament.

Let me now move to the specifics of the bill in order to parse out what is actually being proposed by the government at this juncture. Let me begin with the sections dealing specifically with citizen's arrest.

Currently, under subsection 494(1) of the Criminal Code, any individual can make an arrest without a warrant of a person he or she finds committing an indictable offence or who he or she believes on reasonable grounds has committed a criminal offence and is escaping from and freshly pursued by those with lawful authority to arrest the suspect in question.

Under Bill C-26, this section of the Criminal Code relating to citizen's arrest would remain unaltered.

Therefore the amendments being proposed apply solely to section 494(2), which applies to the owner or other persons in lawful possession of property or a person authorized by the owner or lawful possessor.

Currently such a person may make a warrantless arrest of a person whom he or she finds committing a criminal offence on or in relation to that property. The proposed amendments would subsequently allow such a person to make an arrest within a reasonable time after the offence is committed.

● (1620)

Under the amendment, business owners or persons under their delegated authority would be rightfully allowed to make an arrest if they believed, on reasonable grounds, that it was not feasible in the circumstances for a police officer to make that arrest.

The final piece of Bill C-26 as it relates to citizen's arrest is the proposed new subsection 494(4). This section specifically clarifies that a person who makes an arrest under section 494 is a person who is authorized by law to do so for the purposes of section 25 of the code. Essentially, the purpose of this amendment seems to be to denote that although the use of force is authorized in a citizen's arrest, there remain limits on how much force can be used.

For those who are not fluent in legal jargon, essentially these amendments would permit citizen's arrests without a warrant within a reasonable period of time after a criminal offence is observed. This means that in the case of Mr. Chen, he would have been acting within his rights as a business owner to protect his property by detaining Mr. Bennett. By removing the onerous provision that requires the citizen's arrest to occur while the offence is being committed, we are moving in the right direction to ensure that business and property owners can properly assert their rights in defending their property.

I have heard from many small business owners in my great riding of Sudbury who were shocked at the prosecution of Mr. Chen. They support these changes, which I must again reiterate have been proposed from parties from all sides of the House. It is vital that we provide citizens with the lawful power to detain offenders when the situation warrants, and these amendments to the citizen's arrest sections of the Criminal Code strike an appropriate balance.

In addition to amending section 494(2) of the Criminal Code, this bill and its predecessor, Bill C-60, also propose amendments to the sections in the Criminal Code dealing with self-defence and defence of property. The bill proposes a substantive overhaul of the statutory language pursuant to sections 34 to 42 of the Criminal Code. Five of these sections are from the original Criminal Code of 1892, and the courts have indicated that there are problems with clarity in regard to these sections.

For example, the self-defence provisions in the Criminal Code have been described as confusing and have been much criticized as a result. In the case of R. v. McIntosh, Chief Justice Lamer stated that sections 35 and 34 are

> highly technical, excessively detailed provisions deserving of much criticism. These provisions overlap, and are internally inconsistent in certain respects.

The judgment of the majority in McIntosh, however, has itself been called "highly unfortunate" for further muddying of the waters around the self-defence provisions.

The majority in R. v. McIntosh held that subsection 34(2) of the code was available as a defence when the accused was the initial aggressor. The argument was that Parliament must have intended for subsection 34(2) to be limited to unprovoked assaults, because it enacted section 35 to deal specifically with situations where the accused was the initial aggressor. This argument failed. The ruling seemed to go against the history of self-defence law, which pointed to a sharp distinction between unprovoked and provoked attacks.

The bill would remove current sections 34 through 37 and replace them with a new self-defence provision that would apply to all offences. The new provision would ensure that a person would not be guilty of an offence if they believed on reasonable grounds that force or a threat of force was to be used against them or another person, that any acts committed were for the purpose of defending or protecting themselves or that other person, and that the act committed was reasonable in the circumstances.

The bill also lists a number of factors that might, among others, be considered when determining whether or not the act committed was reasonable in the circumstances. This list includes, among others, imminence of a threat; the use of a weapon by the aggressor; the size, age and gender of the aggressor; and the history of the relationship between the actors.

● (1625)

Furthermore, the bill specifically states that the defence would not be available when responding to threats from people acting in their official capacity to enforce the law—for example, police officers—unless the accused had reasonable grounds to believe that the person was acting unlawfully.

As they stand, sections 38 through 42 of the Criminal Code refer to the legal rights of people to use force legally in protection of their property against theft or damage. The first two sections refer to the defence of movable property and the latter three sections to real property and dwellings, as the code permits the use of more force to defend real property than movable property.

The Criminal Code also recognizes that it is often difficult to distinguish where defence of property ends and self-defence begins. As a father and husband, I know that if someone were to break into my home, my first concern would be for my daughters and wife, not for my home and belongings. Fortunately, the Criminal Code recognizes this fact, and because of this, it explicitly outlines situations in which self-defence can be evoked, such as when a trespasser refuses to leave a property.

It is important at this point to give a brief outline of what the five sections of the code authorize as they stand. Section 38 provides that a person can take back possessions from a trespasser provided that he or she does not strike the person or cause bodily harm, unless the trespasser continues to attempt to retain or take the items. At this point, the trespasser is deemed to have committed an unprovoked assault, and the provisions regarding self-defence come into play.

Section 39 provides a defence to an individual using force to defend property being taken by someone else with a legal right to it. Subsection 39(1) of the provision refers to someone defending property to which they also have legal right; subsection 39(2) refers to someone defending property to which they have no legal right. It appears that the aim of this section is to encourage people to reclaim property through legal means rather than through force.

Section 40 allows an individual to use as much force as necessary to prevent someone from breaking into his or her legally owned home. Section 41 sets out the amount of force an individual can defensibly use to prevent or remove a trespasser. Like section 38, this provision deems trespassers to be committing an unprovoked assault if they resist attempts to prevent or remove them, and therefore brings into play the provisions applying to self-defence.

The final provision on this issue, section 42, provides information regarding the force that can be used when taking back possession of real property from trespassers and the effect of a trespasser assaulting someone who is attempting to take back legal possession of their real property.

Under the bill being considered by the House today, these five sections would be repealed and replaced with a new single provision for the defence of property. Under this provision, individuals would not be considered guilty of an offence if they believed on reasonable grounds that they were peaceably possessing property or assisting an individual who they believed was in peaceable possession of the property; believed on reasonable grounds that another person was about to enter, was entering, or had entered the property unlawfully, and was taking the property or was about to do so or had done so, and was about to damage or was in the process of damaging the property; were acting to prevent or end such action; and the act committed was reasonable in such circumstances.

These provisions would not apply if a person who did not have legal right to property used force against someone with a legal right to it or, as in the self-defence provisions, if the person committed any acts against people with the authority to enforce the law, unless the person believed that they were acting unlawfully.

Having considered what this bill would do to the Criminal Code regarding self-defence and protection of property, it is now important to consider whether these changes are desirable and constitute good public policy.

● (1630)

Whenever looking at changes to the Criminal Code, a good place to look is to the organizations that represent the organizations that enforce the law. The courts have already indicated that the language in these sections of the Criminal Code require some clarification, so it is important that we work to clear up such problems. However, we must ensure that any change has a positive effect. For that reason, I am looking forward to following this bill at committee stage where I am hopeful that the legal experts will be on hand to shed more light on the ramifications of these changes.

Both the Canadian Association of Chiefs of Police and the Canadian Police Association, which represents 41,000 front line police personnel across Canada, have been generally supportive of the changes brought forward in this bill in terms of self-defence and protection of property. However, they have also stated that they have some reservations and some concerns. Again, I look forward to these organizations speaking to this bill at committee to hear if there is any way that we can address the concerns that they have brought forward.

I am sure that both the police chiefs and the front line officers share my concerns that we do not want to make changes to the Criminal Code that would encourage people to participate in vigilante justice or to put their own safety at risk. While I know this is not the intention of the bill, I also look forward to hearing from people with a background in sociology and in criminology to ensure that this will not be the case and to strengthen the bill in this regard, if it is required.

I am happy that the government has brought forward this bill and I am happy to support it at second reading. The issues of citizen's arrest, self-defence and defence of property are all issues that need to be clarified in the Criminal Code and I am happy that we have this opportunity to do so.

I will be following this bill very closely through the committee stage and I hope that the government will be willing to work with the NDP to ensure that we are able to have the strongest legislation possible ready for debate at third reading.

I will take that acknowledgement from my colleague on the other side of the House as something that we all look forward to and is making Parliament work.

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Mr. Speaker, I thank the hon. member for his very thorough and clearly knowledgeable and grounded presentation.

I have been going through the bill and trying to compare it with the previous legislation. I have to say, as a former legislative drafter in the office of the attorney general of Alberta, I am finding some rather peculiar things in this bill. I think the hon. member is making a good call that this go to committee. I share his views. I am sure the government means the best. It is trying to follow up and table a bill to fill a gap that our party had previously suggested be remedied.

However, if we look at section 35, unlike the previous provision, it simply says "a person who is not guilty of an offence". An offence of doing what? The current Criminal Code says "an offence of assault or an offence using force". So someone could do any offence and be absolved of liability.

There is also the issue of proximity and it does not seem to be clarified in these amendments. If we look at subclause 35(1)(b)(i) and (ii), they read, "has entered the property" and "or has just done so", and (c)(ii) reads, "or retaking the property". That could be a month later, five years later or anywhere. There do not seem to be any boundaries in this provision. It sounds like it merits a discussion in committee.

Mr. Glenn Thibeault: Mr. Speaker, I thank my hon. colleague for all the hard work that she does for her constituents in Edmonton—Strathcona.

Her question relates to something that is truly important about today's debate and what we are trying to do. We are talking about how we see the need for some changes to ensure that what happened to Mr. Chen does not happen to another shopkeeper. However, we want to send this bill to committee to look at many of the articles that she spoke to in order to ensure we are getting this right.

We have the opportunity here to create legislation with all party support, to truly do the right thing, to ensure we are supporting our shopkeepers, individuals with self-defence, in all of those capacities, but at the same time we want to ensure we are not promoting vigilante justice and that we are ensuring that people do not feel the need to act further than what they would have to and to still utilize the trained individuals, our police officers.

I agree with my colleague. We need to get this to committee. We need to do further analysis and look at the details when we get this bill to committee.

● (1635)

Mr. Kevin Sorenson (Crowfoot, CPC): Mr. Speaker, I am glad to hear that my colleague across the way and his party will be supporting the bill. We certainly welcome that support and we know that there will be a lot of work done at the committee and back here in the House as it is debated.

I know the member represents an area that is not just urban but there are also rural areas in his riding. I wonder if he would talk about how this is especially an issue in rural areas. I live in a rural part of a constituency where there is no guarantee that if we see someone coming onto our property that a call to the police will have them there within 15 minutes or even half an hour. As people are in distant places throughout a rural riding, the call to a local detachment may be 30 miles away. I know in the past that many farmers and other people in rural areas were hesitant to approach anyone. When they see someone carrying out a burglary on their farm there is hesitancy but, on the other hand, they do not want to watch their property disappear. We have seen in the past where courts have forced some landowners, and rightfully so, to be concerned about standing up and trying to defend their property.

That is why we believe this bill has to come forward and why some of the rural members from our caucus on the Conservative side have certainly encouraged the minister to move on this. I am glad to hear the member will be supporting it.

Mr. Glenn Thibeault: Mr. Speaker, my hon. colleague is correct. I represent the great riding of Sudbury which encapsulates a large portion of the city but I do have a small portion of my riding that is rural. One of the interesting things about Sudbury is that we are now called the City of Greater Sudbury. From one end of the city to the other it takes 45 minutes to an hour sometimes just to drive through it. We have fantastic police services. My chief and all the officers who are in Sudbury do a fantastic job but the police cannot be everywhere all the time.

I agree with what my colleague is saying. People in a rural area who see some type of burglary or something going on want to act. They want to ensure they are protecting their neighbours' property and their own property. However, if we have that fear of standing up for our own property and what happened to Mr. Chen, we may well see crime increase in the rural areas, which is not what we want to see. We are not talking here about vigilante justice, of farmers going around with pitchforks or people in the city going around with various kinds of weapons. What we want to see are people being able to stand up and feel good and defend their property.

Mr. Tyrone Benskin (Jeanne-Le Ber, NDP): Mr. Speaker, I will bring this back into the urban setting. In many municipalities we have security personnel who are charged with writing tickets municipally. They are not police officers or law enforcement officers in any way. Just in the interest of playing devil's advocate or allowing us to think beyond the absolutes that this bill represents, what does my colleague feel the pitfalls of this bill would be in regard to these individuals as citizens, as well as city employees, getting involved in law enforcement in this way under this bill?

● (1640)

Mr. Glenn Thibeault: Mr. Speaker, there are many scenarios we could bring forward where, ultimately, the sad consequence would be death or severe injury of someone getting involved in an instance where he or she was not necessarily trained for that. We are not trying to create a bill that allows for everyone to become their own judge and jury. What was the movie with Sylvester Stallone, *Judge Dredd* or something like that? We are not trying to create that. What we are talking about here is looking at how we can ensure that an individual or a shopkeeper, like Mr. Chen from the Lucky Moose in Toronto, and I am using him often, does not need to go through the hardships that he went through for a year to protect his own property.

I think there are some very key elements that we need to study in committee. We need to get this to committee to bring forward the scenarios the member talked about and the scenarios that my hon. colleagues have mentioned in the past. There are experts in our country who could come forward as witnesses at committee who could really help us create the best possible legislation to support this type of legislation.

Mr. Sean Casey (Charlottetown, Lib.): Mr. Speaker, I am pleased to have the opportunity to address Bill C-26, yet another crime bill from the Conservatives. I will begin by just commenting on this preoccupation with crime.

Since the election, we have seen bills introduced in this House on human smuggling. We had the omnibus crime bill, which wrapped together nine separate statutes. We have seen no fewer than eight private member's bills addressing issues of crime and law and order, whether it is increased sentences for someone involved in an unlawful act with their face covered, whether it is taking away rights of people who are on employment insurance, whether it is mandatory minimum sentences over and above those contained in Bill C-10, the private member's bill on hate speech, the imposition of sanctions on someone who proposes to prevent the flying of the Canadian flag.

Crime rates in this country are declining, the severity of crime in this country is declining but we have an ideological focus and preoccupation on crime.

We have some big and pressing problems in this country. We have problems with a patchwork of health care conditions and health care regimes across the country. We have serious poverty issues that are not improving. We have an outstanding report from a committee that has not been addressed in this Parliament. We have unemployment right across the country. Unemployment is a particularly bad situation in my riding. The single most common constituent inquiry that I get in my constituency office is asking for a job. We have the conditions of first nations, in fact that is what we addressed in our last opposition day, where we have Canadians living in third world conditions.

However, here we are with another bill on crime, not poverty, not jobs, not economic development, not health.

What I propose to do in my remarks is initially set forth some of the background, then review the provisions of the law that presently exist, go over the changes that are proposed, talk about some of the concerns that we have and then, as I do expect that this will go forward to committee, address some of the concerns that we have with respect to how legislation has been treated at committee so far in this Parliament.

By way of background, the legislation proposes to expand the legal authority for a private citizen to make an arrest within a reasonable period of time after he or she finds a person committing a criminal offence either on or in relation to his or her property. This expansion would not affect the role and responsibility of the police. The preservation and maintenance of the public peace remains the responsibility of the police.

The legislation would also bring much needed reforms, quite frankly, to simplify the complex Criminal Code provisions on self-defence and defence of property. It would also clarify where reasonable use of force is necessary.

When we get into talking about the specific offences, we will see that where there presently are multiple sections with respect to citizen's arrest and defence of property, they are being actually streamlined into one, which, on its face, certainly seems like a sensible thing to do.

● (1645)

Quite frankly, in principle, the bill is a good one. We do believe that more discussion is required. We have some concerns about whether the provisions in it with respect to self-defence are overly broad. We do hope that our frank and informed discussion, which is respectful of the views of all at committee, will address those concerns. We hope that there will be some openness that, quite frankly, we have not seen so far, to considering reasoned amendments. That was by way of background.

The bill addresses citizen's arrest and defence of property. The current law with respect to citizen's arrest is found in section 494 of the Criminal Code. In 494.(1) we find that:

> Any one may arrest without warrant (a) a person whom he finds committing an indictable offence; or (b) a person who, on reasonable grounds, he believes (i) has committed a criminal offence, and (ii) is escaping from and freshly pursued by persons who have lawful authority to arrest that person.

In 494.(2) of the Criminal Code, the provision sought to be expanded by the bill, currently provides that:

> Any one who is (a) the owner or a person in lawful possession of property, or (b) a person authorized by the owner or by a person in lawful possession of property, 2rrest without warrant a person whom he finds committing a criminal offence on or in relation to that property.

"Find committing" is defined under the Criminal Code as meaning situations where a person is basically caught in the act of committing the offence. This extends to a situation where the accused has been pursued immediately and continues, after he or she has been found committing the offence.

Also the law requires that when a citizen's arrest takes place, the individual must be delivered to a police officer without delay. That is the law as it presently stands.

The proposed amendments with respect to citizen's arrest would authorize a private citizen to make an arrest within a reasonable period of time after he or she finds someone committing a criminal offence that occurred on or in relation to property. It expands the time frame.

This power of arrest would only be authorized where there are reasonable grounds to believe that it is not feasible in the circumstances for the arrest to be made by a police officer.

The legislation would make it clear, by cross-reference to the Criminal Code, that the use of force is authorized in a citizen's arrest, but there are limits placed on how much force can be used.

In essence, the law permits a reasonable use of force, taking into account all the circumstances of the particular case. A person is not entitled to use excessive force in a citizen's arrest.

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 actually seizing or touching a person's body in an effort to detain the person, or a person submitting to an arrest.

A citizen's arrest made without careful consideration of the risks may have serious unintended consequences to those involved. When deciding to make a citizen's arrest, people should be aware of the current law.

The considerations for people who decide to embark on this course of action can essentially be summarized in three points: first, people must consider their safety and the safety of others; second, they must report information to the police, which is essentially the best course of action instead of taking action on their own; and third, they must ensure that they have correctly identified the suspect and the suspect's criminal conduct.

● (1650)

That is the current state of the law and the amendments that have been proposed with respect to citizen's arrest. In principle, the bill is a sound one in terms of expanding the time frame within which a citizen's arrest can be made.

There are some other concerns that I will address toward the end of my remarks. However, our concerns with respect to the bill and to what needs to be carefully scrutinized at committee, quite frankly, do not come under that clause of the bill.

The other issue that is dealt with in the bill is self-defence and defence of property. Of particular concern to us on this side of the House are the provisions with respect to self-defence.

The existing law with respect to self-defence and defence of property is found in multiple sections of the Criminal Code, which is in need of reform. The bill is on the right track in terms of streamlining and consolidating into one section the provisions with respect to self-defence and defence of property.

The current laws with respect to self-defence can be found in sections 34 to 37 of the Criminal Code. Distinct defences are provided for a person who uses force to protect himself or herself or another from attack. These depend on whether he or she provoked the attack and whether he or she intended to use deadly force.

The provisions with respect to defence of property are found in sections 38 to 42 of the code. There are multiple defences for the peaceable possessors of property, consideration of the type of property, whether it is personal or real property, the rights of the possessor and of other persons, and the proportionality between the threat to the property and the amount of force used. These are all things that must be taken into account when the defence of property is raised.

I have one final comment with respect to the use of deadly force. The use of deadly force is only permitted in very exceptional circumstances, and rightly so. For example, where it is necessary to protect a person from death or grievous bodily harm. The courts have clearly stated that deadly force is never considered reasonable in the defence of property alone.

The legislative reforms currently being proposed would not make any changes to the law with respect to deadly force, and quite frankly, none are necessary. It is absolutely clear enough and not in need of reform. The courts will therefore continue to make any necessary changes on a case-by-case basis, developing the common law where it is appropriate.

That is the current state of the law with respect to self-defence and defence of property.

As I indicated, the amendments proposed to streamline it deal with the fact that the current law has provisions in multiple sections. The Criminal Code provisions that are being proposed would clarify the laws on self-defence and defence of property so that Canadians, including police, prosecutors and the courts, can more easily understand and apply the law. Clarifying the law and streamlining statutory defences may assist prosecutors and police in exercising their discretion not to lay a charge or to proceed with a prosecution.

Amendments to the self-defence provisions would repeal the current complex self-defence provisions spread over those four sections of the code, sections 34 to 37, and create one new self-defence provision. That would permit a person who reasonably believes himself or herself or others to be at risk of the threat of force or of acts of force to commit a reasonable act to protect himself or herself or others.

The debate, and the discussion in courtrooms across this country, will be on the legal interpretation to be applied to the word reasonable. Plenty of jurisprudence exists now with respect to that within the criminal law. We are not exactly forging new ground by using the word reasonable in multiple places within the Criminal Code.

● (1655)

The amendments with respect to the defence of property provisions would repeal the confusing defence of property language that is now spread over five sections of the code, sections 38 through 42. One new defence of property provision would be created, eliminating the many distinctions regarding acts a person can take in defence of different types of property. There are different provisions for different types of property.

The new provision would permit a person in peaceable possession of a property to commit a reasonable act, including the use of force, for the purpose of protecting that property from being taken, damaged or trespassed upon. Again, the provisions with respect to defence of property do appear to make good sense. This is an appropriate way to add clarity to the provisions of the code.

The provisions of this bill that require the most careful examination at committee are those with respect to self-defence, I believe.

The concerns with respect to self-defence and the concerns with respect to defence of property, citizen's arrest, the concerns with respect to the bill generally, relate to vigilantism. The concerns relate to people taking the law into their own hands and taking unreasonable risks to prevent crime or defend themselves.

I have been involved in a medium-sized business, a business which has 16 retail stores across the country. We would constantly advise our store managers that if they found themselves in a situation where someone is coming in to rob the store, they should not be heroes. They should pass it over, be as observant as they possibly can and then let the police do their job.

This will be outside the actual parameters of the legislation, but I think it is absolutely critical for the government department responsible for this bill, when it comes into effect, to have a pretty substantial public education campaign. People need to know exactly what the impact of the bill is and what the changes are to us in everyday life. Industry associations should be involved.

The biggest concern about this bill in my mind is not so much the contents of the bill but how it is going to be perceived in the public. If it is perceived in the public that now their rights to defence of property, to self-defence and to citizen's arrest are greatly expanded, the unintended consequences could be very severe. It could, quite frankly, be scary.

To summarize, our party will be supporting the bill in principle. We have some concerns about the scope of the self-defence provisions. We agree with the provisions with respect to property defence. It is appropriate for this bill to go to committee.

The discussions and the conduct of the justice committee with respect to Bill C-10 do not inspire confidence. The imposition of time allocation with respect to such an important bill, the automatic defeat of any opposition amendment without substantive discussion or consideration is something that we sincerely hope will not be repeated with respect to this.

If there is a discussion, if there is open consideration of constructive amendments, then we do have a chance to do something good here. I hope we do.

● (1700)

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Mr. Speaker, one of the benefits of the discussion on this bill is the fact that there are those who may have been in situations where they were reticent to act simply because the law was somewhat fuzzy and people were more concerned about being on the wrong side of the law than actually taking the action that should have been taken.

My colleague sort of muddied the waters when he started off his speech by talking about the preoccupation of this government with crime. He said that crime rates were dropping. In fact, in many areas of criminal activity the rates are actually on the rise. Even if they were not, does the member feel that the current levels of crime are acceptable in the areas of child sexual exploitation, drug trafficking near our schools, selling drugs and destroying the lives of children and young people? Is the member actually satisfied that in those areas of criminal activity the current rates are acceptable?

Mr. Sean Casey: Mr. Speaker, this gives me an opportunity to provide my colleague opposite with something that was just printed in *The Economist* today, which states:

> The crime rate in Canada fell last year to its lowest level since the early 1970s, and the murder rate is back where it was in the mid-1960s.

My response to my colleague is this. There is no doubt with respect to the evidence. The evidence does not seem to matter. Crime rates and the severity of crime are falling in our country, yet there is an absolute preoccupation with the law and order agenda on the part of the government and that has been reflected in the workings of the House since the election.

After spending 60 days going door to door in Charlottetown during the election campaign, the crime agenda did not top mine. It was about poverty, jobs and economic development.

Mr. Jack Harris (St. John's East, NDP): Mr. Speaker, I listened with care to the member's speech. I share his concern about the detail of the new legislation, particularly on self-defence. It is already a complex area of the law and there has been 100 years of traditional interpretation. If we are starting down a new road with a different approach, I wonder how long it is going to take to get the proper understanding of that law through the courts. I share his concern that there ought to be a detailed study in committee, but I also share his worry that it might not get the kind of consideration it deserves.

Has he received any comfort from the comments of any government members today that they will take a proper approach to this legislation, do the kind of detailed study that is required, listen to experts and be willing to modify the legislation if it is needed?

● (1705)

Mr. Sean Casey: Mr. Speaker, I wish I could say yes, but, quite frankly, I have not. Actions speak louder than words. I am the associate justice critic for the Liberal Party, so from time to time I am pressed into duty. So far in this session of Parliament, in the limited time I have spent in the justice committee, what I seen does not inspire confidence. I am primarily involved in the veterans affairs committee and the conduct of the party that controls the committee is such that there is not room for consideration of amendments from the other side.

It strikes me that some of the amendments presented in Bill C-10 were rejected by members in committee, but are now adopted as their own. Let us hope that something like that will not be necessary and that it can be dealt with in committee. There seems to be a will on that side of the House. Let us hope that a new leaf will be turned.

Hon. Wayne Easter (Malpeque, Lib.): Mr. Speaker, I want to deal with the area that the member for Charlottetown raised as a concern, and that is how the public may perceive the bill. I also should mention not only are the crime numbers dropping, and the last thing the government wants to see is the facts, but in the last Parliament, when the member for Charlottetown was not a member, the government destroyed the greatest rehabilitation program in the federal system and that was the federal prison farms. That was a huge mistake and it will cause problems down the road. It was the greatest system within the prison system for rehabilitation. It taught prisoners skills that they could use in any occupation, not just farming. I sat on the committee and the government members did not want to see any of the evidence. They discarded that program and now we have lost another good program.

My question relates to the concern that the member raised about the perception of the bill with the public. Are people really thinking they have the right to take the law into their own hands? That is a very legitimate concern and would have unintended consequences.

Mr. Sean Casey: Mr. Speaker, the single biggest concern with respect to the bill is how it will be perceived by the public. If it is perceived in the public as opening the door to vigilantism, we will have done a disservice.

There are good aspects to the bill. I believe that it will become law given the will that is expressed in the House. If and when it does, it is extremely important that the public understands just exactly what it means and that there be an awareness campaign. As I indicated, if we have shopkeepers feeling that it is open season in terms of protecting their property and that their rights have been vastly expanded, we are going to create more problems than we have solved by this.

Mr. Dan Albas (Okanagan—Coquihalla, CPC): Mr. Speaker, I have a brief comment and a question for my colleague. First, I have to point out my utter disappointment that the party, which once said how important it was to clarify the people of Canada's rights through the Charter of Rights and Freedoms, does not seem to be interested in debating the merits or the challenges of this common sense bill, a bill that clarifies people's rights if they are personally attacked or their property is attacked. Instead the members are focusing on other bills and other arguments for other days.

Does the hon. member have specific issues with Canadians being expressly clarified as to how they can best protect themselves and have a justice system that will stand behind them? I would like to know what those are and I would also like to hear his thoughts on property rights and how the bill addresses that.

● (1710)

Mr. Sean Casey: Mr. Speaker, there are some good things in the bill. First, the provisions with respect to citizen's arrest are good. The provisions with respect to defence of property are good. The provisions with respect to self-defence, require further discussion because they may be too broad. There may be some other language required other than multiple use of the word “reasonable” and that is where a reasoned discussion at committee should take place.

Although the question would seem to imply that we are at polar opposites with respect to this debate, quite frankly, we are probably much closer to the government's position than the question would imply. The specific provisions that need further study are with respect to the broadness of the self-defence provisions of the bill.

* * *

MESSAGE FROM THE SENATE

The Acting Speaker (Mr. Barry Devolin): I have the honour to inform the House that a message has been received from the Senate informing this House that the Senate has passed the following bill: Bill S-201, An Act respecting a National Philanthropy Day.

I also have the honour to inform the House that a message has been received from the Senate informing this House that the Senate has passed the following bill to which the concurrence of this House is desired: Bill S-1002, An Act to authorize the Industrial Alliance Pacific General Insurance Corporation to apply to be continued as a body corporate under the laws of Quebec.

The bill is deemed to have been read the first time and ordered for a second reading at the next sitting of the House.

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 second time and referred to a committee.

Mr. Mike Sullivan (York South—Weston, NDP): Mr. Speaker, I want to thank my colleagues who have spoken so eloquently on the bill today.

We on this side of the House generally support the thrust of at least one-third of the bill dealing with the so-called Lucky Moose event a couple of years ago in Toronto. My colleague, the member for Trinity—Spadina, introduced legislation to deal with that unfortunate incident some time ago. It was collected up by the members opposite in Bill C-60, which, unfortunately, failed to pass and died on the order paper.

First, I want to thank my colleague for Kitchener—Conestoga because I believe he said that the government would be willing to listen and to make amendments to the bill. I hope he said that because so far we have not seen a whole lot of willingness on the part of members opposite to accept any kind of reasonable amendments to any of the bills that have been before us.

My other comment has to do with the apparent priorities of the members opposite and the government. It appears that we have an inordinate preponderance of bills dealing with guns, crime, punishment and defence of personal property, but we are not spending a whole lot of time dealing with other very serious issues in our country, such as jobs.

The number one complaint I hear from my friend from Prince Edward Island is that his constituents need jobs. The same is true in my riding. People seem to have given up in large measure looking for jobs because there just have not been any for so many years in my riding.

We also have a serious first nations issue that appears is being glossed over by the government. Apparently no action is being taken to help the citizens of Attawapiskat, except to blame them.

We have reported cuts to services for seniors and for persons seeking EI such that they cannot even get answers on the telephone to their issues. They come to my office, as I am sure they do in many other members' offices, saying that they cannot get through and can I help. Our role should not be to replace the civil servants of the country.

I am hoping that, once this bill is disposed of, we can start moving into some real priorities and move away from the crime, punishment and gun agenda that seems to be dominating what we have been talking about.

The bill contains two essential ingredients. One is to give better permission to a citizen's arrest. There already is permission for a citizen's arrest in the Criminal Code, but citizens have to apprehend people in the act. They cannot find them later and arrest them. That is essentially what the bill hopes to accomplish.

It seems to be fairly clear on the surface. We look forward to the day when the committee will have a chance to study the bill in some depth, have representations from witnesses and experts in the field and to make amendments to make it absolutely certain that what we do will not have any unintended consequences.

I have a personal experience with citizen's arrest. It was a dark and stormy night, if members will pardon the use of the term. One night a couple of years ago, it was pouring with rain when I pulled into my driveway and saw a brand new bicycle sitting at the end of my neighbour's driveway. It seemed quite out of place. I picked up my cellphone and called my neighbour. He did not answer right away, but I heard his car door slam. I thought he was putting the bicycle in his car.

When I went over to his car, I discovered that it was not my neighbour, but somebody else who was about to get on the bicycle. I stopped the gentleman and asked him what he was doing. He said that he flat tire, that he had been at a friend's house and that he was trying to find a way to fix it.

● (1715)

He was quite drunk too. By that time, my neighbour, who had seen that I had phoned but had hung up on him, came out to the street. I asked him if it was his bike. He said that it was not his bike and asked what the gentleman was doing there. I looked at my neighbour and told him that he was just fixing a flat. However, the gentleman with the bike had a little box in his hand. The little box was a very unique piece of equipment for resting the tip of a welding torch that came from Princess Auto.

My neighbour looked at it and said, “I bought one of those today. Where did you get that”? The gentleman said a friend of his had given it to him. My friend went back to his car and looked, and it was gone. He accused the man of stealing it, which he denied. We ended up discovering that not only had he stolen that, but he had a couple of other things from my friend's car. At that point he got on his bike and tried to ride away, and I stopped him. I said, “No you don't. You're not going anywhere”.

This was not an act that was very smart because who knows whether this guy had knives, guns, or whatever else, but it was an instinctive reaction. That is part of what we are trying to deal with here. The instinctive reaction was that he should not go.

I picked up my cellphone and dialed 911 while I was holding his bike. He was too drunk to ride it anyway. I got 911 on the phone. The response was, “Police, fire, ambulance”.

I said, “Police, there is a man breaking into a car and I have apprehended him”.

They said, “Are you sure”?

I said, “Yes, he's standing right here. Do you want to talk to him”?

They said, “No, but we'll send somebody right away”.

Well, within two minutes, there were six police cars in front of my driveway. Clearly, the message is that if we tell them we have apprehended somebody they will come quickly.

Then an ambulance arrived because the guy had a cut on his hand. Then the fire truck arrived. I asked the fireman driving the fire truck why they had come. He said the guy might set himself on fire and they would put it out.

My point is, I acted out of instinct, not out of having read the law that says what I can do in a circumstance like that. That is part of what we are trying to deal with here, to make a reasonable instinctive reaction lawful. If my neighbour had not been there with me, if I had just apprehended this man while he was stealing from my neighbour's car, I would have in fact been in violation of the law. That will not be the case any more under this change, I think. It is a little unclear.

In retrospect, I probably should not have done what I did because who knows what he might have had. As it turns out, when the police did arrive, it was still pouring rain. They made him take off his coat and when they emptied it they found all kinds of stuff that he had already stolen. The bicycle was something he had probably already stolen. He had been out of jail only two days. He really wanted to go back there because it was dry and warm, and this was his way of getting back into jail and to someplace safe in the riding. He was actually, in some way, trying to be a better person because they discovered that he had put some air freshener, that he had stolen from the local drugstore, in his underwear.

The point of the story is, as citizens we react instinctively, not because we have read the law. It is that which we have to keep in mind as we craft these things. We do not actually act, necessarily, in our best self-interest when we are reacting to what we see and know is a crime.

The other story that I mentioned a few moments ago happened a year ago in my riding. An ice cream truck was robbed at gunpoint in the middle of a sunny afternoon, with children and parents all around the ice cream truck, and two very obviously bad people with a gun. The only person, at that point, in any immediate serious danger would have been the ice cream truck driver/operator, who was facing the wrong end of, we assume, a loaded gun.

● (1720)

The current laws on self-defence have given people the ability to defend themselves under the current legislation. They have the right, maybe, if they feel an immediate threat, to pull their own gun, if they have one. I do not know of too many ice cream truck drivers who carry around guns, certainly not in Toronto. Maybe they do in some more rural areas of Canada, but not in Toronto.

The issue then is, at what point does this become dangerous to the rest of the people. The concern I have is that the bill would change the rules from someone who is feeling their own personal threat to a threat of force being used against them or another person. We would expand the notion of self-defence to include another person.

Maybe the jurisprudence actually covered that in the past. I cannot find that on a layperson's reading of the law. I am not a lawyer. I do not have the kind of background that some of our colleagues do. We hope that through committee they are going to be able to tell us that this legislation would actually just repeat what used to be there. However, when I read it, I immediately thought of that incident with the ice cream truck.

If this law had been in place, and if everybody had read it, which I am going to say most law-abiding citizens do not go around reading the law, but if they had read it or if it was common knowledge that we could defend the life of someone else, then the concern I have is that we end up with someone across the street who sees the ice cream truck being held at gunpoint, or who thinks it is being held at gunpoint, maybe they do not actually see clearly enough to know what is going on, and they reach into their cupboard to get their unregistered long gun. I am hearing cackling from the other side of the House.

That unregistered long gun then becomes a use of deadly force in a situation involving children, in a situation involving ordinary civilians. We have now created a situation that should not have been created. We have now escalated this into what is perhaps going to become a deadly shooting spree. We do not need that to happen. We do not need vigilantism. We do not need people to feel they have the right to use force in situations that endanger themselves and endanger others as a result of a bill that may have been written with some unintended consequences in it.

I hope that as a result of serious thought and serious study at committee, the bill will in fact have possible flaws like that one corrected, where we create problems where there are none, where there are unintended consequences, where the mere notion that the law permits someone to use force to defend someone they do not even know and someone that maybe does not need defending, and create a sense of vigilantism.

That is not what we want in this country. We are not a country of vigilantes. We are not a country of people who go around raising arms against other people in order to defend life, limb and property. That is not what we do in Canada. That is not how we behave.

I am not trying to justify, in any way, any criminal acts by people with guns at ice cream trucks. It was one of the most disturbing stories I had heard in a long time about the level to which the violence in my riding has gone to. It is not something that I appreciate. The police are well aware and the police, I believe, have now arrested the perpetrators. They are in jail and we can rest a little easier.

However, my concern is I do not want to have a situation where we pass a law that somehow gives people the thought that they can enter into a fray like this and start shooting. That is not what we want. That is not what we expect from our ordinary law-abiding citizens.

● (1725)

As it turns out, no one was harmed in that robbery, except the owner of the truck who lost some money. However, there were no guns fired. There was no violence and no damage to anyone. Yet, this law might give some the thought that they should enter into this with guns blazing. That is not the country we live in. That is not the country we want. That is not the country I think I want to belong to.

So, we have a situation where this bill ought to go before a committee and be studied in a reasoned and unpressured way. The last two bills that the government brought forward were rushed to the point where closure was invoked on several occasions and in the case of Bill C-10, there were 208 clauses dealt with in clause-by-clause analysis in two days. Two days is not an appropriate amount of time to give serious sober thought to a bill that has enormous consequences.

We understand that the committee was rushed to the point where witnesses were crammed together, were not given sufficient time to answer questions, and questions were not able to be put to these witnesses in a thoughtful and reasoned way because there was so much rush put on this. I hope, based on the statements made by my friend from Kitchener—Conestoga, that the government is actually going to sit down and listen, pay attention, and accept reasoned amendments to this bill put forward by the opposition.

As I understand it, on both Bill C-10 and Bill C-19, many amendments were put forward, but—

● (1730)

The Acting Speaker (Mr. Bruce Stanton): Order, please. The hon. member for York South—Weston will have three minutes remaining for his speech, and five minutes for questions and comments when the House returns to debate this motion.

It being 5:30 p.m., the House will proceed to the consideration of private members' business as listed on today's order paper.

PRIVATE MEMBERS' BUSINESS

[*English*]

CORRECTIONS AND CONDITIONAL RELEASE ACT

Ms. Roxanne James (Scarborough Centre, CPC) moved that Bill C-293, An Act to amend the Corrections and Conditional Release Act (vexatious complainants), be read the second time and referred to a committee.

She said: Mr. Speaker, Canadians gave our government a strong mandate to deliver safer streets and communities with our tough on crime agenda. That includes holding offenders accountable and building a correctional system that actually corrects criminal behaviour. That is why I am particularly pleased to rise today to talk about this important piece of legislation that will help complete part of that task, a task which Canadians have sent us here to do.

My private members bill, Bill C-293, An Act to amend the Corrections and Conditional Release Act (vexatious complainants),, would correct a costly problem that currently exists in Canada's correctional system.

Correctional Service of Canada receives approximately 29,000 grievances a year from various offenders. Out of a total of approximately 23,000 offenders in CSC custody, a small group of approximately 20 offenders file more than 100 grievances per year. This accounts for a whopping 15% of all complaints filed. In fact, there are even a few cases where offenders have filed in excess of 500 grievances.

The increased volume of frivolous complaints significantly delays the process for other inmates to have actual legitimate concerns addressed. High complaint volume also ties up resources and has become taxing on our hard-working, front line correctional officers.

Bill C-293 would allow the Commissioner of Correctional Service of Canada to label an offender as a vexatious complainant when the offender submits multiple complaints or grievances that are of a vexatious or frivolous nature or not made in good faith. The bill would enable CSC to minimize the impact of those who file such grievances and it would ensure that the grievance process maintains the integrity to accomplish its intended goals.

I will explain for my colleagues the fair grievance process we currently have here in Canada. Currently there are four levels through which a complaint may progress. Complaints may be resolved at any stage. However, it is the inmates who get to determine if they are satisfied with the outcome of the decisions made by a warden or regional deputy commissioner.

The first level in the grievance process is called the complaint level. A prisoner fills out paperwork at the institution, which is then reviewed by the department or section manager and, if unresolved, makes its way to the warden. For high priority cases, the file will be reviewed within 15 working days or in 25 days for routine priority files.

CSC distinguishes high priority complaints and grievances as those that have a direct effect on life, liberty or security of the person, or that relate to the griever's access to the complaints or grievance process. Once reviewed, a decision will be made by the warden who will either approve, approve in part, or deny the inmate's claim. Should the prisoner be unhappy with the decision, the prisoner has the right to appeal.

Grievances at the complaint level can be an extensive process. Documents are filled out by the offenders and placed in mail boxes. Submissions are collected by a grievance coordinator who assesses and assigns it to a department. The complaint will then be logged into the computer system.

Next, the individual responsible for the area of the complaint will seek out more information and may interview staff or the offenders as required. The complainant will then receive a formal response from the institution. The status of a file will be noted in the computer system, depending if the offender believes that the complaint has been resolved.

It is important to note that offenders can request an interview at any time during this process. This can quickly increase the processing times of complaints due to staff and scheduling constraints.

Complaint processing initially occurs at the lowest level possible, which means that this whole process can cascade three times from the individual involved, the department or section manager and then to the warden.

While every effort is made to resolve an offender's grievance, it is apparent that the complaint level of the grievance process requires a great deal of resources to properly administer. Many institutions will also provide offenders the opportunity to be hired as inmate grievance clerks. These offenders are interviews and, if hired, will be provided the appropriate training and education.

Inmate grievance clerks play a role in reducing the number of complaints as they are attempting to resolve the situation without resorting to the formal grievance process.

CSC deals with hundreds of complaints per day which are dealt with by this very informal manner. This is a useful tool for standard grievances. However, dealing with these situations informally is not always enough for some offenders who make it a hobby of filing complaints.

● (1735)

The second level of the grievance process occurs at the regional level. CSC has five regions and the files from the first complaint level are sent to the appropriate regional office. The regional deputy commissioner will review the files and in the same timeframe as the initial complaint level. Once again, if unhappy, the prisoner is granted the opportunity to appeal.

At the next stage, level three, the senior regional deputy commissioner will review the prisoner's grievance. This person must now assess the original grievance and additionally consider the responses provided by the institution warden and the regional deputy commissioner. Due to the increased volume of documents, the review times at this stage are 60 working days for high priority and 80 days for routine priority files. Again, if unsatisfied with the decision of the senior regional deputy commissioner, the inmate may appeal, which moves the claim to the fourth and final stage.

It is important to note that, up until this point, grievances can be in the system up to 150 working days. If appealed, the level four grievance means the prisoner's claim will be sent to the commissioner of CSC. At this stage, grievances will again be approved, approved in part or wholly declined. This is a much shorter review timeframe since the commissioner's office will receive summaries from all other levels to assist in making the final decision. Furthermore, the timeframe is much shorter because the commissioner's office has a greater number of staff and expertise as its disposal.

It is important to also note that, throughout the entire grievance process, prisoners may also approach federal courts, the office of the correctional investigator and tribunals as methods for addressing their complaints. These other avenues for addressing grievances require that the offender has exhausted the complaint process currently available in their own facility.

This process is generous, extensive and provides three opportunities for an inmate to accept solutions to his or her complaints. The current system does not prevent all inmates from filing frivolous grievances and, as such, prevents the necessary jurisprudence to allow CSC personnel to do their jobs appropriately and efficiently.

The current legislation is not as efficient and fiscally responsible as law-abiding Canadians deserve and expect it to be.

How does the current process fail us? I will explain this in six brief points. First, the current system does not require that grievances be filed in good faith. Section 90 of the Corrections and Conditional Release Act states:

> There shall be a procedure for fairly and expeditiously resolving offenders' grievances on matters within the jurisdiction of the Commissioner....

A system required to process all claims regardless of merit diminishes the fair and quick resolution of legitimate complaints.

I am certain that by amending section 91, the labelling of vexatious complainants, it would improve offender access to section 90, fair and timely resolution, of the Corrections and Conditional Release Act, which is central to the purpose of this bill.

Second, the current system is a financial burden on the taxpayer. An incredible amount of resources and tax dollars are wasted when inmates are able to control a system that moves through four reviews and up to 150 days of processing time.

Third, the system allows prisoners to act like they are the victims. Proceeding through the correctional system with a sense of victimization is a problem. Our government was given a mandate to support Canadian families and law-abiding citizens, and this means supporting those who are the real victims of crime.

Fourth, allowing prisoners to file numerous frivolous complaints detracts from their ability to focus on their rehabilitation. Inmates should be focused on their correctional plan, the end result of which will mean their more effective reintegration into society. Making a hobby of filing meritless grievances makes a mockery of our correctional system and the entire grievance process.

Fifth, the present system creates a negative impact on the morale of staff involved in managing the grievance process. The knowledge that inmates are continuously filing grievances to cause trouble is not helpful to the morale of staff. On my recent visit to a prison, front line prison staff expressed the challenges of spending large amounts of time processing meritless complaints, especially when offenders choose not to seek resolution through informal channels.

● (1740)

Finally, the current system is too generous when it comes to the initiation of grievances. Inmates are attempting to manipulate a fair correctional system. Prisoners are in jail for one reason and that is to pay their debts to society. This certainly does not include bogging down the system with undue administrative hardships. It is evident that vexatious complainants are attention-seeking inmates who wilfully abuse the fair complaint process and prevent it from functioning properly.

Do members know that offenders are currently permitted by law to file a second complaint while a first is already in process? Often this second complaint will be an exact duplicate of the first. Offenders may do this because they are displeased with an initial response or they may not believe that their matter is being addressed in a timely fashion.

One particular example of this was an inmate who had an issue regarding a radio that he owned which, after his transfer to a new institution, no longer worked. He filed a complaint and while this grievance was in process he began to work through claims against the crown process as well. He then filed another complaint on the same issue while his first grievance was still being evaluated in conjunction with the institution that he had been transferred from.

When corrections staff attempt to resolve inmate issues in a timely manner, offenders should not be breathing down their necks for an answer or bogging down the system. Solutions take time and this procedure should be respected.

CSC staff noted that the offender saw the grievance process as a game and was determined to take advantage of it. It is important to note that staff feel the complaint process is an extremely important and useful tool but only when it is used for legitimate complaints.

As I said, our government believes in delivering a correctional service that actually corrects. There are key programs with CSC that have a real impact in the effective rehabilitation of inmates, for example, CORCAN. CORCAN is a key rehabilitation program of Correctional Service of Canada. CORCAN's mission is to aid in the safe reintegration of prisoners into society while providing employment and employability skills training to offenders incarcerated in federal penitentiaries and sometimes even after they are released back into the community.

Inmates who co-operate within the system also have access to an adult basic education program. This program offers inmates the opportunity to pursue a grade 12 education and is available year round in Canadian correctional institutions. This program is offered to offenders who have education in their correctional plan or who require upgrading in skills as a requirement for either continuing education or reintegration programs.

Correctional plans are professionally developed and implemented documents that outline an inmate's needs and what he or she needs to do to become responsible and accountable individuals in society. Under Bill C-10, the safe streets and communities act, these correctional plans would play an even more fundamental role in the way inmate rehabilitation is structured. As they pay their debts, these are the efforts inmates ought to be taking for reintegration into society. It is important to realize also that these programs come at a substantial cost to taxpayers and should not be taken lightly.

What are the exact changes proposed in my Bill C-293? In simple terms, the bill would allow the commissioner of Correctional Service of Canada, or his assigned representative, to designate an offender as a vexatious complainant. Once this has occurred, the offender would be held to a higher standard of proof for future claims.

Additionally, someone designed as a vexatious complainant could have his or her complaint shut down in the initial stage if the institution decided that the claim was vexatious and not made in good faith. Bill C-293 would considerably improve how grievances are processed in our correctional system.

Who exactly would benefit from the bill? Vexatious complainants themselves would benefit from the bill. They would be held accountable by focusing more attention on paying their debts to society. Their time will be better spent completing their correctional plan. This bill would work within the existing process to ensure prisoners are learning responsibility for their actions. Continuous complaining is counterproductive to those goals.

Taxpayers would benefit from a system that no longer forces correctional staff to process large volumes of meritless complaints, resulting in better use of tax dollars.

Correctional staff would also benefit. They would be freed from processing claims made in bad faith.

Our existing system would benefit. The existing grievance process would function more effectively and in the manner that it is supposed to. It would be able to resolve grievances in the way that it was intended to and actually focus on legitimate complaints.

By cracking down on vexatious complainants, Bill C-293 would help to make offenders more accountable, ensure greater respect for taxpayers and take the unnecessary burden off hard-working front line correctional officers.

I hope that all hon. members will support this legislation.

● (1745)

[*Translation*]

Mr. Sylvain Chicoine (Châteauguay—Saint-Constant, NDP): Mr. Speaker, I listened carefully to the speech by the member for Scarborough Centre and I have closely examined her bill. I have some comments to make about this bill.

This bill has the laudable goal of reducing the number of complaints by offenders who repeatedly make complaints that are not in good faith. Correctional Service Canada has indicated that about 20% of all complaints are made by offenders who make multiple complaints. During a discussion we had with the correctional investigator, he mentioned that the vast majority of these people are not making complaints in bad faith to discredit the correctional service. They are people who have a much higher level of education than the others, who have low levels of education, and they make complaints on their behalf. Many of these complaints are written by these individuals. Few of the measures in this bill set clear criteria for the commissioner of Correctional Service Canada.

Why does the government give the commissioner greater discretionary powers in this bill to designate an offender as a vexatious complainant?

[*English*]

Ms. Roxanne James: Mr. Speaker, my colleague is correct; the bill will not address the bulk of inmates in prisons today. It is actually aimed at a small group of individuals who have made a hobby of filing these types of complaints.

It is a real headache to our hard-working front-line correctional staff when they have to deal with grievances that are not made in good faith and are filed only to cause trouble within the system.

The hon. member mentioned his concern that it may address other inmates as well. However, I can assure the House that there are approximately 20 people currently in penitentiaries today who are each filing in excess of 100 grievances. In fact, a handful of inmates have filed more than 500 grievances per year. This bill will target those individuals only.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Speaker, in an appeal process, whether here or in other areas, one must go through steps. The member made reference to the commissioner as being the final step, and she seems to have a lot of statistical information available.

I am assuming that as people go through the steps, the vast majority of these issues are resolved. If we leave out those 20 individuals the member is referring to, to what degree are the grievances that go to the commissioner determined to be legitimate concerns, at which point corrective action is taken? Does she have any statistics as to the kinds of decisions being made by the commissioner's office that override decisions made at previous levels?

Ms. Roxanne James: Mr. Speaker, the hon. member's question is similar to the first question. He is asking for statistics, and the numbers speak for themselves. Twenty inmates file 100 grievances per year; these grievances are appealed at each stage of the process and have probably made their way to the highest level, which is the commissioner himself.

A handful of inmates have filed over 500 grievances per year. In my speech I indicated that, statistically speaking, the bill is aiming to target a whopping 15%.

● (1750)

Mr. Kevin Sorenson (Crowfoot, CPC): Mr. Speaker, I thank the member for bringing this private member's bill forward.

We have all heard the story about the little boy who cried wolf. We know the response: he was taken seriously, and then it was determined that the wolf was not coming. We see that happening in Correctional Services Canada today.

We know that the people who are dealing with these grievances take each one of them very seriously. We know that the system asks them to take them seriously, which means that resources must be put in place.

I think we should be taking grievances seriously, but we hear the statistics the member has brought forward. Hundreds of grievances have come from one offender, perhaps complaining that the light bulb is too bright or that the doors are too loud when they clang. Does the member believe that this measure will allow for more concern and will encourage real grievances to come forward because other offenders will realize that all that time should not be wasted on these vexatious grievances?

Ms. Roxanne James: Yes, Mr. Speaker, I agree with his statement. It is important to note that correctional staff have expressed that the fair grievance process is very important, but it should be used for legitimate complaints. Part of the problem is that they are extremely busy, and when they are bogged down with grievances made in bad faith, it takes time away from the legitimate complaints or concerns of other inmates that need to be addressed. The member is absolutely correct.

[*Translation*]

Mr. Sylvain Chicoine (Châteauguay—Saint-Constant, NDP): Mr. Speaker, the Conservative member for Scarborough Centre has introduced Bill C-293 to amend the Corrections and Conditional Release Act. This bill has two objectives: first, to deal with offenders who make vexatious, frivolous or multiple complaints; second, to reduce the number of complaints handled by the corrections administration.

The NDP supports legislation that will make our prisons safer. We also support legislation that will allow our prisons to operate in a quick, fair and efficient manner. However, we are particularly concerned about the impact that this bill could have on prison management in Canada.

This bill will give disproportionate discretion to the commissioner of Correctional Service Canada. With this power, and based on his own opinion, the commissioner will be able to designate an inmate as a vexatious complainant. Decision-makers, such as penitentiary wardens, can refuse to hear the complaint of such an inmate if they consider the complaint to be vexatious or frivolous. With Bill C-10, the inmate population will increase significantly, which will result in more complaints.

It is unacceptable to grant discretionary power to designate an inmate as a vexatious complainant without placing limits on this power by establishing clear criteria that will make the decision transparent and fair to all inmates. It is important to establish clear criteria because the concept of a vexatious complaint is problematic given that it is based on completely subjective factors.

How can we ensure that every decision by the commissioner to designate an inmate as a vexatious complainant will be just and fair to all inmates if there are no clear criteria for making a decision that is informed and, above all, fair to all inmates?

In light of the fact that the simplest things in life are very important in a correctional institution, this difference of opinion makes the designation of a vexatious complaint a complicated matter. For that reason, a decision about vexatious complaints is subjective and biased and requires clear criteria to guide the commissioner's decision-making.

When the inmate is designated as a vexatious complainant, he will have to prove the merits of every new complaint with additional material. The material required will be at the discretion of the commissioner. Once again, there is no formal process to select the material; it is left to the discretion of the commissioner. This does not legitimize the process or make it any more credible in the eyes of inmates. This request for additional material could serve to deter inmates from filing complaints because of the red tape involved.

Furthermore, by compelling inmates to prove the merits of their complaint, the burden of proof is being reversed, which goes against our justice system. This bill creates a presumption of bad faith for all complaints filed by certain complainants, despite the fact that some of the complaints could be completely justified.

The problem of vexatious complainants cannot be generalized, as the Conservatives would have us believe. Many inmates who file vexatious complaints have mental health problems or have little education. The number of vexatious complainants who want to attack the administration or the complaints process is pretty small. What is interesting is that the complaints process can be used to identify these kinds of people, but by denying them access to the complaints and grievance process, we will be unable to identify them and therefore unable to help them. Many vexatious complaints are not entirely vexatious. In many cases, one part of the complaint is completely legitimate and, as a result, we cannot completely write off the complaint.

The designation of vexatious complainant will in no way reduce the volume of complaints to be addressed in institutions. When the administration receives a vexatious complainant, it will not be able to simply ignore it. The complaint will still need to be processed, coded and classified. Accordingly, the time devoted to analyzing the complaint will cancel out any time that is supposedly saved by creating a vexatious complainant designation.

Although it is possible for inmates to have a judicial review, the reality is a different story. There is an internal process to go through before the inmate has access to a judicial review. However, the internal process can take months or even years, which essentially blocks their access to a judicial review.

I should note that the complaint process was created after a number of prison revolts in the mid-1970s.

● (1755)

In an attempt to reduce violence resulting from prisoner discontent, a parliamentary subcommittee created a complaint and grievance process. This resulted in a fairer system for inmates, which meant that they could be heard. The objective of the complaint process is to use a constructive process to channel the frustrations of inmates. Limiting access to the complaint process will likely push inmates to use more violent ways of expressing their frustration and discontent. This is a matter of security for all inmates and prison workers.

The NDP is sensitive to issues dealing with rights and freedoms, and the Supreme Court has ruled on the fact that incarcerated individuals do not lose their rights. Furthermore, section 4(*e*) of the Corrections and Conditional Release Act states “that offenders retain the rights and privileges of all members of society, except those rights and privileges that are necessarily removed or restricted as a consequence of the sentence”.

We therefore believe that the complaint and grievance process is a tool that helps ensure transparency and accountability. It shows that some corrections policies are ineffective and that there are problems in Canadian prisons. As a result of the measures proposed by omnibus Bill C-10, the prison population will no doubt grow rapidly, which will lead to major problems in terms of prison management. The government should therefore focus its efforts on increasing the correctional investigator's capacity to investigate so that he can quickly identify the problems in prisons. Instead, the Conservative government is using this bill to try to limit his capacity. In my opinion, the Conservatives do not want us to see just how much worse their policies will make the situation in our prisons. I do not think that they want us to be able to measure the negative impact that these policies will have on prisons.

We also believe that the number of complaints is a problem. However, we do not believe that reducing access to the complaint and grievance process is the solution. This new bill will reduce the safety of inmates, guards and other prison staff. We also believe that the most effective way to guarantee open access to the complaint and grievance process, while reducing the volume of complaints, is to create mediator and complaints coordinator positions. The Conservatives ignored all the recommendations of the experts and internal and external review committees. Many of them mentioned the importance of establishing these types of positions, which would allow prisons to maintain an open-access complaint and grievance process while reducing the volume of formal complaints through informal resolution. Our approach is supported by many stakeholders in the corrections field, including the John Howard Society and many correctional law and criminology experts.

To summarize, the bill will give disproportionate and unbridled discretion to the commissioner making it possible to have the inmate designated as a vexatious complainant. Set criteria for decision-making must be established so that decisions are not made in a subjective and biased manner. I find it quite unreasonable to make the administrative process more cumbersome and to discourage inmates from complaining.

Is the government trying to muzzle inmates who would like to shed light on prison problems?

The changes that the Conservatives would like to make to the complaint process are contrary to the principles of our judicial system because they would reverse the burden of proof. The internal process mechanism would limit access to judicial review for inmates. That is completely unacceptable. Access to judicial review is a basic principle of our judicial system.

The complaints and grievances process was instituted to channel inmates' frustrations and discontent and to deter them from using violence to express their dissatisfaction. The process was also established as a tool for ensuring transparency and accountability when identifying problems in our prisons. This is a vital tool that allows correctional investigators to carry out their work in an appropriate manner.

I will repeat, the government does not want us to discover that its prison policies are ineffective and exacerbate existing problems. The government does not want to be accountable for these problems.

● (1800)

Finally, I would like to point out that the government is trying to depict prisoners as a group of complainers whose complaints are not justified. As I explained previously, the picture of inmates painted by the Conservatives bears little resemblance to the reality.

For these reasons the NDP cannot support this bill. We are opposed to the bill not only because it limits the government's accountability with respect to prisons, but also because it will reduce the safety of guards, workers and inmates in the correctional system.

[*English*]

Mr. Sean Casey (Charlottetown, Lib.): Mr. Speaker, I am rising once again to speak to a Conservative backbench private member's bill on crime. It is really amazing to me and to many Canadians how the right-wing republicans across the aisle continue to introduce so many so-called crime bills.

We read today in the news how the Conservative government essentially admitted to breaking the law. It is attacking, misleading and spreading falsehoods about the hon. member for Mount Royal. When will we be seeing a crime bill about that? The hon. member for Mount Royal is a great Canadian, an honourable man, a person of unimpeachable integrity and character. Yet these Conservatives are engaging in activities that are fundamentally unjust and un-Canadian. And here we are again on another crime bill.

We have two million people unemployed in Canada. People are struggling with real-life issues. Families are confronting the reality of not having enough money to buy gifts for their children at Christmas. Seniors are struggling to find money to pay for their home heating. Young people are disillusioned because there is no work and sadly no prospect of any. We have poverty rates among children that are a disgrace in a country as rich as ours. Food bank use is increasing among working families.

In my own province, poverty rates are on the rise and food bank usage is increasing. The Conservatives are cutting hundreds of jobs at the Atlantic Canada Opportunities Agency, Veterans Affairs Canada, and Fisheries and Oceans Canada. They are closing employment insurance processing centres. It will be a miserable Christmas for millions of Canadians.

We have, as we speak, the Red Cross sweeping into Attawapiskat because that aboriginal community has no running water and many families are living in appalling conditions. Yet here we are again this evening dealing with a bill that has absolutely nothing to do with the real priorities of Canadians—

● (1805)

The Acting Speaker (Mr. Bruce Stanton): Order, please. The hon. Parliamentary Secretary to the Minister of Canadian Heritage is rising on a point of order.

Mr. Paul Calandra: Mr. Speaker, the hon. member might be talking about a different bill. Perhaps he does not know what we are actually talking about. It is a spectacular crime bill that was brought forward by our member for Scarborough Centre. I know the member is talking about other issues: food bank issues at Christmas, and so on and so forth. I wonder if that is relevant to the discussion that we are having right now.

Mr. Speaker, I wonder if you might ask him to talk about the bill that we are debating here. I think he would do appropriate respect to the member for—

The Acting Speaker (Mr. Bruce Stanton): I thank the hon. member for his intervention.

The hon. member for Winnipeg North is rising on the same point of order

Mr. Kevin Lamoureux: Absolutely, Mr. Speaker.

The Acting Speaker (Mr. Bruce Stanton): I will take a brief intervention on this, but I know the member for Charlottetown would like to get back to his speech.

The hon. member for Winnipeg North.

Mr. Kevin Lamoureux: And I too, Mr. Speaker, would like to allow him to finish his speech without being interrupted. Members will find that the member for Charlottetown is being very relevant to the bill. He started off by talking about the bill and the priorities of the government, referring to—

The Acting Speaker (Mr. Bruce Stanton): I appreciate the interventions by hon. members. I will just say quickly that it is true that members are asked to keep their comments pertinent to the subject at hand. However, the House certainly affords members the opportunity to explore these ideas and I am sure the member for Charlottetown will be getting around to how this ties together.

The hon. member for Charlottetown.

Mr. Sean Casey: Mr. Speaker, the people in my riding, and in ridings across this country, are worried about jobs. In my province, my constituents are worried about raw sewage in the harbour. Islanders have been trying since 2006 to convince the Conservative government to lay an electricity cable across the Northumberland Strait so that people in my province will have a safe and secure energy supply. These are important issues.

The Conservative member presents a bill about frivolous complaints made by Canadians who are incarcerated. What is frivolous is the constant propaganda emanating from the Conservatives that seeks to create a climate of fear. It is really amazing how narrow, how meanspirited, and how angry a government we have. Does it strike members as very strange and wrong that it seems just about every member of the Conservative backbench has their own crime bill? One would think crime was rampant, even though we know that the crime rate is declining.

In just this past month we have had no less than eight Conservative private members' bills on the order paper that deal with crime or public safety. Are the Conservative members incapable of thinking of anything else to speak about except crime? Do they lie awake at night dreaming and conjuring up ways to create fear in Canadians? It is crime propaganda 24/7 with these guys, and it has to stop.

Crime is not rampant. What is rampant is poverty and unemployment. It really is a disgrace to any sense of fairness and justice, and respect for the intelligence of Canadians that each day members of the Conservative caucus stand in the House and attack other elected members of Parliament, all but accusing them of supporting pedophiles, rapists or drug dealers. This is all because we continue to state our view that their crime agenda runs contrary to the evidence or facts.

We have a government that is systematically tearing apart the very fabric of Canada, all the while wrapping itself in the very flag it denigrates—

The Acting Speaker (Mr. Bruce Stanton): The hon. member for Selkirk—Interlake is rising on a point of order.

● (1810)

Mr. James Bezan: Mr. Speaker, the member for Charlottetown is not at all even close to the discussion on the bill at hand, namely, vexatious complaints by prisoners to the Correctional Service Canada. He needs to get on track. He is making broad statements that have absolutely no relevance, or founding in truth for that matter.

I think he needs to be called to order to make sure he is being relevant to the debate at hand.

The Acting Speaker (Mr. Bruce Stanton): It is very true that members are given a lot of latitude to explore the topics that pertain to the question in front of them. It is important that the member for Charlottetown begin to bring some of these ideas together and see how they might pertain to the question in front of us.

The hon. member for Charlottetown.

Mr. Sean Casey: Mr. Speaker, I only wish that the government had the same zeal to combat poverty and other social inequities.

I have read the bill and I want to say to the member directly that any attempt to withhold any constitutional protections to any Canadians will be met with great opposition. We will not be bullied any more with suggestions that we care about criminals and not victims. It is simply not true.

Any effort to limit the rights of any Canadian, regardless of how we might find the reasons for their incarceration deplorable, will be objected to. We cannot allow Conservative fear to erode fundamental rights and natural justice.

I realize that these concepts do not play well with the right wingers over there. For them, it is lock them up, shut them up, and throw away the key.

Any prisoner convicted and serving time is an individual who is there for a reason and he or she should be there, given that a decision was rendered by a judge or jury after a due process. However, it does not mean that once incarcerated his or her fundamental rights as a human being are expunged, as much as the Conservatives would like to think so.

If a prisoner has a legitimate complaint, one that is serious, if he or she is mistreated or abused, then there should be no law that would prevent him or her from seeking a remedy.

We know that even at the worst moments of war, when we think of the great wars, there were international rules as to how we treated prisoners and evil people who did great harm or damage, and for good reason. It is called the Geneva Convention. We do not want a system that disregards the essential dignity of all human life, regardless of the deplorable nature of his or her crime.

We will review the bill, we will scrutinize it, and we will ensure that it meets the test of the charter, a document that many on the other side, deep down, oppose. However, we will do our job to ensure that the intention of the bill is not to stomp out legitimate complaints of prisoners.

In closing, I really do find all this crime propaganda troubling. I really wish the members across the way would look at themselves in the mirror and see how angry they appear.

Ms. Candice Hoeppner (Parliamentary Secretary to the Minister of Public Safety, CPC): Mr. Speaker, I rise today to support, with amendments, Bill C-293, which was brought forward by the member for Scarborough Centre. I would like to begin by commending and congratulating my colleague for introducing legislation that would help the Correctional Service Canada meet its legal obligations to resolve inmate grievances in the most effective way possible. Our Conservative government supports this important bill and to that end we will introduce some minor amendments to strengthen the bill at committee stage.

Canadians find it utterly unacceptable that offenders can make it their hobby to file frivolous grievances on the taxpayers' dime, while they are supposed to be engaged in rehabilitation. Let me be clear. All offenders have the right to a fair and expeditious complaint and grievance process. This process is to be made available to every offender without negative consequences. However, that is not to say that offenders should have carte blanche to submit endless and needless paperwork.

The system is set up in a four-level process, from a complaint at the institutional level to a grievance at the national level. Bill C-293 would not change those rights. All offenders will continue to have complete access to a fair and expeditious grievance process. The issue at hand is that there are certain offenders who take advantage of their rights to a fair grievance procedure by clogging up the complaints system with hundreds of frivolous or vexatious complaints and grievances each year.

What do I mean by complaints that are deemed frivolous, vexatious or not made in good faith? These are complaints that are submitted with no serious purpose, complaints that are submitted for the sole purpose of harassing officials or to simply cause a disruption. In some instances, offenders will submit the same frivolous or vexatious complaint over and over again, just because they can. We know there are a handful of offenders in our federal prisons right now that account for 15% of all complaints and grievances filed in one year. Some submit as many as 500 to 600 complaints per year.

In light of the volume of grievances that are not made in good faith or are frivolous or vexatious in nature, it is not surprising that this creates a huge challenge for corrections officers to address the legitimate complaints of other offenders.

While there is already a system in place to manage offenders who submit high volumes of grievances, it does not address the root of the problem, that of making offenders accountable for their actions. The bill before us would right this wrong and it would ensure that offenders would not be abusing the benefits afforded to them through a fair complaint process. It proposes several things.

First and foremost, Bill C-293 proposes to give the commissioner of the CSC the authority to designate an offender as a vexatious complainant. In practice, this means that the commissioner will have the power to determine, based on a thorough review of the offender's history of complaints, that he or she is deserving of the label a vexatious complainant. This is similar to the process already in place for litigants who abuse our court system.

The bill also proposes that once offenders have been designated as vexatious complainants, they are then obligated to provide additional material to CSC to back up each complaint that they submit. It will allow CSC to refuse to review a grievance that is frivolous, vexatious, or not made in good faith unless the grievance would result in irreparable, significant or adverse consequences to the offender.

The bill is a positive step toward our goal of rebalancing the grievance system and to reducing the burden imposed by offenders who abuse that system. However, our government believes that we should go a step further to put more emphasis on offender accountability. To that end, when the bill proceeds to committee stage, we will propose key amendments that will ensure that offenders who are designated vexatious complainants are no longer able to create delays in the grievance system and affect other offenders access to the process.

Bill C-293 makes an important change by allowing the commissioner of CSC to designate some offenders as vexatious complainants. However, as it currently stands, these offenders would still be able to continue further grievances without first seeking permission from CSC. Furthermore, asking vexatious complainants to provide additional material in support of their grievance would only add to CSC's administrative burden.

● (1815)

We propose to amend this to allow the commissioner of the CSC to order that a vexatious complainant no longer be allowed to submit any complaints or grievances without first receiving the permission of the warden. In effect, that would stop the complaint at the institutional level, rather than allow the possibility of having every new grievance submitted by the vexatious complainant land on the commissioner's desk.

Second, the current bill states that the commissioner of the CSC must conduct a review and a reassessment of the offender's vexatious status every six months. We believe this would prove unwieldy and cumbersome to the commissioner who would be forced to review the offender's status twice a year. Our amendment would change this to make the review annual, which is a much more reasonable timeframe.

Third, Bill C-293 stipulates that the commissioner of CSC must carry out each decision personally as it does not allow for this power to be delegated. Surely it is only reasonable to give the commissioner of the CSC the authority to designate someone to take on this responsibility when needed.

Together, these amendment would help strengthen the bill and would ensure that offenders would be held accountable for their actions, including facing a consequence for their behaviour that is both disruptive and disrespectful.

Our government has been very clear. We are committed to move ahead with measures that will create a correctional system that actually corrects criminal behaviour. We make no apologies for ensuring that offenders are held accountable for their actions. That includes both the offences that landed them in prison and the actions they take while serving their sentence. It is particularly troubling to hear stories of offenders who, instead of focusing on their own rehabilitation, are abusing the system by lodging frivolous or vexatious complaints and grievances.

Our government is fully supportive of providing the appropriate rehabilitative measures to offenders. We are also committed to putting measures in place to increase offender accountability and ensure that offenders are playing a full role in their rehabilitation.

What we will not tolerate is a small group of offenders being allowed to bog down our corrections system by piling on complaint after complaint, sometimes to the level of 500 to 600 complaints per year, for no other reason than they are wanting to abuse the system. This is unacceptable. It must change and I am very glad that my colleague has brought the bill forward to make changes in this area.

Over the past several years, the Correctional Service Canada has been working hard to address the challenges that our institutions face when dealing with offenders who clog up the system with a high volume of grievances that are of no consequence to the rights, health or safety of that offender.

We believe that, as amended, Bill C-293 will go a long way toward helping address these issues to reduce administrative workload and to ensure that all legitimate offender grievances can be dealt with in a fair and expeditious manner. Therefore, I call on all members of the House to support this very important bill.

● (1820)

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Mr. Speaker, I find Bill C-293 both puzzling and troubling. Contrary to what the previous member suggested, the bill does not right a wrong. If enacted, it will pave the way potentially for far greater wrongs. I need only quote from the renowned Justice Louise Arbour, who said, in dealing with previous concerns regarding the treatment of prisoners:

> One must resist the temptation to trivialize the infringement of prisoners' rights as either an insignificant infringement of rights, or as an infringement of the rights of people who do not deserve any better. When a right has been granted by law, it is no less important that such right be respected because the person entitled to it is a prisoner.

One would presume that these amendments came forward in response to the recommendations of the federal Correctional Investigator. The federal Correctional Investigator came forward with strong recommendations as a result of the very tragic case of Ashley Smith.

What were the facts in the case of Ashley Smith? Fourteen-year-old Ashley Smith was put in prison because she threw crab apples at a postman and she was shunted from institution to institution. Because it appeared she was under stress and had some mental health problems, she was violating certain rules in the prison. As a result, she went from solitary confinement, then to prison and to another prison. In the end, the sad case of Ashley Smith was that the prison officer sat and watched her die from self-strangulation. As a result of the tragic death of this young women and the failure of the prison guards to protect her interests, there were a number of investigations.

One of the investigations was by the federal Correctional Investigator. One thing he found was that her final grievance remained in the prison grievance box two and a half months after her death. Today we hear that there are inappropriate administrative duties on prison officers. There actually are corrections officer rules that require that box be emptied every day.

What was the nature of Ashley's complaints filed as grievances? The Correctional Investigator quoted a number of them, which I do not have time to go into. However, in his report the investigator found that there was improper designation of her grievances. They were found to be insignificant when he found that they were in fact serious. There was a failure to provide written responses as required by the prison directives. There was a failure to discuss her complaints with her and the responses were prepared well after she was transferred to other institutions. All of her complaints were responded to in an inappropriate way and not compliant with corrections policy.

Despite the heightened duty of vigilance due to her condition of confinement, there was a failure to observe her basic human rights. This was a tragic and avoidable death and the investigator made a number of recommendations. He recommended, contrary to what the hon. member has tabled, the following:

> I recommend that all grievances related to the conditions of confinement or treatment in segregation be referred as a priority to the institutional head and be immediately addressed.

> I recommend, once again, that the Correctional Service immediately commission an external review of its operations and policies in the area of inmate grievances to ensure fair and expeditious resolution of offenders' complaints and grievances at all levels of the process.

What do we find in the bill here? How does this bill respond to what the Correctional Investigator found? He found that corrections institutions were failing immeasurably in honouring the basic right of considering the grievances. This bill has the opposite effect.

● (1825)

This bill, contrary to due process, gives complete discretion to the regional deputy commissioner or the commissioner or any delegate. In other words, it could be totally within the discretion of any corrections officer to designate somebody as a vexatious prisoner. There are no criteria, there is no process, and in fact the commissioner, or the person making the designation, does not even have to inform the prisoner in writing until after the designation is made.

There is some reference to having a conversation with the prisoner about the process. This is a complete violation of due process. We live in a country of due process. That is how we are made. That is why we are honoured to be a member of the United Nations: we operate by the rule of law and due process. That means we follow basic principles.

This bill violates all of those principles.

Then the prisoner is going to be denied, potentially for a whole year, even the opportunity to raise any kind of grievance. Again, let us remember that we are including the rising numbers of prisoners who are suffering from mental health issues, as documented by the corrections investigator and a number of officials. As a result, there is a high probability that in this process, anybody in the prison could designate somebody with a significant mental health issue, and they will be silenced.

What is the solution? What is the redress for this prisoner? Well, the prisoner can go to court—this from the very government that criticizes us all the time over the possibility that we might table bills that might be litigious. This is the very government that castigated me for daring to table an environmental bill of rights that would simply have allowed Canadians the right to go to court if the government failed to be transparent, open and participatory.

As for the right to go to court, these are prisoners who have been denied the ability to even file a grievance, and we are supposed to believe that they are going to be given access to the courts. As my colleague on this side of the House suggested after the bill was first presented, why is there not a more reasonable mechanism? Why is there not an independent mediator within the prison system, who could come in the same way that many independent people do to make sure prisoners are being treated appropriately? Why not consider some other kind of mechanism?

I hope the member who tabled this bill will give serious consideration, if her bill proceeds, to sending it to committee to be measurably amended, so that at least the government, if it sides with this bill, will show that it is siding with due process of law and human rights.

● (1830)

The Acting Speaker (Mr. Bruce Stanton): As she may wish, the hon. member for Edmonton—Strathcona will have two minutes remaining when the House next resumes debate on the motion.

The time provided for the consideration of private members' business has now expired, and the order is dropped to the bottom of the order of precedence on the order paper.

ADJOURNMENT PROCEEDINGS

A motion to adjourn the House under Standing Order 38 deemed to have been moved.

[*English*]

FINANCIAL INSTITUTIONS

Mr. Glenn Thibeault (Sudbury, NDP): Mr. Speaker, in April 2009 the House passed my motion to bring relief to Canadians by instituting binding regulations regarding credit cards, yet two and a half years later the government has failed to fulfill the will of the House.

Last year, in an attempt to placate consumers, the Minister of Finance introduced the voluntary code of conduct for credit cards. However, this move was mostly spin, with little substance.

In the first place, the code of conduct simply did not do enough to protect consumers. For example, the code was directed mainly toward the credit card issuers, meaning that most of the issues addressed were those of small businesses, not consumers.

While I welcome any way to help small and medium-sized businesses in Canada, and while I recognize that helping them protect their razor-thin profit margins could help lower consumer prices, there are many precise issues, specifically at the banking level, that affect consumers directly and that were not addressed by the code.

Additionally, even those provisions that were put in place do not go far enough. Study after study by academics and reserve banks shows that consumers who use cash and debit cards are effectively subsidizing the spending of credit card users, as businesses are forced to increase their prices to cover merchant fees. Credit card users then receive reward points, cash back, or air miles to compensate them for this increased cost, while consumers using cash and debit cards are forced to cover this cost with no return.

Second, this weakness is compounded by the voluntary nature of the system. The failure of voluntary systems of quasi-regulation has been brought to light recently by the banks pulling out of the Ombudsman for Banking Services and Investments external complaint resolution system. When banks first joined OBSI following a spate of consumer complaints and media coverage of the failure to resolve them, the industry and the minister of finance of the day made a behind-closed-doors deal to adhere to the system in order to avoid formal regulation from a government body.

Now, with the eye of economic reporting focused elsewhere, the government has allowed banks to leave the OBSI system and instead settle their complaints through a downtown Toronto law firm. The government likes to say that this brings choice to the market, but the only ones getting choice on the matter are the big banks.

What is to stop the government from allowing credit card issuers to leave the mechanisms of the voluntary code of conduct later, when it senses the opportunity?

The banking industry is one of the fastest-changing industries in the world, and even specialists sometimes struggle to keep up with the acronyms and investment vehicles that banks use. It is important that the government keep up with the industry.

As I stated earlier, the Minister of Finance likes to applaud our regulatory regime. However, if we do not keep moving forward, we risk being left behind. The government needs to act now to ensure that our financial regulation continues to protect consumers, businesses and the economy as a whole.

● (1835)

Mrs. Shelly Glover (Parliamentary Secretary to the Minister of Finance, CPC): Mr. Speaker, Canadians use financial services products every single day, whether using their credit cards, cashing a cheque, going to the bank or signing a mortgage. Canadians deserve to be treated fairly when using these products and to be provided with clear information before agreeing to use them.

That is why, since 2006, our Conservative government has taken key steps to address consumer concerns and make financial services products more consumer friendly, but why does the NDP keep voting against these measures?

Why do the NDP members oppose protecting consumers with new credit card rules that will require consent for credit limit increases, require a minimum 21-day grace period on new purchases, require full disclosure for consumers and limit other anti-consumer business practices?

Why did the NDP oppose bringing in a code of conduct for the credit and debit card industry to help small businesses dealing with unfair practices? The code would help ensure fairness, encourage real choice and competition, and protect businesses from rising costs, so why did the NDP oppose that, and oppose banning negative option billing for financial products as well? Why do the NDP members oppose shortening the cheque holding period? They oppose making mortgage insurance more transparent, understandable and affordable with enhanced disclosures and other measures.

The NDP members oppose creating an independent task force on financial literacy to help consumers make the right financial choices. Why do they oppose all of these things, and not only these things, but so many more?

In budget 2011 we did even more, as our Conservative government built on that record with even more consumer friendly proposals, such as banning unsolicited credit card cheques, moving to protect consumers of prepaid cards and beginning to implement the task force on financial literacy recommendations, starting with the creation of the financial literacy leaders here in the government. Again, why did the NDP oppose all of these pro-consumer measures?

Unfortunately, the alleged consumer measures that the NDP proposes are actually quite harmful for consumers because they are so poorly thought out. Indeed, we all remember the NDP's bizarre idea in the last election to have the politicians essentially run the credit card companies and dictate their daily operations. It was an idea so poorly thought out that even consumer groups gave the NDP idea a big thumbs-down.

Let me read directly what the Consumers' Association of Canada had to say: "I don't think it's doable. [Significantly lower rates] would mean cuts to fraud protection guarantees and...would only help about one-third of Canada's some 25 million credit card holders, because 65% of us pay our cards off every month. It's being much too overblown as a great gift to Canadian consumers, because most of us don't fall into that category anyway".

The NDP members continue to harp about protecting consumers, but they have absolutely no clue about how to protect them. Shame on them for making these false allegations and making it seem as though they would protect them, when in fact they jeopardize the safety of consumers in Canada.

Mr. Glenn Thibeault: Mr. Speaker, I find that very rich, because the Conservatives have done nothing to actually protect consumers.

They talk about the grandiose code of conduct. It is a voluntary code of conduct that does nothing to help consumers. It helps small businesses.

Small businesses are saying that right now their costs are going up because of the merchant fees. When we were talking about protecting consumers, we were including small businesses.

The Conservatives talk about the things we oppose. We oppose them because they are always supporting the big banks and the credit card companies. On this side of the House we ensure that working families, small businesses and the 99% of people who use credit cards get a fair deal. The Conservatives do not.

Mrs. Shelly Glover: Mr. Speaker, the hon. member has one thing right: we are looking to protect people. It is Canadians we are protecting.

The one thing the NDP continues to do is put our Canadian families at risk. Consumers are not worrying about this government putting them in jeopardy; they are worrying about the NDP proposals that make absolutely no sense and actually put their interests at risk.

Consumers need protection from the NDP. Every single time NDP members vote in this place to raise taxes, it would hurt Canadian families and Canadian consumers.

Unfortunately, Canadians do not want to see these politicians voting to take more money out of their pockets, which would do them harm, do this economy harm and put them in jeopardy.

We are on the right track as a Conservative government. Canadians believe in us, and we will continue on that track to protect their interests.

● (1840)

ARTS AND CULTURE

M. Tyrone Benskin (Jeanne-Le Ber, NPD): Mr. Speaker, the cultural capitals program, which is administered by Canadian Heritage and was announced in 2002, annually designates three communities of distinction in three various levels, the first level being a population of 125,000 and over, the middle being a population of between 50,000 and 125,000, and the third level being 50,000 people. This has been done since its inception and each of these levels come with funding. The first level comes with up to $2 million, the second with $750,000 and the third with $500,000.

I rise to speak to a situation that has arisen this year where a number of smaller towns, those designated under 50,000 citizens, and those between 50,000 and 125,000 citizens, have made applications, through great expense of their own, to have themselves designated as cultural capitals for the year.

This year it seems that the government has chosen to cancel or eliminate two levels and has seen fit to award only to cultural capitals in the category of 125,000 and over, those being Calgary and the Niagara region.

I have heard from two towns, Rouyn-Noranda and Saint-Eustache, asking why they were not informed or why there was no recognition of the fact that there are potential cultural capitals in this country, and I am focusing on Quebec specifically and these two capitals, that may merit the title of cultural capital for a population of 50,000 and under. However, none was designated this year and they are coming to me and asking why that is.

There seems to be a lack of clarity as to the process of the cultural capitals program. If there are three levels that are available and open for competition, why are these three levels not acknowledged? In particular, Rouyn-Noranda, which put together a very strong package, was left having spent over $20,000 to create this package and was told that the category did not exist or was led to believe that the category does not exist.

Mr. Paul Calandra (Parliamentary Secretary to the Minister of Canadian Heritage, CPC): Mr. Speaker, our government is delivering on its commitment to strengthen our communities and support arts and culture across Canada. Supporting culture means supporting Canada's economy.

In 2007, the arts and culture sector represented $46 billion in economic activity and employed more than 630,000 people. Just to put that into context, that $46 billion contribution is more than the hotel and restaurant industry and the hunting, forestry, fishing and agriculture industry.

Thanks to our government's investments, Canadians can have access to and participate in many cultural activities. We recognize that a vibrant cultural sector is important to Canada's economy and to our society.

We must make no mistake. Our government is doing what it takes to foster the growth of Canada's cultural sector in all parts of the country. We are making targeted investments to ensure Canadians have greater access to Canadian culture. Our government recognizes the important contribution that small communities make to the cultural and economic fabric of Canada and what culture does for communities economically and socially.

For example, research has clearly demonstrated that involvement in the arts helps children to develop the learning skills required in Canada's knowledge economy. Involvement in the arts also helps them to develop the social skills they need to succeed, and certain artistic disciplines lead to improved health outcomes as a result of physical activity.

For those and other reasons, our government was proud to announce the children's art credit in our last budget.

At Heritage Canada, the people pride themselves on designating national programs that are sensitive to local realities. A number of our programs are regionally delivered. Some, such as Canada arts presentation fund, Canada cultural spaces fund and museums assistance program, have rural and remote communities as a funding priority. In some cases, we provide a higher percentage of funding for rural or remote projects recognizing that cultural organizations in these areas do not have access to private sector funding available in larger urban centres.

In 2010-11, 33% of festivals and series and 28% of infrastructure projects funded through arts programs in the Department of Canadian Heritage were in rural and remote areas, and 19 of the 42 cultural capitals of Canada designations to date have been awarded to municipalities outside of major urban centres, from Nanaimo in British Columbia, to Annapolis Royal in Nova Scotia.

Our government knows that supporting Canadian culture helps support the Canadian economy and we will continue to ensure that our programs serve the needs of smaller communities.

We are doing what is right. We are making investments in arts and culture that will benefit all communities across Canada. We are doing that because that is what makes sense, not only for the artistic community but that is what makes sense for the Canadian economy.

● (1845)

Mr. Tyrone Benskin: Mr. Speaker, I am heartened that the hard work of the arts and cultural community to impress upon the government the importance of its existence has finally been taken to heart. However, it still does not answer the question as to how the cultural capitals program works. In fact, in his speech, he did not even mention the cultural capitals program.

This is a program that is supposed to help smaller communities target the arts and cultural aspects of their communities and these communities are being left out. Why are they being left out? With all the work that the hon. member says is being done, why are smaller communities being left out, with no answer as to why the two levels of the cultural capitals program were not acknowledged this year?

Mr. Paul Calandra: Mr. Speaker, in my speech I did mention that fully almost half of the cultural capitals that we designated have actually come from smaller communities.

I note that next year the cultural capitals program will be celebrating Calgary and Niagara Falls. Calgary will be celebrating the 100th anniversary of the Calgary Stampede, which is something I think all Canadians should be proud of and will be excited to celebrate. Niagara Falls will be home of the celebrations for the War of 1812.

This government has done more to support arts and culture than any government in the history of this country, and we are proud of that. We understand that the artistic community, that arts and culture are incredibly important because they create thousands of jobs and are responsible for an incredible amount of economic activity in this country. We have nothing to apologize for because we have done what is needed to invest in communities. That is why we are giving record amounts of funding.

It is unfortunate, of course, that the NDP, when it has had the opportunity to support us, to support these investments and to support the artistic community, has consistently voted against that.

I know that, going forward, we will continue to place great value on the artistic community and the jobs that it creates.

[*Translation*]

EMPLOYMENT

Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP): Mr. Speaker, I rise here this evening in the House to return to an issue I raised on November 4, 2011. I had asked the Minister of Finance about the economic situation, specifically about Statistics Canada's announcement that 72,000 full-time jobs had been lost in October, which was only slightly offset by the 18,000 new part-time jobs. Obviously, I did not get a satisfactory response from the government, which is why I am here this evening.

I would like to take this opportunity to compare the Conservatives' view of the economy with that of the NDP. The kind of responses we are getting is not surprising. Nor is it surprising that we vote the way we do on issues like the budget, for example. The budgets presented by the Conservatives go in exactly the wrong direction, as far back as their very first term.

When the Conservative government came to power in 2006, it had a surplus of $13 billion. In less than two years, that surplus became a deficit, and that was before the recession hit. I am amazed that the Conservatives like to boast about being the best government for fiscal management.

One of the main differences between the Conservative government's philosophy and that of the NDP has to do with their vision for the economy. The Conservatives planned on focusing their efforts on cutting corporate taxes to help with the economic recovery, a measure we clearly disagree with. We are not saying that tax cuts are never valuable, on the contrary. As an economist, I know that a tax cut can be worthwhile if it can benefit private companies that are short on liquid assets for investing.

According to current data, Canadian companies are sitting on nearly $500 billion in liquid assets. They are currently not investing. They must have reasons for not investing. Perhaps it is a lack of confidence or lack of opportunity, or fear of the economic situation. If these companies have $500 billion that they are not investing, then additional tax cuts worth $4 billion to $6 billion a year will only add to this mountain of liquid assets that still will not be invested.

Since the Conservative government came to power in 2006, our tax room has decreased by $25 billion. That money could have been reinvested in infrastructure programs, for instance. We know there is a major infrastructure problem in the country. Our tax room has decreased by $25 billion because of the gradual reduction in the corporate tax rate. Corporations are being given money they do not need because they are not investing.

The government boasts about creating jobs. We often hear them talk about the 600,000 additional jobs since the worst part of the recession. The government cannot take credit for creating those jobs. If it is going to take credit for creating 600,000 jobs, then it also has to take credit for losing 4,000 jobs at the beginning of the recession and for the rise in the unemployment rate from 6% in 2007 to 7% today.

For that reason, I am not satisfied with the answer and I would like to get some explanations on this from the government before I rise on my right of reply.

● (1850)

Mrs. Shelly Glover (Parliamentary Secretary to the Minister of Finance, CPC): Mr. Speaker, Canadian companies have made investments in our communities and in our country. It is really unfortunate to hear the NDP insulting these companies like this. These companies deserve the credit for creating 600,000 jobs in this country since the recession. However, the Conservative government created the environment in which they could invest and expand so that Canada's current economic growth is the envy of the world.

[*English*]

When Canadians in my riding, or that of the member opposite, elect a member to this House, they expect the member to work hard to help build Canada's economy and help create jobs. These are moms and dads in our communities who are trying to make a living. They are raising their kids. They are even trying to save a little for their retirement. They want to watch every dollar that they spend. They expect us to do the same.

They want our politicians to think very hard about the decisions that they make that effect them. They want us to bring forward positive ideas for the economy and jobs, positive ideas that will help them ensure their families are taken care of.

Unfortunately, the NDP clearly does not understand that and fails to meet that test. Instead of proposing positive ideas, the NDP constantly talks down Canada's economy. Even worse, the NDP members travel to places like the United States and other countries and talk to others, discouraging them from investing and creating jobs here in Canada. Worse yet, the NDP's only idea for the economy is to take money out of the pockets of Canadian families and Canadian businesses by imposing higher and higher taxes upon them.

[*Translation*]

While our Conservative government is focusing on creating jobs and growing the economy with its low-tax plan, the NDP is publicly calling for tax hikes, which would take a larger share of Canadians' hard-earned money. We know that the NDP wants to impose job-killing tax hikes on Canadian employers to the tune of $10 billion.

NDP members publicly attacked our Conservative government because it reduced the GST from 7% to 5%. They bemoaned the fact that Canadian families were keeping more of their own hard-earned money. In fact, the hon. member who just spoke said that cutting the GST was probably the worst measure that this government could have adopted.

The NDP plan is clear: higher taxes and irresponsible spending. Canadians and our economy cannot afford the NDP's job-killing economic plan. The NDP's high-tax plan is yet another disturbing indication that the NDP is not fit to govern.

I await the NDP member's reply.

● (1855)

Mr. Guy Caron: Mr. Speaker, I am pleased to respond to that.

First, the member's answer makes it very clear that she does not understand the difference between microeconomics and macroeconomics. She talked about businesses that are investing. We realize that some businesses invest in Canada and we encourage that. However, in terms of real investments, there is no increase in Canada overall. But we can see that cash flow in Canada is increasing. Businesses have more and more cash to invest, but they are not investing. I am not talking about every business that invests in our ridings, but in Canada as a whole. That is a major difference compared to the response she gave.

Second, I am happy that the parliamentary secretary mentioned the GST. I am not the only one; most credible Canadian economists have criticized this tax measure as being the worst thing the government could have done. That is one of the main ways the government took the country from a $13 billion surplus to a deficit in less than two years.

This response and these comments clearly show that the Conservatives have no real interest in helping the whole country economically and that they have much more interest in promoting their own policy, which is based more on ideology than on clearly demonstrated economic credibility.

[*English*]

Mrs. Shelly Glover: Mr. Speaker, it is surprising to hear the member refer to economists because they have clearly said time and time again that this Conservative government is on the right track with the low tax agenda that we have put in place. Economists agree that the plan and the track this Conservative government is on is the right plan for Canada.

In fact, we are the envy of the world. *Forbes* magazine has said we are the place to do business over the next five years. Compared to all other countries in the world, we are in fact the place to do business.

I want to reiterate that this government is focused on a low tax plan, a pro-trade plan, which we know the anti-trade NDP members are completely against. We know how they travelled to the United States to try to effect an anti-trade agenda.

I am so disappointed to hear this member talk as if anything that the NDP has suggested would help Canadian families. In essence, the plans that have been proposed will, in fact, damage our economy, damage Canadian families, and damage our country for years to come.

[*Translation*]

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 10 a.m., pursuant to Standing Order 24(1).

(The House adjourned at 6:59 p.m.)

CONTENTS

Thursday, December 1, 2011

ROUTINE PROCEEDINGS

GOVERNMENT ORDERS

STATEMENTS BY MEMBERS

ORAL QUESTIONS

Published under the authority of the Speaker of the House of Commons

SPEAKER'S PERMISSION

Additional copies may be obtained from: Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5
Telephone: 613-941-5995 or 1-800-635-7943
Fax: 613-954-5779 or 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Also available on the Parliament of Canada Web Site at the following address: http://www.parl.gc.ca

Publié en conformité de l'autorité du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

On peut obtenir des copies supplémentaires en écrivant à : Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5
Téléphone : 613-941-5995 ou 1-800-635-7943
Télécopieur : 613-954-5779 ou 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante : http://www.parl.gc.ca