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Chair

Mr. Dave MacKenzie

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● (1135)

[*English*]

The Chair (Mr. Dave MacKenzie (Oxford, CPC)): We'll call the meeting to order. We're a little late because there was a vote in the House.

It is meeting 18 of the Standing Committee on Justice and Human Rights, and joining us today is the Honourable Rob Nicholson, Minister of Justice. Mr. Nicholson has a couple of people from his office: Ms. Kane and Ms. Klineberg. We'd like to welcome you.

My understanding, Minister, is that you can't be here any longer than 12:30 because of other appointments.

Hon. Rob Nicholson (Minister of Justice): Exactly, Mr. Chairman.

The Chair: We understand that. If you have an opening you wish to address the committee with, Minister, please go ahead.

Hon. Rob Nicholson: By all means, and thank you, Mr. Chairman.

I'm pleased to appear before this committee to present the citizen's arrest and self-defence act. This legislation aims to do three things: number one, it aims to expand the time in which a citizen may arrest another citizen for an offence or in relation to property; number two, it aims to replace the existing laws on self-defence with a new and simplified defence; and number three, similarly, it aims to replace the existing laws on defence of property with a new and simplified defence.

[*Translation*]

The members of the committee are no doubt aware of recent very public events involving citizens who resorted to using force against persons they suspected had stolen or damaged their property.

[*English*]

In addition to raising concerns about the limits of the power of citizen's arrest, these cases have also generated confusion about the relationship between citizen's arrest and defence of property, which itself is closely associated with the defence of self-defence.

These three mechanisms share common elements and arise in similar fact situations, which is why our government is presenting all three in Bill C-26. They typically come before the courts as defences when a person has done something that would otherwise be an offence, which they did for the purpose of apprehending a suspect or defending property or a person. Each provision reflects a different purpose for acting in emergency situations.

The bill's proposal to change the law on citizen's arrest is straightforward. Subsection 494(2) currently permits a property owner or a person in lawful possession of property to arrest a person they find in the act of committing an offence on or in relation to that property. Currently this provision does not allow for the arrest of a suspect even a short period of time after they were detected committing the crime.

This bill will allow more flexibility in the timing of an arrest. Specifically, it would amend subsection 494(2) to allow a person to arrest another within a reasonable time of finding the suspect committing the offence.

Some stakeholders may express concerns about the risks associated with permitting more arrests by citizens and the possible encouragement of vigilantes. I agree that, wherever possible, arrests should be undertaken by trained law enforcement officers, but we know this may not always be possible. I'm confident that the expansion of the citizen's arrest powers will not lead to vigilantism. Indeed the approach of Bill C-26 sets out a reasonable compromise. It extends the period of time for a citizen's arrest, but any delay must be reasonable. This power is itself limited to the narrow set of cases involving crimes of or in relation to property.

In addition, before making use of the extended time period, the arresting person must believe on reasonable grounds that it's not feasible in the circumstances for a peace officer to make the arrest. The existing law also requires the arresting person to turn over the suspect to police as soon as possible. These safeguards will help ensure that individuals who make a citizen's arrest are involved in law enforcement only to the degree necessary, and that the police maintain their primary law enforcement function. Arrests are dangerous and unpredictable, and our government will continue to urge Canadians to leave this job to professionals wherever possible, and in every case to exercise extreme caution.

In terms of the defences of property and person, the bill replaces the current multitude of provisions, which are largely unchanged from the original text enacted in 1892, and actually they had a pretty extensive history for 1892. These are basically the provisions that were contained in the laws of Upper Canada in or about 1840.

We have replaced those provisions with a simple, easy-to-apply rule for each defence. For decades criminal practitioners, the Canadian Bar Association, the Supreme Court of Canada, academics, and many others have criticized the law of self-defence primarily, but also the law of defence of property, as being written in an unnecessarily complex and confusing way.

The complexity of the law is not without serious consequence. It can lead to charging decisions that fail to take into account the merits of the defences in particular situations. It can confuse juries, and it can give rise to unnecessary grounds of appeal, which cost the justice system valuable time and resources. The law should be clear and clearly understood by the public, the police, prosecutors, and the court.

● (1140)

[*Translation*]

Bill C-26 meets those objectives. It makes the act more specific and simplifies it without sacrificing existing legal protections.

[*English*]

The basic elements of both defences are the same and can be easily stated. Whether a person is defending themselves or another person, or defending property in their possession, the general rule will be that they can undertake any acts for the purposes of protecting or defending property or a person as long as they reasonably perceive a threat, and their acts, including their use of force, are reasonable in the circumstances.

There are some special features of each defence that I would like to briefly mention. In respect of self-defence, an additional feature proposed in this bill is a non-exhaustive list of factors to help guide the determination of whether acts taken for a defensive purpose are reasonable. Clearly, what is reasonable depends upon the circumstances of each individual case; however, a number of factors commonly arise in self-defence cases and are familiar to the courts.

For instance, relevant considerations include whether either or both parties had a weapon and whether there was a pre-existing relationship between the parties, in particular one that included violence. Proportionality between the threat and the response is also highly relevant. The greater the threat one faces, the greater the actions one can take to defend against that threat.

The list can be employed to facilitate and improve charging and prosecution decisions. In court, the list will no doubt be a useful reference for the judge to use in instructing the jury. A list such as this also indicates to the courts that existing jurisprudence on these issues should continue to apply. We don't have to start from scratch.

The right to defend oneself from threats is fundamental. It's therefore tremendously important that we get it right and that we provide guidance as we shift from a highly detailed set of laws to a defence based on more general elements.

Now, with respect to the defence of property, the defence of property has as its core the same basic elements as self-defence, namely, a reasonable perception of a threat, a defensive purpose, and actions that are reasonable in the circumstances. However, the defence of property is necessarily more complex than self-defence.

There are many different types of property claims and interests, most of which are governed by provincial laws. Property concepts are implicated in the defence. The idea of peaceable possession of property is an additional condition for accessing the defence of property.

This term is used in the current law and has been interpreted by the courts to mean possession that is not subject to a serious challenge or that is not likely to lead to violence: for example, a thief who stole property and is not in peaceable possession of that property and cannot legally use force to defend his possession. It makes sense.

The criminal law prioritizes the preservation of the public peace and the status quo. The law protects possession, not ownership. Ownership disputes must be resolved by the civil courts, not through criminal action. The law permits what would otherwise be a crime to defend against emergency threats that risk permanent loss of or destruction to property.

As a final note, I draw your attention to the fact that both defences contain a special rule in relation to their use by someone who claims to be defending against law enforcement actions, such as an arrest or the seizure of property pursuant to a warrant. The rule is this: unless the person reasonably believes that the peace officer is acting unlawfully in discharging their duties, defensive force may not be used in this context.

Bill C-26 is consistent with the current law in these situations, but hopefully—as I believe it does—expresses the law more clearly. I encourage the members to support this legislative package, which aims to allow citizens more latitude in arresting individuals they have seen commit an offence on or in relation to property and to bring our laws of self-defence and defence of property from the 19th century into the 21st century.

Thank you.

● (1145)

The Chair: Thank you, Minister.

Now we begin the rounds of questions with Mr. Harris. These rounds are five minutes long for both the questions and the answers.

Go ahead, Mr. Harris.

Mr. Jack Harris (St. John's East, NDP): Thank you, Chair.

Thank you, Mr. Minister, for joining us today. We welcome the attempt to clarify the law of self-defence. I call it that because I guess our job is to have a good look at it and try to ensure that it does result in clarification, not in another series of decades or whatever of court interpretation.

On that score, in setting forth the examples, such as, for example, the factors in proposed subsection 34(2)—it's a non-exhaustive list of factors, as you pointed out—to be considered, are you satisfied that the current case law as it has existed over the last hundred years will still be useful and valid in helping to determine what's reasonable in terms of self-defence and that in fact all this is doing is clarifying the application of that?

Hon. Rob Nicholson: I think that's exactly what it does. You've made a very good point. You know, what is reasonable has been before our courts for quite some time, and that jurisprudence will continue to be of assistance. But as you point out, even with the non-exhaustive list contained within this bill, this is something that is, in my opinion, long overdue.

I've heard from law enforcement agencies that when they deal with these sections...and it doesn't matter whether you're a lawyer, a member of the public, or the courts; I've heard law enforcement agencies point out that they're very complicated, these defences.

I remember a comment from one individual who said that we were better off just letting the courts figure this out. I said, well, no, this is not what we want to do; if it's not necessary or not appropriate to lay a charge, we don't want to have that happen. It's not something where we just throw it to the courts and let them figure out these provisions, which have been largely unchanged for the last 172 years.

Like so many different sections of the Criminal Code, I think it's appropriate for us to have a look at this and try to clarify it, but with, as you say, the benefit of decades of jurisprudence as to what's reasonable and what's not reasonable.

Mr. Jack Harris: One of the things these proposed amendments do is not make what the current code makes: a distinction between the amount of force allowed to be used to protect a dwelling-house, a home, or real property, and greater force is permitted there than to defend a movable property. That distinction is removed.

Hon. Rob Nicholson: Yes.

Mr. Jack Harris: Do you think there will still be a distinction in terms of the level of interpretation with regard to what you can or can't do when you're trying to stop someone from grabbing your purse as opposed to having someone invade your house?

Hon. Rob Nicholson: I think it clarifies the law to the extent that some of those distinctions on legal ownership, and exactly what type of property, which is all through the existing law that we have there.... It's basically clarifying it so that if you're....

It's not just a question of defining whether a mobile home is a home, for instance, or whether that's the same thing as real property and all that. As I say, I think many of those distinctions were unhelpful in terms of trying to figure out whether these sections apply and whether a person has acted reasonably under the circumstances.

So a more general application, I think, is appropriate rather than getting into all the possible distinctions of property ownership that are possible under our law.

● (1150)

Mr. Jack Harris: Finally, we might have to explore this later, but was consideration given, in looking at the changes to the self-defence provisions in particular, to the series of some pretty high-profile cases where spouses, the victims of spousal abuse, have in fact killed their spouses and raised self-defence as an issue? As you know, these are complicated and sometimes controversial cases. Was special consideration given to ensuring that the changes in the law would still give rise to the defence of self-defence, as it has been determined by the courts right now?

Hon. Rob Nicholson: I think you've raised a very good point.

That is certainly one of the valid considerations in putting this together. You'll notice that in that non-exhaustive list, the past history of the relationship between the individuals....

So in the cases of the type that you're talking about, where, for instance, an individual has been a previous recipient of violence from the individual who is approaching him or her, that's another consideration to be taken into the courts in terms of the level of reasonableness.

Again, it's not just a coincidence that this particular provision is put in there. It's a non-exhaustive list, but we wanted to make it clear that the previous relationship that, as you point out, in some circumstances involved violence...and threats are part of that as well, for consideration.

So it's a good point.

Mr. Jack Harris: Thank you.

The Chair: Mr. Goguen.

[*Translation*]

Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC): I want to thank Minister Nicholson and the two witnesses, Ms. Klineberg and Ms. Kane, for having come to testify before us today. I am sure that your clarifications will make the bill more comprehensible.

[*English*]

Minister, we certainly acknowledge that the police are the principal source of protection against crime amongst the public, and clearly Bill C-26 does not alter that.

I'm wondering if you could provide us with your thoughts on this. Some people have argued that perhaps the changes brought by Bill C-26 might encourage an atmosphere of vigilantism.

Hon. Rob Nicholson: I don't think so. Again, if you look carefully at the section on citizen's arrest, as I am sure you are doing and will continue to do, we indicate that the person who has actually witnessed this—they haven't got it second- or third-hand that a crime had been committed and then they're getting involved with citizen's arrest—must be present to see the crime, but within a reasonable period of time after that they apprehend the individual.

I think it was fairly carefully crafted in that regard. I would be concerned that if a person believed that somebody had committed a crime at any time or anywhere and hadn't actually witnessed it themselves, it might lead to the situation you describe.

Again, it's very careful. I don't expect any increase of “vigilantism” as a result of this. As I say, it's carefully crafted, but it expands the ability of an individual who has been victimized or has witnessed a crime of this type to be able to do something about it.

But again, as you know, and that's part of the provision as well, you are to turn this individual over to a law enforcement agency as soon as possible. I think that's appropriate. This is what we want.

Mr. Robert Goguen: And obviously those who feel they should express some vigilantism will be subject to the full expression of the laws against them.

Hon. Rob Nicholson: Again, vigilantism is not something we've ever encouraged in this country, and certainly this bill doesn't do that either.

Mr. Robert Goguen: I'm wondering briefly about the issue of reasonable force. The defence of property does not explicitly spell out what limits should be placed on reasonable force. Obviously this can extend all the way to lethal force. How can we determine exactly what is reasonable in the circumstances?

Hon. Rob Nicholson: As you know—you've practised law in this country—that term "reasonable" shows up inside and outside of our laws. It's certainly a major component of the common law of this country: what is reasonable under the circumstances.

Again, those tests that have been applied in our courts for a couple of centuries now will be continued. They will look at each case to see what is reasonable under the circumstances. I'm just pleased that we've finally updated the laws to make it a little more comprehensible. Again, we don't just do these things for lawyers or the courts; we do them for the people who have to administer these laws.

As I say, when I get together with people in law enforcement, and many times this isn't the first topic they talk to me about—I might have been there for something else—they raise this and say this is overly complicated and difficult. Even as a lawyer you could look at all those different sections and say this isn't easy. As I say, I think it's in part a function of when it was originally drafted.

● (1155)

Mr. Robert Goguen: I'm wondering about the issue of lethal force. Certainly one could contemplate that perhaps lethal force in defence of oneself or others might be contemplated, but do you draw a line between the use of lethal force for self-defence versus the defence of property? Does that strike any difference, in your mind?

Hon. Rob Nicholson: Well, we do. We do make a distinction. This is why we don't just combine this into one section. As you see, there is the section on self-defence, which is something different from the defence of property.

Again, what is reasonable under each circumstance can be different, and you've given me that opportunity to say that. There was no consideration in drafting this that we would put both of these together and just say what's reasonable. There has to be a distinction between whether you are protecting yourself or your loved ones from injury or harm and the defence of property. And that continues in this legislation.

The Chair: Thank you, Mr. Goguen.

Ms. Sgro.

Hon. Judy Sgro (York West, Lib.): Thank you very much, Mr. Nicholson.

A couple of years ago I had a constituent call me. Someone broke into his home and he attacked the individual in self-defence—defending his home and his family. His wife called 911, but consequently he was charged as well as the intruder into the house.

Under Bill C-26, how is that going to make it—

Hon. Rob Nicholson: I'm sorry, in your fact situation, he wasn't—

Hon. Judy Sgro: He was defending his own house and his property, which is much of what Bill C-26 is talking about.

Hon. Rob Nicholson: Yes, of course.

Hon. Judy Sgro: Ultimately he had to hire a lawyer and go through the process when he was defending his home and family.

Under Bill C-26, how is that going to be different?

Hon. Rob Nicholson: I never comment directly on any particular case that's before the courts, or any fact situation. I'm satisfied that this law will clarify the circumstances under which an individual is entitled to defend their property.

Distinctions as to either ownership or how much possession you had unnecessarily complicated the defences of self-defence and the defence of property. So for me this was an easy sell when I was shown this and how it was difficult. I quoted you the one law enforcement agency that said let the courts figure it out. As far as the individual who should not be charged, and the individual who acted reasonably to protect themselves, their house, or their family, we don't want them in court in the first place. This only adds to the clogging of our courts. It's an additional expense to litigate these matters. We don't want to go there if the person has acted reasonably.

I'm satisfied that the clarifications of this law will address fact situations similar to the types you're giving to me, without commenting on any specific case.

Hon. Judy Sgro: Thank you.

Under the new section 34, the distinction between provocation and intention to use deadly force will not be as explicit. How will that have an effect on the battered woman syndrome? Will it still be open to accused persons?

Hon. Rob Nicholson: I would point out that if there's provocation or something, that's completely different.

I might ask Joanne Klineberg, who is an expert on the law in this area, to comment.

Ms. Joanne Klineberg (Senior Counsel, Criminal Law Policy Section, Department of Justice): I believe the section you're referring to sets out what provocation may look like for the purpose of self-defence. That would not be part of the new law on self-defence. That's actually a provision that's invoked very infrequently. I'm not aware of any cases where it has actually been an issue in a battered spouse type of situation. So its removal certainly wouldn't have any impact on that particular situation.

The presence of that provision really only serves one function, which is to determine whether self-defence would be available under section 34 or section 35. By collapsing all of the multiple self-defence provisions into one single, more generally applicable provision, there really is no need to have anything that defines what provocation would be. It simply would become a factor to consider in determining the defence overall, but it wouldn't be determinative of anything.

● (1200)

Hon. Judy Sgro: Why is gender referred to in this legislation when it isn't referred to in the Criminal Code anywhere else?

Hon. Rob Nicholson: Again, size, gender, age—all these things play into whether a person might have acted reasonably. You could have an individual who was six-foot-six and 250 pounds and another person who was five-foot-one and 110 pounds. These are the kinds of things you want them to take into consideration, in terms of who has acted reasonably and who has used a reasonable amount of force. Those are just a number of factors to take into consideration.

Hon. Judy Sgro: Thanks very much.

The Chair: Thank you.

Ms. Boivin.

[*Translation*]

Ms. Françoise Boivin (Gatineau, NDP): Thank you, Mr. Chairman.

This is always a very interesting aspect. I remember that in my criminal law classes my fellow law students found this one of the most interesting topics, because there is a large measure of subjectivity and objectivity in this. So finding the proper equilibrium in all of that is not always an easy task.

My colleagues have already broached the points I wanted to raise, but I would simply like you to reassure me. When you developed the new criteria in clause 34.1, was this after studying all of the criteria that had already been established in jurisprudence?

My concern is the following. When defence attorneys look at the changes to the legislation, they will certainly examine jurisprudence and the criteria and grounds that have been invoked to claim self-defence. In fact, that is based to some extent on existing caselaw. Can we be reasonably certain that all of this was looked at, so that we do not wind up with costs, so that people don't say that this was already pleaded successfully and that the legislator did not include it again?

Would that be an indication that those are not grounds to be considered? Do you understand what I am trying to say? Did you look at all of the criteria? That does not mean that the list is exhaustive, because there could be others in years to come, but I am referring to what existed before and to current jurisprudence.

[*English*]

Hon. Rob Nicholson: I think you've made a very good point. It is not intended to supplant existing jurisdiction, and I think you're quite correct. What is reasonable under the circumstances will continue to be argued, and past cases would be a good indication of just what is reasonable or not reasonable under the circumstances.

You point out something else as well. We deliberately put the list to be non-exhaustive because, as you say, you want the law to develop. There may be other criteria or situations here that we're not aware of or that may develop in the future. We don't want to close it off and say you didn't come within section 2 through 8, so therefore you're out of luck in trying to use this self-defence provision.

The list is a non-exhaustive list, but again this is not intended to supplant existing jurisdiction. You're quite correct. We don't want to be clogging up the courts and taking the time to go over areas that have already been decided, that have already been adjudicated. Much of what we are doing in this law is just clarifying so that it's not overly complicated for any individual or person or agency or court to figure out just what we're talking about when we're talking about the defence of a person or a property.

[*Translation*]

Ms. Françoise Boivin: Very well.

One clause in particular concerns me. Vigilante groups always worry me a bit. It is always worrying when you see people taking justice into their own hands, with the dramatic consequences that that can have.

I also have another concern. Subsection 3(1) contains the following words: “or a person authorized by the owner”. I wonder who they are referring to in that passage.

According to me, the term “person authorized by the owner” and the fact that this can be done in a reasonable period of time is a problem. In fact, don't you think that the expression “within a reasonable time after the offence” is a rather vague expression? I am having trouble understanding this. Once again, the vaguer the text, the greater the leeway the defence will have to invoke all sorts of arguments.

I would like some reassurance in this regard.

● (1205)

[*English*]

Hon. Rob Nicholson: You'll notice that with respect to the citizen's arrest we provide a little more clarification and an expansion of the category of individuals who may conduct a citizen's arrest. Obviously, the first person you think of is the owner or the person in lawful possession, but, for instance, a business may have employed private security, so they're in lawful possession. They are there, and we don't want to exclude an individual like that, who sees somebody committing a crime and they initiate the arrest. It's not just a question of the person owning their property; it's a person who is authorized by the owner or the person in possession of the property.

Ms. Françoise Boivin: So it could be an employee of a *dépanneur* or something like that?

Hon. Rob Nicholson: Exactly, but in terms of your comments about vigilantism, you'll see that we don't go the next step and say that anybody who believes that somebody has committed a crime anywhere can then exercise the citizen's arrest. We're not saying that. We're saying if you come within that category as we've described, if you see somebody, if you become aware of somebody committing that crime, then you can, within that reasonable period of time.... That includes the case whereby if you saw somebody committing a crime and then you ran into that person an hour or two later. It seems to me that's within a reasonable time.

You'll notice that we can include those provisions where it is unreasonable to get a peace officer to effect the arrest. That has to be a part of it, and we don't want you imprisoning this individual. We want you to turn over this individual to law enforcement agencies as soon as reasonable.

The Chair: Thank you, Minister.

Ms. Findlay.

Ms. Kerry-Lynne D. Findlay (Delta—Richmond East, CPC): Thank you, and thank you for being here, Minister Nicholson, Ms. Klineberg, and Ms. Kane to assist us this morning.

As you outlined, Minister, in your earlier remarks, Bill C-26 makes it a requirement that the arrester finds someone committing an offence, and that arrest has to be effective at the time of the offence, and also that an arrest occur within a reasonable time.

I'm curious as to your comments as to why our government decided not to adopt the opposition party's proposed private member's bill's test of reasonable grounds to believe that an offence has been committed.

Hon. Rob Nicholson: There were a couple of versions that were introduced in the previous parliament with respect to citizen's arrest, and we had a close look at all of them when we developed the government's legislation.

It seems to me that we are better off confining it to individuals who are witnesses to the offence themselves. Just since I've been here this morning, on at least two different occasions from two speakers, I've had the question of vigilantism. Nobody wants Canada to go down that road. We have confidence in law enforcement agencies in this country. We want to work with them, but we know that an arrest by somebody in law enforcement may not always be feasible, may not be able to be timely, so we want to have these provisions.

To have a situation where anybody at any time would be able to arrest an individual because they reasonably believe an offence had been committed somewhere at some time I think would be a huge expansion of the citizen's arrest provisions. I don't think that is justified. To have it more focused on situations that do arise where people see somebody committing a crime I think is the best compromise.

We looked at all these issues, but it was time to have a look at citizen's arrest, and to change those provisions so that if you caught somebody out in the alley three hours later, there's no question about that. Again, if you're acting reasonably, if you witnessed the crime and it's within a reasonable period of time—you have that and other qualifications—as I say, I think that is a good fit for this.

We weren't trying to expand this into some other area that I think would be quite foreign to the people of this country.

● (1210)

Ms. Kerry-Lynne D. Findlay: I was also wondering if you believe this legislation would prevent incidents like the 2009 arrest of Mr. David Chen for kidnapping after he detained a shoplifting suspect. I know he received an acquittal ultimately, but my understanding is that one of the issues that figured in Mr. Chen's case was the period of time between the commission of the offence and the arrest, and that resulted in the kidnapping charge.

Hon. Rob Nicholson: I don't get into the particulars of any exact case. I have heard, though, from law enforcement agencies that they find the whole area very complicated and not as helpful, quite frankly, as it should be.

You will note, though, in the legislation that we have, first of all, corrected the problem with respect to the timeliness of the arrest by putting in the reasonable period of time. But you will notice as well that there are provisions within here that you have to only exercise this right when it is unreasonable or unfeasible to have somebody in the law enforcement community do this. This is so we don't have people doing this themselves unless it's necessary, because these are inherently dangerous situations here, and we don't want people to unnecessarily hurt themselves and get involved with something much more serious than what they are trying to correct.

I think that is a reasonable provision to put into the Criminal Code, as is the provision that you must, within a reasonable period of time, turn that individual over to law enforcement agencies. We don't want to have a situation where people have some sort of a right to detain someone or imprison someone. That's not the role of an individual citizen. After they have effected a citizen's arrest, it's to turn that individual over to law enforcement agencies as quickly as possible, and that is what is preserved and made explicit in this piece of legislation.

The Chair: Thank you.

Mr. Jacob.

[*Translation*]

Mr. Pierre Jacob (Brome—Missisquoi, NDP): Good afternoon, Minister.

I have some questions for you on the consequences Bill C-26 is going to have on the work of private security agencies.

First, will the changes proposed in this bill affect the work of security agents? And moreover, by broadening the provisions governing citizens' arrests, are we not opening the door to possible abuse on the part of security agents? Finally, should there not be more restrictive regulations governing security agents in order to limit their powers, so as to distinguish between ordinary citizens and merchants?

[*English*]

Hon. Rob Nicholson: Thank you for that question, Monsieur Jacob.

You'll notice, in our definition of who can exercise these responsibilities or who can act on these occasions that are presented to them, that we've clarified the laws with respect to that individual: it's not just the owner of the property, or people who have a certain right or a title. We've made it clear that the person could be authorized by the owner or by the people in possession of the business or the property, and that certainly would include private security agents. If you ask them, I think you will find that they are quite satisfied with that. I would even go so far as to say they would be pleased by the fact that they will come within the definition for this particular piece of legislation, so that the person who has been given this legal responsibility to protect the property can exercise the same rights as the owner would.

I think you'll find those provisions within the act, as you'll see in proposed subsection 494(2): “The owner or a person in lawful possession of property, or a person authorized by the owner or by a person in lawful possession of property, may arrest”, etc. Again, I think what you'll find is that people who are in that business will favourably look at this and say, “Look, this actually clarifies what can or what can't be done, and it obviously includes us.”

I wouldn't want to be any more specific, or start identifying who will come within the definition of this—for example, a private security firm—because once you particularize those definitions, you'll end up finding somebody else who isn't included in the definition, although they are a reasonable person to assume that role under the circumstances. This is why, in my answers to Madame Boivin's questions, I said it is a non-exhaustive list that we have here in the front part of the bill, and there's a reason for that: if other situations develop in the future, we don't want to say, “Oh, now we have this gap in the Criminal Code where it's not covered.” When we draft these, we try to draft them not only for whatever situations and challenges we are facing today, but also in such a way that they will encompass future incidents that are similar to the types that we are addressing today.

● (1215)

[*Translation*]

Mr. Pierre Jacob: Thank you, Minister.

How much time do I have left, Mr. Chairman? I still have a minute, that is good.

Subsection 494(3) of the Criminal Code requires that a person who has arrested an individual deliver him straightaway into the hands of a law enforcement officer. I would like to know precisely what timeframes are involved. Outside of large urban areas, where there are fewer police, would someone be given more time to hand over an individual to a law enforcement officer? By not setting a time limit for the person to hand over the individual to a law enforcement officer, are we not running the risk of encouraging people to take justice into their own hands?

[*English*]

Hon. Rob Nicholson: I think there is a danger if we become too specific.

If we're talking about downtown Toronto, most of us would probably agree that it would be unreasonable if you didn't turn an individual over for 24 hours. You could be in parts of this country where it's not feasible to have a law enforcement agent there, that 24 hours may not be enough time to get someone—a member of the RCMP or whoever is involved with law enforcement. We deliberately don't specify that. We don't create rules that would be applicable in Toronto but would be unreasonable somewhere else in the country, or have a test that works very well, for instance, in Canada's north, where someone from law enforcement may not be readily accessible, and then say, “Oh, that would be reasonable in downtown Toronto.” No, we don't do that. I think we're better off leaving it and saying, okay, what is reasonable under the circumstances.

To use another example, if you arrest somebody here in the city of Ottawa, it would be very difficult for you to try to make the case that you didn't turn the guy over to the police for three days. My guess is that the courts would say that's not reasonable; that doesn't come within the definition. But you could be in a remote community in Nunavut and say, “Look, we couldn't get anybody in here. It was unfeasible to have somebody from law enforcement here within 24 hours or 48 hours.” I think a court would then say, “Yes, that is reasonable under the circumstances.”

We want to make the point, and the case here, that whatever that reasonable test is, we want you to turn this individual over to a law enforcement agency. We are not in the business of having people imprisoning Canadians on their own initiative and detaining them. If you've witnessed a crime and arrested an individual, now turn him or her over, and do it as quickly as possible.

The Chair: Thank you, Minister.

Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you, Mr. Chair.

Thank you, Minister, for appearing today.

My interest is also in the situation of reasonableness and reasoned force in the circumstances. I know that the use of force to protect property in one's possession is the current wording, but would a person be able to undertake self-defence by using a firearm? I know in the past, in some cases in Alberta, people have continuously come on property, and stolen personal property, and people have used firearms, shot in the air or shot around the people.

Would that be a reasonable use of defence in the circumstances?

Hon. Rob Nicholson: I think it is.

Every case is decided on its own, but the individual who has people, for instance, coming on to their property, stealing, destroying, or trying to take possession of their property...the individual who shows a firearm—again, it's what is reasonable under the circumstances. If somebody is trying to steal your notebook, you don't have a right to shoot that person, because that is obviously and patently unreasonable.

I get asked this on a regular basis: what is reasonable? What was the test? Was it the man on the Clatenham bus or something, whatever he thought was reasonable would be the test? We have to apply those tests. In answer to Mr. Jacob, I pointed out that most of us could figure out what's reasonable. What's reasonable in a remote community in Nunavut in terms of turning that individual...is not the same test for reasonableness if you were in downtown Ottawa.

Again, it's the appropriate language that has served us very well, and it turns on the facts of every situation.

● (1220)

Mr. Brian Jean: In fact, wouldn't it be fair to say that much of the Criminal Code and the tests used have not been changed since 1892? In fact, the test of reasonableness and a reasonable person actually changes based upon society.

Hon. Rob Nicholson: You've made a very good point.

If you were doing your thesis on the whole question of the tests of reasonableness, the jurisprudence has helped define that. What was reasonable in 1840 in Upper Canada, when these provisions were written, would be much different from tests today as to what is reasonable, but nonetheless, the reasonableness test has worked.

You're quite correct. With respect to the Criminal Code, we have an obligation to continuously have a look at it, to make sure it reflects societal needs.

I made the point here when I was here on auto theft. It was pointed out to me by the Attorney General of Manitoba that there were specific provisions for stealing a cow, but no specific provisions for stealing a car. I remember at the time I said I promised we were going to change that—not the part about stealing the cow, that's still an offence—but it's reasonable to have sections with respect to auto theft because, again, that reflects what's happening in society. Just because there were no cars when the Criminal Code was enacted in the 1890s doesn't mean that it's not a serious matter for us today, and that's why we continuously try to have a look at these, and part of what we're doing is updating the laws with respect to defence of property and self-defence.

Mr. Brian Jean: I understand in some states it was actually a hanging offence to steal a horse, but I won't go into that.

I'm sure it's not any more in Canada. In fact, I know it's not.

I'm wondering about another situation that arises from time to time, which is obviously the situation that needs to be discussed by judicial means in deciding cases. Often people's homes will be continuously broken into. From time to time, people have set traps in their homes near windows or doors, and those traps sometimes have a fatal conclusion or sometimes maim a person.

Would that be considered something of reasonableness?

Hon. Rob Nicholson: It reminds me of being back in law school. There was a case about the individual who dug a pit because people had been trespassing on his property, and the next person dropped 25 feet down into some sort of a pit.

That wasn't reasonable when I was back in law school three decades ago and it's still not reasonable today.

The test of what is reasonable under the circumstances, as you quite correctly pointed out, has changed over the years, but it's what most people feel would be appropriate.

Many of us have alarm systems in our homes, and we try to take precautions, but having booby traps that could maim somebody...I think most people would conclude that's not reasonable under the circumstance. You might have somebody delivering pamphlets that you didn't want to see. We can't have that kind of situation.

Did you want to add something, Ms. Klineberg?

Ms. Joanne Klineberg: I would just add that there is actually an offence in the Criminal Code for trap setting where there is the likelihood of causing bodily harm. Typically, the traps will be set in advance of there being a particular threat. So they wouldn't be temporarily connected enough with the threat that could justify the use of force in self-defence.

The Chair: Thank you.

Madam Borg.

[*Translation*]

Ms. Charmaine Borg (Terrebonne—Blainville, NDP): Thank you, Mr. Chair.

The new legislation allows the court to consult a list of factors. Can you tell me what the rationale was behind the decision to have people consult the list, or not? Why would it become mandatory?

● (1225)

[*English*]

Hon. Rob Nicholson: These are somewhat flexible, as I said in my answer to some of the questions. We didn't want to confine the list and say that's it, this is the list, because the first argument would be, of course, if someone is charged, that they didn't come within the definition of paragraph 34(1)(h) and therefore this defence is not open to them. It may be circumstances that haven't been contemplated yet in jurisprudence or situations that may develop in the future that put it into a slightly different context.

We deal with this all the time. For instance, if you look at the Criminal Code, it refers to telephones. As you know, that's not the only way of communicating anymore. If you sat down 45 years ago, basically that was it—and telegrams and all that. We know that people don't send telegrams to each other anymore, that there are hundreds of ways of communicating, and not necessarily by telephone.

I think we're better off if we write the Criminal Code in a way that doesn't confine it to what is reasonable or what may take place in the future. You'd probably agree with me if on this list there were other legitimate reasons why an individual was using force to protect themselves. You'd say that it's reasonable, but we wouldn't want to get caught by the fact that they only proposed a closed list back in 2012 when they wrote this particular section of the Criminal Code.

[*Translation*]

Ms. Charmaine Borg: Since we are going to allow citizens to perform arrests if they have reasonable grounds to believe that a crime has been committed, are we not opening the door to profiling? For instance, in the case of someone who looks like a criminal and wears his jeans a certain way, would we not be encouraging profiling?

[*English*]

Hon. Rob Nicholson: No, and this is why these have to be very careful. You don't want to be stereotyping, and you don't want to be subjecting people's opinions to prejudices and that sort of thing. So no, I don't think that would be appropriate. One of the provisions, as you'll notice, in there on self-defence is the previous relationship. If an individual knows this individual to be violent, or they've been the subject of the violence themselves, that adds to the reasonableness of them taking steps to protect themselves from an individual such as that.

So it is a non-exhaustive list, but no, we can't and should never get into the idea of profiling people strictly on the basis of some prejudice that an individual may have. We don't want to go there, and this is why the bill is carefully drafted. It may be more reasonable for you to take steps if you have been a victim of violence from this individual, but again, in the absence of something like that, we have to be very careful. We can't legislate people's ability to claim a protection either because of their stereotypes or their prejudices against any particular individual or group.

The Chair: We've come to the end.

Thank you, Minister. I think we're just about dead on with the time that we had available. My understanding is the two officials will be able to stay with us for a bit longer, and there may be some questions. So although you'll leave, I think we'll have adequate answers here for any other questions we may have.

Mr. Rathgeber, the two officials are going to stay with us, and as soon as they're ready, if you have any questions for the them, please go ahead. You have five minutes.

● (1230)

Mr. Brent Rathgeber (Edmonton—St. Albert, CPC): Thank you, Mr. Chair, and my thanks to the officials from the Department of Justice for their expertise with respect to this important matter.

Following up on some questions that Mr. Jean asked with respect to how broad a net Bill C-26 will cast in providing defences, I'm curious to hear your thoughts. In the existing law, as I understand it, self-defence is limited to justified acts of force. But if I could have you think outside the box, one could imagine a situation where an individual might have to take evasive action to avoid an attack, and in the course of that evasive action this individual might steal a car. That act would normally be illegal, but the person might have to do it in self-defence. I'm curious what your thoughts might be on the applicability of Bill C-26 in that type of situation.

Ms. Joanne Klineberg: That is actually one of the ways in which the language on that particular issue will be changed by Bill C-26. The multitude of provisions now in effect limit the responsive actions of an accused to the necessary use of force, that is, no more force than necessary. But it is all premised on the use of force. One of the things that Bill C-26 does is recognize that there might be other evasive actions that a person would take in a threatening circumstance. Those actions could potentially be criminal in ways that don't involve the application of force on another person. The wording in Bill C-26 does talk about whether the act that is committed is reasonable in the circumstances.

The language of use of force would be replaced with more general language. It would permit, for instance, breaking into a house to escape someone. It's likely that actions like that could be used as a defence under the current law, under the common-law defence of necessity. Self-defence works as a subset of the necessity defence. If the purpose is to protect yourself from a threat that another person is launching against you, it's more appropriate to conceptualize that conduct as self-defence as opposed to the defence of necessity. This accounts for the expansion of the language.

Mr. Brent Rathgeber: Thank you.

Mr. Jean and I both come from Alberta, and there have been some high-profile cases in rural Alberta in the last couple of years where law enforcement is some distance away and events have occurred on private property that led to chases off private property. Individuals ended up getting involved in criminal activity.

I'm not going to ask you to comment on those cases. What I'm concerned about—and I do support the legislation, let's be clear on that—is that the short title “Citizens Arrest and the Defence of Property and Persons” might give a false level of assurance to individuals who, though they might not want to engage in vigilantism, might yet want to defend their property to an extent that is not contemplated by this act.

What type of educational campaign does the Department of Justice envision to educate Canadians on the somewhat narrow protection this bill will give for the defence of property?

Ms. Catherine Kane (Director General and Senior General Counsel, Criminal Law Policy Section, Department of Justice): That's a valid point. We want Canadians to fully understand the law and its limits. When this act is proclaimed into force, we intend for it to be accompanied by explanations, whether we call them backgrounders or fact sheets, that would clearly delineate to Canadians the changes in the law and the limits of those changes. Whether they are relying on the defence of self-defence or the defence of property, or whether they are wanting to know more about the law of citizen's arrest, we want them to know that we're not encouraging vigilantism. They should know that the first recourse is always law enforcement, and that where you're defending your property you can do only what's reasonable.

The common law has made it clear that defence of property alone does not justify the use of deadly force. We want to make that clear. In all other cases, we're looking at reasonableness in the circumstances. To the extent possible, we would make these explanations available in user-friendly language for distribution to relevant stakeholders.

● (1235)

Mr. Brent Rathgeber: Thank you, Mr. Chair. Those are my questions.

The Chair: Mr. Harris.

Mr. Jack Harris: Thank you very much, Chair.

I'll pick up on that last point. I think the previous laws—I talked about the policy side with the minister—did make a distinction between movable property and real property or dwelling houses, specifically that you couldn't cause bodily harm in the defence of movable property. Then there was a different rule for preventing the invasion of your house; under section 40, you could use as much force as is necessary to prevent someone from invading your property.

You said you wouldn't think it would be reasonable to use deadly force in defence of property, and you used the word "generally", and I agree. In fact, Australia, we've been told, has a rule that says you cannot use lethal force in defence of property, and we did have a rule that said you can't use bodily harm in defending against movable property. If someone is trying to steal your purse or whatever, you can't stab them.

Those have been left out of this. It's one thing to say, well, we all know what reasonable is, but we don't all know what reasonable is and we may have very different attitudes. There may be different attitudes in some parts of the country than in others, and there may be different attitudes among some people than among others. At the end of the day, it's going to be a judge or a jury deciding what's reasonable in the circumstances.

I'm a little concerned about the lack of guidance this provision actually gives. Can you tell us why you left that out and why you made no distinction between someone having their home invaded, for example, and someone having their purse snatched?

Ms. Catherine Kane: I can begin to answer and then my colleague will likely elaborate further.

In case I misstated something, the point I was making was that with respect to defending property alone, it's the position of the common law at present that you can't use deadly force just to defend your property. We have not changed that in these proposed amendments.

However, in many cases, defence of property soon turns into defence of person. As you've noted, in every case it's going to be a judge looking at exactly what transpired in the particular circumstances of the case. So if my home were invaded—a home invasion sort of by definition has that added dimension of bodily harm or threats being done to the occupants of that home. It's not just that my home is invaded without my being there, because that's a break and enter, a robbery, but there is an element of personal violence. Then it would quickly be defence of self as well as defence of property. The reasonableness is determined in the circumstances of that event—whether there's violence being used against me, violence being used against my children.

Joanne Klineberg is best positioned to indicate why we're not going down the road of identifying whether it's movable property or a dwelling house or others and why we're going with one simplified provision that will adapt to the circumstances.

Ms. Joanne Klineberg: Right.

I can add a little more detail. You're exactly right that section 38, one of the defences for protection of movable property, doesn't allow very much force to be used to defend that possession. But section 39 is another defence that exists for a person to use to defend their possession of movable property. The difference in the case of section 39 is that the person defending the property has a claim of right to the property, which is an element missing from section 38.

If you look at section 39, it's not limited in the same way that section 38 is limited. It talks about how this person "is protected from criminal responsibility for defending that possession, even against a person entitled by law to possession of it, if he uses no more force than is necessary".

Mr. Jack Harris: That's part of the confusion in the existing law. I recognize that.

Ms. Joanne Klineberg: That's right.

I think the key thing is that, even at present in the Criminal Code with respect to protection of movable property, the law's not limited only to very minimal force. So if we were to introduce a rule, we would end up pretty quickly back in the same sort of situation the objective of simplification is seeking, which is a variety of different rules, depending on the circumstances. So, really, the objective is to simplify.

I think the objective that Parliament had back in 1892 when they enacted the multitude of provisions was laudable. They were trying to address finely nuanced distinctions between different types of circumstances. But in practice the problem is that it just leads to really complicated jury instructions and difficulties, as we know, for the police in applying the law. So, simplification, unfortunately, requires a level of generality.

● (1240)

Mr. Jack Harris: I have a technical question on a word that's used there. We're not going to have a chance to talk to these officials who draft the legislation.

A voice: You can't do that now.

Mr. Jack Harris: Well, I wasn't, but I had no control over how long they spoke.

The Chair: Will you give him...?

Your colleague across the table will give you a moment.

Mr. Jack Harris: Thanks very much.

I have a question on the wording chosen in proposed paragraph 34 (1)(b), and it appears also in proposed paragraph 35(1)(c). It says:

(b) the act that constitutes the offence is committed for the purpose of

Well, this is all about a person who is not guilty of an offence, so how could you use the words “the act that constitutes the offence is committed for the purpose of”? I'm not an expert in legislative drafting, but I wonder if some consideration should be given to changing that to “the act that would otherwise constitute the offence”, or “the act that gives rise to the charge”, or something like that, because “the act that constitutes the offence” is a bit of a tautology there. It assumes that it is an offence, and you're really talking about a defence, in which case it wouldn't be an offence.

Anyway, that's the lawyer in me. I'm sure other lawyers sitting around here might have the same question if they looked carefully at it.

Ms. Joanne Klineberg: That's a very valid point. It's a neat little problem to solve from a legislative drafting perspective. It seems to be that oftentimes in the code we do use the language of “the act that constitutes the offence”, even in circumstances where ultimately it's not an offence for which a person is going to be criminally responsible. There may in fact be better words that don't lead to a sort of legal conflict by their nature. However, we are quite confident that the courts will not be confused by the meaning of this language and that in practice it won't diminish what the defence is seeking to provide.

The Chair: Thank you.

Mr. Wilks.

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you, Chair.

I'll bring out the policeman side of me now. I'm just curious, with regard to this bill, as to whether it also covers the situation of a police officer directing a civilian to apprehend an individual, with regard to how much force can be used in that circumstance.

Ms. Catherine Kane: Could you elaborate on the type of scenario you have in mind when a police officer would be asking a civilian to apprehend someone on their behalf?

Mr. David Wilks: Sure. Let's use section 68 of the Criminal Code in which a proclamation has been set out with regard to rioting. A number of police officers show up at the scene, are overwhelmed, and direct person A to apprehend a certain person, and they say, “Do what you need to do to keep him in custody”.

Ms. Catherine Kane: If the person A has found another person committing an offence, but it's not in relation to their property, I don't think that scenario would be covered by what we're contemplating in the citizen's arrest context. We're changing the law only with respect to the person's property, because they are effecting the arrest due to lost or damaged property.

Mr. David Wilks: We're also dealing with apprehension, though, are we not, rather than just property? I guess what I'm getting at is that a lot of police officers, including me in my previous life, from time to time would use the opportunity, if need be, to have a citizen make an arrest on their behalf because they were detained at the time doing something else, but they had seen a crime occur. I saw the crime occur; now I'm going to direct that person to make the arrest.

Ms. Catherine Kane: That conduct is I think still covered by subsection 494(1) of the Criminal Code, which is not being changed by Bill C-26. We're only changing subsection 494(2), which deals only with citizen's arrest in the property context, if someone finds someone committing an offence.

● (1245)

Mr. David Wilks: Thank you.

Mr. Chair, I'd like to ask one more quick question, if I may. With regard to what was always my understanding from the perspective of a police officer, that you may use as much force as is necessary, is that going to be the term under subsection 494(2)?

Ms. Catherine Kane: Subsection 494(2) adopts or cross-references with section 25 of the Criminal Code, so it's the same standard of force. I'll just go back to section 25 to get the proper wording. Section 25 refers to somebody who is doing:

> anything in the administration or enforcement of the law
>
> (a) as a private person,
>
> (b) as a peace officer or public officer,
>
> (c) in aid of a peace officer or public officer, or
>
> (d) by virtue of his office,
>
> is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

The Chair: That brings us to the end of the agenda. As members can see, there is some committee business.

I would like to thank the witnesses for being with us today. I think you provided us with clarification of a number of the issues, and I think the committee will obviously go forward well armed with the information.

Thank you again for being with us.

Mr. Jack Harris: On a point of order, I understand that we had a short time and we were dealing with policy in general with the minister. Would it be the understanding that once we've heard from other witnesses—academics and others, if it's necessary—to get further clarification or ask some information of the justice department officials, that they could be made available at that time? Is that your understanding as to how we might do it?

It may not be necessary, but we didn't have very much time to get into the technical information, and we may be more enlightened ourselves as to the permutations and combinations by the time we hear from other witnesses. I would just like to bring that up.

The Chair: Mr. Harris, you know that the officials are always more than eager to come and make things clear for committee members. The committee will have to make a decision on whether they want witnesses called back, but I think these witnesses will be available for you.

Thank you again.

We'll suspend just for a minute.

● (1245)

(Pause)

● (1250)

The Chair: We're in public.

The subcommittee has a report to come back to the whole committee dealing with the future agenda. It's been circulated. We need a motion to accept the third report from the Subcommittee on Agenda and Procedure for the Standing Committee of Justice and Human Rights, if somebody would like to move that.

Madam Boivin.

[*Translation*]

Ms. Françoise Boivin: Our clerk sent us a notice stating that we may need to consider a nomination. I know that this was done after the subcommittee met, but I would like to know how to go about adding a missing item to a report.

[*English*]

The Chair: We can do that, but we should still deal with this report. Would somebody move the adoption of this report?

Madam Boivin so moves. Do we need someone to second it?

We don't need a seconder.

(Motion agreed to)

The Chair: There are a couple of other things hanging out there that we need to do to help the clerk and everybody else. The list of witnesses has been provided. The government witnesses and the opposition witnesses have been provided to the clerk. The clerk has been able to schedule February 9 and February 14, and has four witnesses for each of those days. February 16 has not been scheduled at this point, but I do believe the clerk has heard from the RCMP and the Criminal Intelligence Service of Canada that they would be able to appear so that we could maybe get that other organized crime report finished.

It's the will of the committee at this point what we do on February 16. Either we have those witnesses come or we have more witnesses on this bill that we're dealing with.

Mr. Jack Harris: I think it's reasonable to try to dispose of the organized crime report. Will we get the draft before then? I'm just wondering if that's more efficient.

Are you thinking, Robert, that we should continue with this?

Mr. Robert Goguen: I think we should continue with this. It's not going to take us that much time to get through the organized crime report. I think you lose some momentum. We may avoid another meeting. You talked about having them come back to answer some technical questions. You may want to reserve that. Maybe we won't need it.

But certainly, the more of a time lag there is, the more chance there is of having to come back. We have Mr. Comartin's bill that you want to pass. I think you were told 24 hours and one witness. We don't have any, so.... The organized crime report has been waiting for some time, and certainly not half a meeting.... That would be my thought, anyway.

● (1255)

Mr. Jack Harris: I know there was anxiety to finish the organized crime thing. My thought was that if we do have that date with no witnesses, then we could use it, but if you're....

Mr. Robert Goguen: In default, if you had nothing else to put there, certainly, but of course that doesn't give the clerk much comfort in knowing who to have to call, right?

The Chair: That's what we need to know so the clerk can—

Mr. Jack Harris: I thought there was some momentum to finish the organized crime report. We interrupted that momentum to have the minister because he was available today and now we're going to start another momentum with this one.

I'm recognizing, of course, that we do give certain priority to government bills. If it does take only one more meeting or half a meeting to hear the witnesses on the organized crime report, then at least perhaps the writers and analysts can finish the draft for our consideration. Otherwise, that's going to be put off as well until we hear those witnesses.

It seems to me to be more efficient to hear the—

Mr. Robert Goguen: I hear what you're saying, but I guess we're beyond "put off"....

Mr. Jack Harris: Well, if we have a meeting on the sixteenth with the organized crime report, then the draft report that is now being worked on and revised as a result of our discussions.... I mean, this committee has to look at that too. Then at least we'll have three meetings on this done by then. We can do the one meeting—or half a meeting, if that's all that is necessary—on organized crime and give the analysts an opportunity to work on that report while we're continuing with this. It seems to me to be efficient. There seemed to be an awful hurry to get the organized crime report finished, up until today—

The Chair: Let us know—

Mr. Robert Goguen: I haven't changed my idea. I don't disagree with what you're saying, but I think we should just get through this for the efficiency of it, because there is no burning need to interrupt this to finish the organized crime.... It dates back to, what, 2006?

The Chair: Just let us know. The will of the committee is to continue on with this, so you want the clerk to call additional witnesses, then, on the sixteenth?

A voice: Yes—

The Chair: That's the will of the committee?

Mr. Jack Harris: It's the will of that side of the committee.

The Chair: Well, I think it's the majority, Mr. Harris.

Mr. Jack Harris: [*Inaudible—Editor*]

The Chair: Okay. So the clerk will continue to call witnesses.

Mr. Jack Harris: I just wanted to indicate that I understood there was some flexibility in terms of the lists from last night. We do have a couple of academics who we haven't been able to contact to see if they're available, and we did want to have someone from the community in Toronto that gave rise to this bill—not David Chen himself. There are people who have been active on that issue and we would like to hear from them. We are in the process of contacting an individual who we expect would be a witness, along with one other person.

Mr. Robert Goguen: They're not in the list of six you've submitted?

Mr. Jack Harris: They weren't in the list we submitted yesterday.

Mr. Robert Goguen: Of which there were six?

Mr. Jack Harris: No, but we indicated that there were others we were in the process of trying to contact.

The Chair: From the chair's perspective, one of the issues is that you haven't set a time. That's the very difficult part of being the chair. When you leave it open, I don't know how you make your decisions on the total number of witnesses.... We'll go forward. We'll get through the lists that the clerk has and see where we are at that point.

The meeting is adjourned.

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