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OFFICIAL REPORT
(HANSARD)

Tuesday, February 13, 2007

Speaker: The Honourable Peter Milliken

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HOUSE OF COMMONS

Tuesday, February 13, 2007

The House met at 10 a.m.

Prayers

ROUTINE PROCEEDINGS

● (1005)

[*Translation*]

COMMITTEES OF THE HOUSE

FINANCE

Mr. Brian Pallister (Portage—Lisgar, CPC): Mr. Speaker, I have the honour to present, in both official languages, the tenth report of the Standing Committee on Finance, on Bill C-294, An Act to amend the Income Tax Act (sports and recreation programs).

[*English*]

I would like to congratulate the member for Prince Albert on being able to advance this private member's bill through committee. I think all members of this place share in respecting the diligence and effort that is required to advance a private member's bill in this place. The member has shown great persistence in doing so. We congratulate him as we present this report to you, Mr. Speaker, and to our colleagues.

CITIZENSHIP AND IMMIGRATION

Mr. Bill Siksay (Burnaby—Douglas, NDP): Mr. Speaker, it is with a sense of urgency that I move concurrence in the 10th report of the Standing Committee on Citizenship and Immigration. The report is entitled, "Issues raised by the use of security certificates issued under the Immigration and Refugee Protection Act".

The report deals with a motion that was passed at the standing committee on Tuesday, February 6. I will read the text of that motion in the report to give folks a sense of the issue. The motion reads:

> Whereas the Standing Committee on Citizenship and Immigration has a mandate to consider issues raised by the use of security certificates under the Immigration and Refugee Protection Act;
>
> Whereas the Standing Committee on Citizenship and Immigration has visited the Kingston Immigration Holding Centre (KIHC), where three of those subject to security certificate are currently held;
>
> Whereas a life-threatening hunger strike by KIHC detainees Mohammad Mahjoub (day 75), Mahmoud Jaballah (64) and Hassan Almrei (64) has long passed a critical stage;
>
> Whereas a key complaint of the detainees is the lack of an independent ombudsman, a concern originally flagged by the 2005/2006 annual report of the Office of the Correctional Investigator that found "the detainees...no longer have the benefits and legal protections afforded by ombudsman legislation."
>
> Therefore be it resolved that the Standing Committee on Citizenship and Immigration:
>
> a. acknowledge the emergency nature of the hunger strike and open discussion with regard to a resolution;
>
> b. call on the Government of Canada and the Minister of Public Safety and the Minister of Citizenship and Immigration to mandate the Office of the Correctional Investigator, which has jurisdiction over all federal inmates except for those held at the Kingston Immigration Holding Centre, to now assume jurisdiction over the KIHC, investigate current and ongoing complaints of those currently on hunger strike, specifically urgently addressing issues such as:
>
> 1) Medical attention in the living unit by Medical Licensed Practitioners namely doctors in the living unit;
>
> 2) Detainees be released before dawn from their cells in order for them to be able to observe religious prayers as called by their religion;
>
> 3) They be allowed conjugal visits as it is offered to inmates;
>
> 4) They be allowed to access canteen facilities adhering to their religious beliefs;
>
> 5) Daily head count should be done away with immediately;
>
> 6) When transferred from the living unit to the administration building, be also accompanied by a supervisor from Correctional Services Canada;
>
> And prepare an independent set of recommendations for resolution of said grievances.
>
> And be it further resolved that the Minister of Public Safety and the Minister of Citizenship and Immigration be asked to respond urgently in writing, to members of this Committee, outlining the Department's actions in light of the passage of this motion.
>
> And be it further resolved that these protocols be put in place on a permanent basis in order to deal with these detainees and any future such cases.
>
> And be it further resolved that the Chair of the Standing Committee on Citizenship and Immigration report this motion to the House of Commons.

That is the report and the motion that was passed by the Standing Committee on Citizenship and Immigration. I should also note that a similar motion, not quite as detailed, but also calling for the Correctional Investigator of Canada to have jurisdiction over the Kingston Immigration Holding Centre was recently passed by the Standing Committee on Public Safety.

I am very concerned about the situation at the Kingston Immigration Holding Centre, or KIHC, which is attached to Millhaven Institution, a maximum security federal penitentiary. KIHC is a maximum security prison within a maximum security prison specially constructed to detain those held under security certificate provisions of the Immigration and Refugee Protection Act.

That section of the act can be used to detain those people who are subject to deportation order who are suspected of a serious crime related to terrorism or organized crime. There are currently six men who are subject to security certificates, three of whom, Mohammad Mahjoub, Mahmoud Jaballah and Hassan Almrei, who are being held at the Kingston Immigration Holding Centre.

Three others have been released on bail subject to some of the most severe conditions ever imposed in Canada, which, for Mohamed Harkat and Adil Charkaoui, amount to house arrest for them and their families. There is no downplaying the kind of conditions that the men who have been released on bail face and the difficulties that it means for them and their families. They are very strict and severe bail conditions.

All the men held at the Kingston Immigration Holding Centre and the men released on bail have been held without ever having been charged, without ever having been convicted and without knowing the evidence against them. They have been detained for over five and six years.

I do not believe there is a place in Canada for indefinite detention without charge or conviction. I believe that it is a fundamental violation of human rights and civil liberties and flies in the face of the Charter of Rights and Freedoms.

The issue has been argued before the Supreme Court and a decision is imminent.

However, I believe the security certificate provisions of the Immigration and Refugee Protection Act should be repealed and I have a motion on the order paper to that effect.

If the Criminal Code does not allow for serious crimes related to terrorism or organized crime to be addressed, then the Criminal Code should be fixed. If the police and security agencies do not have the resources to properly investigate such serious crimes, then that issue should be addressed and the problem fixed.

However, to suspend due process, to detain indefinitely without charge or conviction, is wrong. No one here believes that we should let such crimes go uninvestigated and unpunished but to suspend our whole justice process, our whole court process and all our legal processes is unconscionable and, I believe, unconstitutional.

There is a serious problem, given the circumstances of these men. It is not possible for Canada to deport them to the countries where they are citizens, namely, in the case of the detainees in Kingston, to Egypt and Syria. We know, unfortunately, that torture is practised commonly in both countries for folks who are detained or imprisoned. Canada does not and should not deport people to face torture or death. By accusing these men of somehow being related to terrorism, allegations that have never been proven in a court of law, we have set them up even further as targets for torture should they be deported back to Syria or Egypt.

The whole question of our obligations under the international agreement on torture is a very serious one. I think there is absolutely no excuse for Canada to deport people to face torture or death.

Indefinite detention without charge or conviction should not be a possibility in Canada. Deportation to torture or death must never be an option for Canada.

It is ironic that in the past couple of weeks we have seen six former Canadian foreign ministers write an op-ed piece on the website of *The Globe and Mail* that criticized the current government for not publicly criticizing the Americans for the abuses happening to the detainees at Guantanamo Bay. They pointed out that these people had not been charged or convicted and were subject to secret trials. They were criticizing the Government of Canada for not speaking out against American policies when those exact same kinds of policies are applied here in Canada. They criticized our government for not speaking out about what was happening at Guantanamo Bay when those exact same circumstances are happening here and when some of the men detained here are on a very serious hunger strike.

It is unfortunate that those former foreign ministers did not write about Canadian policies and criticize Canada for taking exactly the same kind of measures that the United States has taken, especially when the level of frustration of the detainees here has led them to take the very difficult step of going on a hunger strike.

I thought it was also strange to see in Parliament 10 days ago or so the foreign affairs critic for the opposition take on the government and the foreign affairs minister and criticize him for not speaking out about the abuses at Guantanamo Bay. Again, nothing was mentioned about Canada having exactly the same policies and the fact that three of the people detained under those provisions here in Canada are on a very serious and long term hunger strike.

That is the background to the current situation at the Kingston Immigration Holding Centre. The three men who are currently detained there, Mohammad Mahjoub, Mahmoud Jaballah and Hassan Almrei, are on a hunger strike. Mr. Mahjoub has been on a hunger strike for 82 days and Mr. Jaballah and Mr. Almrei for 71 days each. This is a serious situation.

I think everyone recognizes that the hunger strike has now reached a very critical phase, which is why the Standing Committee on Citizenship and Immigration made an emergency visit to the Kingston Immigration Holding Centre yesterday to visit the men who are held there.

● (1010)

I think I can safely say that all the members who attended are very concerned for the health of the detainees. I am particularly concerned for Mr. Jaballah and Mr. Mahjoub, both of whom I believe are now at risk of life threatening consequences for their hunger strike.

All hunger strikes are extremely risky, especially those of this duration. These men have had no solid food in that entire period. At this time Mr. Mahjoub is taking only water and Mr. Jaballah and Mr. Almrei are taking water and regular orange juice.

To put this in context, Dr. Michael Peel, writing in the *British Medical Journal*, has recommended that hunger strikers who have lost over 10% of their body weight should be monitored daily. Both Mr. Mahjoub and Mr. Jaballah indicate that they have lost 45 to 50 pounds, putting them at or over the 20% mark.

It is still not clear as to whether daily monitoring of their health is taking place, and that has been one of the difficulties of the situation. Health professionals, often nurses from Millhaven Institution, present daily at the Kingston Immigration Holding Centre, but they have not examined the men daily due to one of the key issues of the hunger strike.

I also want to point out that the well known hunger strikers at the Maze prison in Belfast in the early 1980s died after hunger strikes of 49 to 61 days.

It should be very clear from these facts that this hunger strike at the Kingston Immigration Holding Centre has reached a very serious stage. I do not believe that Canadians want to see men detained without charge, without conviction and without knowing the evidence against them die in detention, but I feel very strongly that we are soon approaching that kind of possibility.

What are the key issues that Mr. Mahjoub, Mr. Jaballah and Mr. Almrei want to see resolved? A key is the need for an independent grievance procedure. Currently there is a three step internal process which has not worked well to resolve all issues.

As detainees at the Kingston Immigration Holding Centre, the men have no access to the Correctional Investigator of Canada, whose job is to act as an ombudsperson for prisoners in federal correctional institutions. When they were detained at the provincial facility in Ontario, the Metro West detention facility, they had access to the Ontario ombudsperson's office, but they lost that when they were transferred to the Kingston Immigration Holding Centre in April 2006.

The Correctional Investigator is essentially the federal prison ombudsperson. He has a mandate under part III of the Corrections and Conditional Release Act to act as an ombudsman for federal offenders. The primary function of the office is to investigate and bring resolution to individual offender complaints. As well, the office has a responsibility to review and make recommendations on the Correctional Service's policies and procedures associated with the areas of individual complaints to ensure that systemic areas of concern are identified and appropriately addressed.

I would like to quote from the Correctional Investigator's last annual report, for 2005-06. In that report, Mr. Sapers said:

> The second policy issue that concerns my Office is the situation of individuals detained pursuant to national security certificates. A national security certificate is a removal order issued by the Government of Canada against permanent residents and foreign nationals who are inadmissible to Canada on grounds of national security. A recent decision has been made by the federal government to transfer security certificate detainees held under the Immigration and Refugee Protection Act from Ontario facilities to a federal facility, pending their removal from Canada.
>
> In Ontario facilities, the detainees could legally file complaints regarding the conditions of confinement with the Office of the Ontario Ombudsman. That Office had the jurisdiction to investigate complaints filed by the detainees pursuant to the Ontario Ombudsman Act.
>
> The Immigration Holding Centre has been built in Kingston within the perimeter fence of Millhaven Penitentiary. The Canadian Border Service Agency entered into a service contract with the Correctional Service to provide the Border Service Agency with the physical detention facility and with security staff. The Border Service Agency has a contract in place with the Red Cross to monitor the care and treatment of detainees in immigration holding centres, including the new Kingston holding centre. The Red Cross, a non-government organization, has no enabling legislation to carry out a role as an oversight agency.

● (1015)

> The transfer of detainees from Ontario facilities to the Kingston holding centre means that the detainees will lose the benefit of a rigorous ombudsman's legislative framework to file complaints about their care and humane treatment while in custody. The Office of the Correctional Investigator is concerned that the detainees will no longer have the benefits and legal protections afforded by ombudsman legislation. Pursuant to the Optional Protocol to the Convention against Torture, a non-profit organization with no legislative framework, such as the Red Cross, is unlikely to meet the protocol's requirement for domestic oversight.

I believe that the loss of what the Correctional Investigator called the "rigorous ombudsman's legislative framework to file complaints about their care and humane treatment while in custody" has led us to the situation of the hunger strike. I also believe that the government and the Minister of Public Safety should immediately move to appoint the Correctional Investigator to meet with the men and find a solution to the hunger strike and a resolution to their concerns. That is what the motion from the standing committee has called for.

The minister has said that he is unable to respond to the specific issues raised by the detainees due to the fact that they have court actions under way. That may be true, but I believe the minister has an obligation to make sure that someone has a mandate to resolve the hunger strike.

This step that has been recommended by the Standing Committee on Citizenship and Immigration would allow a resolution. I think it is a very helpful suggestion to appoint the Correctional Investigator, and is one that is workable, but it must be undertaken urgently. The decision needs to be made today and that mandate extended today.

There are many issues that must be addressed at the Kingston Immigration Holding Centre. These men have been detained for over five and six years and have never had a private family visit or a conjugal visit with their spouses. Trailer visits are possible for convicted criminals at federal institutions, but no provision has been made for these detainees, who have never been convicted of any crime, to have this time with their families.

Another key issue is the restrictions placed on their religious practice. They have requested that they be allowed to rise and shower in time for their morning prayer, but this request has been denied. They have also complained that loud music from the guards' room interferes with their prayer.

Allegations of harassment by some of the guards at KIHC must also be resolved. This situation has led to a request by the detainees that a supervisor always be present when they are transferred between the two buildings at KIHC. Supervisors have often been refused, thereby limiting the men's ability to have medical checkups and treatment, visits with family and access to the gym, and to meet with the media.

There are many administrative issues that also need to be addressed. I think they are issues of petty harassment, frankly, made to make the daily lives of these men inconvenient and unpleasant.

Why, for instance, in an institution that holds only three detainees who can be observed 24 hours a day, are formal standing counts required three times a day? Why are they required to wear a prison uniform when being transferred between the two buildings of KIHC?

Why are they not allowed to dial their own telephone calls? Why, unlike prisoners held at other institutions, can they not cook their own meals? Why are not more culturally appropriate foods available to them in the canteen?

English is a second language for all of the detainees, so why are interpreters not provided to them when they need to deal with important issues to ensure clarity? And why is there no programming of any kind for the detainees?

All of these issues need to be addressed.

The situation at the Kingston Immigration Holding Centre is very serious. The hunger strike by the security certificate detainees has reached a very serious stage. The government and the Minister of Public Safety must take immediate steps to find a solution. Appointing the Correctional Investigator to meet with the detainees, investigate their grievances and make recommendations for solutions will make an important difference.

Detention without charge, without conviction and without knowing the evidence against one remains a serious violation of civil liberties and human rights in Canada, but leaving those detained under security certificate provisions with no independent process to resolve their grievances regarding specific conditions of their detention is also unfair and unjust and has forced the detainees to take the only action they have at their disposal, that action of a hunger strike.

We cannot let people die in custody in Canada because we were unwilling to solve specific problems related to their detention. The government and the minister must act today before it is too late.

I think the concurrence motion in the report from the committee offers a workable and helpful solution for this situation. I would urge all members to support concurrence in this report.

● (1020)

Mr. Omar Alghabra (Mississauga—Erindale, Lib.): Mr. Speaker, first I want to congratulate the hon. member on his speech and his compassion. This is an issue of great importance to all Canadians. We cannot live with the guilt of letting any of these detainees die. We must deal with this issue with the greatest sense of urgency.

Yesterday the member and I were on the trip to the detention centre. It was very difficult not to observe the fact that no Conservative committee members were with us on the trip. I would like to ask my colleague why he thinks Conservative members of the committee were not there.

● (1025)

Mr. Bill Siksay: Mr. Speaker, I know the member is very concerned about this issue and has raised the hunger strike in the House in other contexts.

I do not want to speculate about why some members were not able to be in Kingston yesterday. I do not think that is the important issue today.

The important issue today is finding a non-partisan solution to this very serious problem. That is why I think calling on the government to extend the mandate of the Correctional Investigator to find a solution, to speak with the detainees and make recommendations about their circumstances and the specific conditions of their detention, is the most helpful way out of this difficult situation, both for the government and for the detainees. That merits very serious consideration by everyone in all corners of this House.

I note that the chair of the committee, a government member, did travel with us. He actually took the initiative to make sure the committee was able to travel to Kingston back in October when we made our visit there and also on this most recent trip. I know that he is very committed to understanding the situation at the Kingston Immigration Holding Centre and to finding a resolution to this very difficult situation.

I do not think this is a partisan concern today. Men's lives are at risk. Men's lives are threatened. I think we need to find a workable way out of the circumstances we are in. I think the Correctional Investigator of Canada has the right skills, the right kind of mandate and the right experience. I believe that the possibility of extending his mandate to cover the Kingston Immigration Holding Centre is something that the government could accomplish fairly easily.

Ms. Catherine Bell (Vancouver Island North, NDP): Mr. Speaker, I also would like to thank my hon. colleague for his passionate concern for the security certificate detainees in the Kingston Penitentiary. His ongoing work on this file is commendable. I would also like to thank him for raising this issue so that all Canadians can understand the travesty that is being inflicted upon these men.

I want to reiterate what a shameful moment this is in Canadian history. People are being held without knowing what the charges are. They are being held without the benefit of any assistance and without adequate provisions such as appropriate foods, their religious ceremonies, and all those things that make life a little more bearable in a place where no one wants to find themselves.

I want to let my hon. colleague know that people in my riding of Vancouver Island North have taken up the issue as well and, in support of these men, have started their own hunger strike. This is happening across the country.

I wonder if the hon. member could let the House and those people in my riding know about the work that he has been doing and how long he has been working on this issue to bring an end to this shameful moment in Canadian history.

Mr. Bill Siksay: Mr. Speaker, many people have done work on this issue in this place over the years. Certainly in this corner the member for Halifax has been very outspoken on the whole question of the security certificate detainees and that process. The member for Windsor—Tecumseh as our justice spokesperson has also been very involved in the issue of security certificates and the difficulties they cause for due process and justice in Canada. Many people, including people in other parties, have been very strongly outspoken on this issue.

There is a large grassroots movement with activists across the country who have been acting in direct support of the detainees, the men at Kingston, but also the men who have been released on bail. There are strong local committees in all the communities where the men who have been released on bail live to support them in coping with the very difficult circumstances that their bail conditions put forward for them.

There are many people across Canada who are undertaking a voluntary hunger fast to support the men at Kingston. Some people are engaging in rotating fasts. That is a very important step as well.

Certainly the campaign to stop secret trials in Canada has been instrumental in organizing people and making sure Canadians know about the circumstances of the security certificate detainees.

This issue is also gaining some international notice. I understand that yesterday in the Philippines some activists presented their concerns to the Canadian embassy in Manila. I understand that today in New York City there will be an action at the Canadian consulate. Folks who live in New York City are going to express their concerns about what is happening here in Canada and at the Kingston Immigration Holding Centre.

Many people around the world have noticed and are concerned about the lack of due process, the lack of a fair trial, the use of secret trials and secret evidence, detention without charge and conviction here in Canada. It behooves us to move immediately on this piece which will try to address some of the specific concerns about the detention conditions at the Kingston Immigration Holding Centre.

● (1030)

Mr. James Bezan (Selkirk—Interlake, CPC): Mr. Speaker, I want to thank the hon. member for his compassion and concern about this issue which is facing the public and this House.

He recently toured the centre with members from all parties. I am wondering if he could elaborate on whether he saw any available food in the facility. I know that the individuals are hunger striking, but have measures been taken so that at least there is food there if they choose to eat it?

Mr. Bill Siksay: Mr. Speaker, food is available there. When the committee was meeting, the food pack from Millhaven penitentiary where food for the detainees is prepared was delivered to the residential unit, but it sat there, as it has for 70 and 80 days. No one opened it. Nobody looked at it. No one ate anything out of it.

There is food in the cupboards. The detainees are allowed to purchase food. The cupboards in fact are well stocked with food. Publicly last week the Minister of Public Safety took great pains to describe the contents of the refrigerator in the common area. It contains items that have been purchased by the detainees.

The reality is the detainees have not eaten. They are not eating and they are not planning on eating. There could be all the food in the world, but if people are not eating it, it does not do them any good.

These men feel as though they have been forced to take this action. They feel absolutely powerless to have any of the issues that are of concern to them addressed. They feel they have absolutely been forced to take this step to seek resolution of some of the issues that they have raised. All the food in the world could be available, but if people are on a hunger strike it does not matter.

I would like to stress that for the minister to say that the refrigerator was loaded, it begs the question that without some kind of process to resolve this hunger strike, without some independent person representing the government and with the authority to go in and find a solution, to speak to the men and to make recommendations, this hunger strike is not going to end. The consequences of that will be terrible to consider. That weighs very heavily on my conscience and I know it weighs very heavily on the conscience of many Canadians.

I do not think any Canadian wants to see someone die in custody in Canada, especially someone who has never been charged, never been convicted and never been given the opportunity to respond to the evidence held against that person. That seems so outside the realm of anything that most Canadians would contemplate that I think we have to move urgently to find some resolution to this circumstance.

I must stress that the option that has been provided by the committee to appoint the official who does that kind of work in our federal prison system, who has that expertise and who has shown a personal interest in having his mandate extended to cover the Kingston Immigration Holding Centre is a very honourable direction to take. It is one that will give the government excellent advice and good options. It also gives the detainees access to someone with a proven track record and the ability to hear their concerns and make appropriate recommendations.

This is an absolutely crucial recommendation for all members of the House to support. We need to support this recommendation today and encourage the government to make those arrangements today. This is an emergency. We do not have the luxury of time. Time is not on our side any longer.

● (1035)

Mr. Dave MacKenzie (Parliamentary Secretary to the Minister of Public Safety, CPC): Mr. Speaker, I wish to thank the member opposite who brought the motion before the House as it gives me an opportunity to shed light on the origins and operations of the Kingston Immigration Holding Centre.

First, I would like to highlight that Canada is known internationally as a welcoming and compassionate country. Each year we admit more than 95 million people to our country, including more than 200,000 permanent residents and many thousands of refugee claimants. Canadians treasure their open, democratic and compassionate society. They welcome visitors and immigrants who seek to experience Canada's natural beauty, freedom and opportunity.

Canadians also insist on vigilance against individuals and organizations who would exploit our generosity and openness. Canadians do not want our doors to be open to people who endanger our national security and the safety of our communities.

I cannot stress enough how important it is to understand that in protecting the Canadian public against threats to their safety and security, the use of security certificates is an exceptional measure that is used rarely. In fact, only 28 security certificates have been issued over the past 16 years. This represents an average of less than two per year.

The point is that this measure under the Immigration and Refugee Protection Act is used rarely and only in cases where individuals who are not Canadian citizens are inadmissible to Canada on the grounds of security, violating human or international rights, serious criminality or organized criminality.

I would like to highlight that the Federal Court has determined that the security certificates issued against each of the individuals being held at the Kingston Immigration Holding Centre are reasonable and that these individuals continue to be a danger to national security or the safety of any person. That is why they remain in detention. These individuals are being held for purposes of removal and not rehabilitation.

The creation of the Kingston Immigration Holding Centre came about to address previous concerns regarding detention conditions at provincial facilities. The Federal Court and the province of Ontario expressed concerns about the appropriateness of conditions at Ontario correctional facilities for individuals subject to security certificates.

In October 2005 the Government of Canada committed to move individuals subject to a security certificate to a federal facility within four to six months. It resulted in the establishment of the Kingston Immigration Holding Centre. This was a coordinated action between Correctional Service of Canada, the Canada Border Services Agency, the RCMP, the Canadian Security and Intelligence Service, Citizenship and Immigration Canada, medical services branch, Justice Canada, ministries of the government of Ontario and Kingston, Ontario municipal authorities.

This brand new facility known as the Kingston Immigration Holding Centre was opened in April 2006. It is located adjacent to the grounds of the Millhaven Institution at Bath, Ontario just west of Kingston.

One of the considerations in building the facility in the Kingston area was the facilitation of family visits for the individuals who would be held there. At the time there were four people being held in Toronto and Ottawa facilities and Millhaven represented a central point between the two cities.

In addition, it was top of mind for the government to provide secure accommodation for the individuals subject to security certificates while making sure that there were no additional risks to staff or the nearby community and more broadly to the Canadian public.

I would like to remind the House that these individuals pose a threat to national security and public safety. The courts so far have supported the Government of Canada's position that they must remain in detention until they are removed from Canada.

I do understand the member opposite who put forward this motion wishes to address specific issues relating to the detention conditions at the Kingston Immigration Holding Centre. Regrettably, I am prevented from addressing these issues as they are part of a legal action filed in Federal Court last week by counsel representing the three individuals subject to security certificates being held in Kingston.

Having said that, I will outline the redress process for those being held at the Kingston Immigration Holding Centre. First, I would like to point out that the Canada Border Services Agency applies national detention standards for all those detained under immigration legislation.

Let it be known that all individuals subject to security certificates being held at the Kingston Immigration Holding Centre have the right to file a complaint to be heard and achieve resolution. In fact, the centre's redress process allows individuals subject to a security certificate to file a complaint about any situations with which they are not satisfied.

● (1040)

The first step in the process attempts to achieve resolution through dialogue between the individual filing the complaint and the Kingston Immigration Holding Centre detention supervisor or the holding centre manager. Should the issue remain unresolved or if the individual filing the complaint is not satisfied with the response, he or she can file a grievance with either the director of the Kingston Immigration Holding Centre or the director of the Canada Border Services Agency, Northern Ontario region, depending on the issue to be resolved.

If not satisfied with the response provided at the first level, a second level grievance may be filed with the Canada Border Services Agency regional director general or the Correctional Service Canada regional deputy commissioner.

Parallel to this is a grievance process for health care issues. These are referred to the health services unit at Millhaven Institution and reviewed there by the chief of health services. The regional administrative health services at Correctional Service Canada can review decisions on health issues taken by the chief health services at Millhaven.

The third and final step in this process, should the individual filing the grievance not be satisfied with the response provided by the second level authority, is to bring the grievance to the vice-president of operations at the Canada Border Services Agency, the assistant commissioner of correctional operations and programs at Correctional Service Canada, and the director general of health services at Correctional Service Canada.

At this point, there is a review of the previous decision. They will either provide confirmation of that decision or a new decision on the particular grievance. This process provides individuals being held at the Kingston Immigration Holding Centre with three levels at which they can raise their concerns and achieve resolution. All complaints are taken seriously and every effort is made to resolve the complaint as quickly as possible. In fact, the redress process has been used at the Kingston Immigration Holding Centre, and it works.

I thank the member opposite for providing this opportunity to talk about the Kingston Immigration Holding Centre and the redress process.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Mr. Speaker, I appreciate the parliamentary secretary's intervention in the debate today. I also appreciate that the government feels some constraint regarding its ability to address specifically the issues that are on the table at the Kingston Immigration Centre.

However, I want to ask about the policy of the grievance procedure.

The parliamentary secretary has just outlined the three stage internal grievance process that is available to detainees. I appreciate that there is the internal process, but it is an internal one and that is one of the problems with it. It is conducted by officials against whom the complaint is made, essentially. There is no outside look, or impartial look or independent look at it, which I think is very necessary.

In the federal penitentiary system we have the correctional investigator who has a specific mandate to be that kind of ombudsperson for the folks who are detained in Canadian federal penitentiaries. This person has that skill set, that understanding of those kinds of circumstances and abilities to resolve those circumstances.

Does the parliamentary secretary not think it is a reasonable policy change to seek to extend the mandate of the correctional investigator to cover the Kingston Immigration Holding Centre, something the correctional investigator, in his annual report, has suggested would be a most appropriate course of action.

Mr. Dave MacKenzie: Mr. Speaker, the difference is that the inmates of the Kingston Penitentiary are people who have been convicted of crimes. They are there for a different purpose. Rehabilitation is certainly one of the issues, but they are there for a defined length of time under sentence of the courts.

These individuals are being held in an immigration facility for the purpose of removal from Canada. Rehabilitation, as I already indicated, is not part of the process. The facility has frequently been described by many in the House as a three-sided cell. They are held there until they are removed from Canada. They are free to go to any country that will accept them. They can leave tomorrow if that is their desire.

It is a totally different process than the people who are held at Kingston for a pre-determined length of time under sentence of the courts. These individuals are not there under sentence of the court. They are being held there for removal from our country.

● (1045)

Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.): Mr. Speaker, we are dealing basically with two issues. The first issue is the legitimacy of the security certificates. The other issue is the need for us to have reasonable policies on detention.

It is important to note that security certificates apply to people who are legally in Canada. The government has said that these people who have no right to be here, but security certificates apply to people who have every right to be here. This has to be kept in mind.

It would have been fortunate to have the full committee present yesterday, but all opposition members of the committee were there. What I and committee members cannot fathom or understand is how the parliamentary secretary can say that those convicted are there for a definite time and that some people are there forever. We can name those we do not want to see get out, and they will never get out.

The fact is these people have not been charged with any crime. They have been denied their basic human rights under the legal section of the charter. If the parliamentary secretary does not know that, then he should resign from his position. He should not be representing that position in his portfolio, if he does not know the basics of sections 7 to 14, the legal section of the Charter of Rights and Freedoms. While the government can make the case that these circumstances are extraordinary and that it will forgo these rights, we have to be very conscious of the fact that they do not have any of the legal rights that Canadians and everybody else have under the charter.

How can the parliamentary secretary deny that there be a third party investigation on complaints from the inmates? It is such a simple request. How can he justify that?

Mr. Dave MacKenzie: Mr. Speaker, the hon. member has brought up a number of issues, some on which the courts have already ruled. The Federal Court has determined that the security certificates issued against these individuals are reasonable and that the individuals continue to be a danger to national security or the safety of any person. That is why they are in Kingston. It is not because the government wants them to be there.

The hon. member knows that these individuals have been held in custody for quite some time. They were there before January of last year when our government was formed. They were there a few years before that.

The whole issue is one that has developed over time. This could have been in place if the hon. member and his party felt that way three years ago. Where we are now is reasonable. These men have a redress process within the organization. They have also now applied to the Federal Court for additional redress that they believe is owed to them.

With all due respect, I believe the proper process is in place. The proper facility is there. As I have already indicated, it is a three-sided cell. These men are welcome to leave the country at any time and go to a country that will accept them. They would then be free and clear to go wherever they wished to go.

● (1050)

Ms. Peggy Nash (Parkdale—High Park, NDP): Mr. Speaker, as I have listen to the debate this morning, I have to shake my head and remind myself that we are talking about a situation in Canada, where people are being held without charge. They have no right to defend themselves and there is no independent process to investigate any of their complaints. These men are protesting what has become intolerable treatment, clearly to the point of risking their very lives.

We all know about the American detention centre at Guantanamo Bay. Many of us have spoke out, deploring that terrible situation. Yet in Canada we have a situation where people are being detained under security certificates with no idea why they are being detained. We are allowing a situation to take place when these men could lose their lives. We are not even offering them the opportunity for an independent investigation into the situation. To hear the parliamentary secretary say that there is food there, that they can eat the food available to them, or that the door is open and they can leave the country, is, quite frankly, shocking.

Would he justify to Canadians how he can allow this situation to continue? How can he allow the health of these men to deteriorate day after day without his government intervening? How can he sleep at night and allow this to continue?

Mr. Dave MacKenzie: Mr. Speaker, I will clarify a couple of points made by the hon. member.

I did not say there was food there and they were welcome to eat it. I did say that it is a three-sided cell and they can leave the country.

More important, we have to accept what the courts have said. The courts have ruled on this a number of times. This is an immigration holding facility. Those people are deemed to be a danger to Canada. That is the responsibility of the Parliament of Canada, all the members of the House, and to Canadians as a whole. The courts continue to say that they are a threat to the security and safety of Canadians. That is why they are being held there. It is not to be punitive or anything else.

As I have already said, this is a welcoming country. We allow millions of people to visit every year, 200,000 come here as permanent citizens or landed residents. Canada is a very open country, but we do have to say no to some people.

In this case we have three people who have been ordered to be deported from the country. It is fair and reasonable what is happening in the big picture. The whole issue has been debated in the courts many times and the courts have ruled that it is appropriate.

The matter is again before the courts. These individuals have utilized the Canadian court system and have launched another challenge. Therefore, I think the courts will be the final arbiter of it.

Mr. Omar Alghabra (Mississauga—Erindale, Lib.): Mr. Speaker, I am pleased to speak to this motion. I want to begin by thanking my hon. colleague, the member for Burnaby—Douglas, for his committed work and compassion on this file.

This is a very serious matter. We have in front of us three detainees who have been on a hunger strike for at least 70 days; in fact, one of them has been on a hunger strike for over 80 days. Unless we act, unless we respond, we could have a tragedy on our hands. We must accept the seriousness of the situation and deal with it with the utmost urgency and compassion.

Let me very clear about the motion that we are discussing today. This is not an issue of the security certificate. There are a lot of question marks about the security certificates. There are a lot of question marks about the procedures that are within the security certificates. There are question marks about the evidence, about access to testing that evidence. There are plenty of question marks about the security certificate procedure. But that is not what we are debating today. We are debating a very concise and clear motion.

The motion states:

> Therefore be it resolved that the Standing Committee on Citizenship and Immigration:
>
> a) acknowledge the emergency nature of the hunger strike and open discussion with regard to a resolution;
>
> b) call on the Government of Canada and the Minister of Public Safety and the Minister of Citizenship and Immigration to mandate the Office of the Correctional Investigator, which has jurisdiction over all federal inmates except for those held at the Kingston Immigration Holding Centre, to now assume jurisdiction over the KIHC, investigate current and ongoing complaints of those currently on hunger strike,—

Then it goes on to list six grievances that the detainees have been voicing and then the main reason for their hunger strike.

The motion is very specific. It is very clear and it offers a compromise. It offers a logical solution to addressing these issues. The last thing we want as Canadians, the last thing we want as members of Parliament, is to have a death on our hands because we refused to acknowledge or address some petty or simplistic conflicts that could be resolved easily. We must push the government to realize the seriousness of the situation and to act appropriately.

Members of the Standing Committee on Citizenship and Immigration visited the detainees at the centre yesterday. We spoke with the administrators before we met with the detainees and then we spoke with the administrators after our meeting with the detainees. We learned a lot.

We had the opportunity to speak in private with the detainees. We saw that they are visibly exhausted, that they are visibly tired. We heard their complaints. We saw that this is a very serious matter.

These individuals are not doing this for a publicity stunt. These individuals are serious and appear to be raising legitimate concerns.

The administrators also appeared to have been taking this issue seriously. They were willing to discuss the matter. They were willing to find resolutions, which I might add is a lot more than the government is providing today. The administrators were keen on finding a way to resolve this issue. We must put pressure on the government, on the executive, to find a way to deal with the situation.

These demands, these requests, are very logical and in fact do not contradict any of the laws. One of the answers that came out in the discussion that we had with the administrators yesterday was that IRPA was silent on how to deal with detainees. Therefore, there is no legislative framework. There are no legislative reasons not to apply the correctional commissioner to investigate these complaints.

In fact, we found that there appears to be some selectiveness in what rules to apply. On the one hand, they appear to be applying the rules that apply to the general population in prison but, for some reason, other rules do not apply because this is considered an immigration holding facility.

● (1055)

There appears to be a double standard here. We really need to think long and hard about what we are doing. We need to ensure that this does not extend into a tragic situation, that this does not lead to a death or a tragic outcome.

I join my colleague here today and I call on my colleagues in the House of Commons to support this motion. I ask members to vote in support of this motion and extend this reasonable proposal to have a correctional investigator look into these complaints and hold an independent inquiry.

I know that the parliamentary secretary has explained that there is a grievance process to deal with these grievances. The reality is that it is an internal process. As my hon. colleague has said, this does not provide for at least an appearance of objectivity.

We must appeal to both sides to have these issues handled objectively and independently. The executive cannot investigate itself or, obviously, there will be question marks about its judgment.

What is needed is an independent individual such as the correctional investigator. If the correctional investigator is unable, incapable or not allowed, then let us find someone else. I think it is very reasonable to appoint an independent observer and mediator to look into this matter.

In fact, the correctional investigator himself has said that the detainees no longer have the benefits and legal protections afforded by the ombudsman's legislation.

This is a serious matter. I know the detainees are probably watching the proceedings today. They are very interested in the discussion that goes on in the House. We must send a signal to the detainees that as Canadian lawmakers we are proud of our country and our laws. We must let the detainees know that we have a humanitarian side to our laws.

Even if we as members disagree on the nature of our laws, even if we are still debating security certificates in the courts or in Parliament, we can still be compassionate and address these humanitarian concerns.

Yesterday, when we met with the detainees, we did plead with them. We asked them to find an opportunity to end their hunger strike. We told them that Canadians are very interested in their case and concerned about the situation. We said that many of us in the House of Commons and other Canadians are doing whatever we can to have their concerns addressed. In the meantime we hope that the detainees find the opportunity to end their hunger strike, so that we do not end up with a tragedy.

I support the motion. I call on my colleagues from all sides of the House to support the motion. Hopefully, by doing so, we can illustrate to Canadians and to the detainees that we are serious about their concerns, and that we are doing whatever we can to address them.

● (1100)

Ms. Penny Priddy (Surrey North, NDP): Mr. Speaker, I want to support both the motion of my colleague, the member for Burnaby—Douglas, and some of the comments made by the previous speaker. In my constituency of Surrey North there is a lot of concern being expressed in the papers and in phone calls to my office for Mohammad Mahjoub, Mahmoud Jaballah and Hassan Almrei.

I was picturing bringing together university students or people from democratic countries and sitting them around a table. I would then describe a situation of three people who have been held in jail for over five years, do not know what the charges are against them, do not have an advocate to ensure that they are safe and doing well, who are not allowed to pray according to their religion, and then I would ask this group of people from democratic countries where they think this might be happening in the world. I do not think they would say that this is happening in Canada. I do not think most people would even imagine in a country like Canada that there would be people who do not know the charges against them, are in jail, and are not even allowed to pray according to their religion.

I want to concur with the comments of the members who visited yesterday and what they have shared about the physical situation in which these men find themselves. We know that there is food. We understand that, but what other recourse have these men been given? They do not have an advocate. They have nowhere to take their grievances. They cannot even pray to the God of their understanding in a way that respects their religion.

I hope the House passes this motion quickly because we really may be in a situation of minutes or hours because their bodies are shutting down. From what people have said, they have lost large percentages of their body weight and they are listless. This means their bodies are shutting down to protect their vital organs, their hearts, lungs and brains. Fairly soon their kidneys will shut down and then their hearts. That is how people die during hunger strikes. We have seen that happen.

Not to know that it is at least being monitored on a daily basis, people would not believe in a country like Canada that could happen. People would name 10, 20, I cannot imagine how many other countries, but nobody would—

● (1105)

The Deputy Speaker: Order, please. I am sorry but I have to give the hon. member for Mississauga—Erindale an opportunity to respond.

Mr. Omar Alghabra: Mr. Speaker, I am not really sure what the question was, but I can see that the hon. member is very passionate about this issue. She has expressed her concerns eloquently and passionately.

I want to assure her that I share many of her concerns. Just to avoid any confusion, while there are a lot of questions around the issue of the security certificates and that is of concern to many Canadians, and remove any excuses from any individual who wants to vote against this motion, we are not going to vote on this issue today. What we are voting on is providing these detainees access to a process that affords them a fair and objective resolution to their grievances. That is it. It is simple and straightforward.

The other issues, I agree, deserve a much longer debate. In fact, it is in front of the Supreme Court and I look forward to its decision, but today's motion is straightforward and simple. It is to give these men access to an independent ombudsman who can address their grievances.

Mr. David Tilson (Dufferin—Caledon, CPC): Mr. Speaker, I gather the hon. member for Mississauga—Erindale is a member of the committee. Obviously he has a certain amount of information with respect to this issue.

My understanding is that the Federal Court has already determined that the security certificates regarding these individuals are reasonable and that the matter is still before the Federal Court and it will be ultimately dealt with by the Federal Court.

The committee report calls on the Minister of Citizenship and Immigration to mandate the office of the Correctional Investigator which has jurisdiction over all federal inmates, except for those held in the Kingston Immigration Holding Centre, to have jurisdiction over these issues.

Is the Federal Court not independent? Is the member suggesting that the investigator usurp the powers of the Federal Court? I hope that is not his position, but if that is his position, I am afraid we have a big problem.

Mr. Omar Alghabra: Mr. Speaker, the hon. member's question actually illustrates what I said earlier.

The Federal Court has ruled. Right now actually the Supreme Court is examining the principles and the fundamentals of the security certificate itself and whether or not it should apply to these men. However, that is not what we are discussing today, although it leads me to point out that we are reading in the news these days how the Conservatives are trying to ensure that judges are selected according to their ideology, but that is neither here nor there.

My point is the issue we are debating today is should these individuals have the right to access an independent ombudsman who could address their grievances. It has nothing to do with what the Federal Court has ruled on. It has nothing to do with what the Supreme Court is considering right now. It has nothing to do with any past decisions of the courts.

It is within the capacity of the minister, and there is no legislation that forbids the minister from doing that. In fact it is important to reiterate that we have inmates, prisoners, criminals, who in some cases are imprisoned for life, where evidence has been supplied against them and they have been found guilty, and they have the ability to access an independent ombudsman. However, these three detainees—who are detainees and not criminals; we have not convicted them, we do not know if they are innocent or guilty—have no ability to have their complaint independently observed, monitored or addressed. That is what we are debating and that is what we are voting on today.

I hope my response addressed the member's question. I hope the member will see the light and will vote in support of this motion.

● (1110)

Mr. Bill Siksay (Burnaby—Douglas, NDP): Mr. Speaker, in the course of the debate this morning we have heard the phrase "three-sided cell" used a number of times. I wonder if the member could comment on that.

My experience from being at the Kingston Immigration Holding Centre is that there is nothing three sided about that place at all. It is a maximum security prison physically within a maximum security prison. People go through two sets of double fence with razor wire to get into the Kingston Immigration Holding Centre.

It also raises the question of the option of whether these men can leave Canada easily. The government seems to think they could pack their bags and head home to Syria or Egypt tomorrow when we know that they would face torture or even death should they do that.

I wonder if the member could comment on those two points.

Mr. Omar Alghabra: Mr. Speaker, I am sure the parliamentary secretary was talking about three-sided cells figuratively because literally what we saw there were eight-sided cells, if not twelve-sided cells.

If he is referring to it as a figure of speech, the courts, if we keep referring to the courts, have already decided that these individuals are under threat of torture and therefore they should not be deported to countries where they have reasonable fear of torture.

The reality is that we might try to simplify it and we might say that these individuals really have a choice, but I am not aware of any human beings who would choose to go to their demise or be tortured.

[*Translation*]

Ms. Meili Faille (Vaudreuil-Soulanges, BQ): Mr. Speaker, I am pleased to speak here today. This is a sad day because some individuals have been detained for a very long time without ever standing trial or even being charged. At present, the administration cannot say how long they will be detained.

Some people are being detained in Kingston, in a facility attached to Millhaven penitentiary. As I said, no charges have been laid against these individuals.

They are being detained on a security certificate under immigration regulations.

We had the opportunity to meet these people yesterday, for the second time. During the first meeting, we were able to learn about the situation. All committee members travelled there to ask the centre's administration and the detainees some questions, and to see for themselves the prison conditions of the detainees.

The demands of the three detainees seem both simple and reasonable, considering that no charges have been laid. The security certificates allow the Canadian government and authorities to detain an individual based on suspicions of an attack on our national security.

Let us remind those listening that these detainees have not seen the evidence and have no opportunity to appeal the decision. They have no opportunity to challenge the evidence against them.

We support the motion tabled by my colleague for Burnaby—Douglas for improved conditions of detention for these individuals.

Earlier I listened to my colleague explain that convicted criminals presently incarcerated in Millhaven penitentiary are able to participate in a national program whereby they have a specific number of hours of conjugal visits. Thus, they have a certain private life. However, the three individuals detained at the Kingston immigration holding centre are not entitled to participate in this program.

The Minister of Public Safety stated that these individuals are in a prison referred to as a three-sided cell.

Their only option is to leave this centre and to be returned to their countries, where they fear they will be tortured. This is a serious matter. The government does not provide any other options.

In discussions that took place yesterday, it was suggested that they be accompanied by a monitor. In addition, there was discussion about the fact that procedures are being established as time goes by and that the treatment of these individuals is inconsistent.

This is a new centre. I understand that the administrators, because of a lack of experience, have difficulty dealing with the fact that this is simultaneously a maximum security institution, a prison managed by correctional services, and an immigration detention centre.

We have been asked for an independent observer and arbitrator. In recent years, I have had the opportunity to visit several detention centres and to meet with these detainees when they were held at the Toronto West Detention Centre.

● (1115)

The provincial prison was a cooperative environment, and the atmosphere was much less tense than what we witnessed on our two visits to the Kingston prison.

When I went to meet with the inmates at the Toronto prison, I was able to meet with the warden, social services representatives and the inmates' families—with the warden present—to discuss the inmates' living conditions. They were also allowed to meet with the media in private, without being watched by the guards. These people could meet with me in confidentiality, without being spied on by the guards.

In conclusion, three people are currently being held. A combination of factors has created this atmosphere of doubt, where the authorities are looking for information that could convict them. They seem to be in an environment where the guards and the people on site are trying to find information to incriminate them.

The requests are simple. It is asked that these inmates be allowed more privacy during visits with their families, nothing less. It is asked that they have greater assurances of safety while in custody. It is asked that a supervisor accompany them. It is asked that an arbitrator or independent ombudsman be named. It is asked that the inmates' complaints be listened to and that decisions be made that will give them back an acceptable standard of living.

These people understand that they can leave at any time, but they also know that if they do leave, they could suffer serious abuse in their own countries. I am afraid that because of inaction on this issue, innocent people are suffering needlessly. This will be determined later.

In my opinion, the committee's motion addresses this situation, because the committee members were able to visit these people and met with representatives of international organizations and human rights representatives here in Canada.

In situations where national security is at stake, what is needed most is greater judicial independence with regard to human rights. In my opinion, these three individuals are entitled to that independence, because they do not know what they are being accused of and they have not had the right to a fair trial.

● (1120)

[*English*]

Mr. Bill Siksay (Burnaby—Douglas, NDP): Mr. Speaker, I thank the member for Vaudreuil-Soulanges for her hard work on this file over many years. I know she has taken a very active and personal interest in this file and has been very helpful in resolving some of the issues and continues to pursue that path.

In listening to her speech, I found it interesting to hear her talk about the conditions that she experienced when the detainees were being held in the provincial facility at the Metro West Detention Centre in the Toronto area and how that has changed with the transfer to this special facility at Kingston. She mentioned that they had access to the director of social services at the Metro West Detention Centre, when there is no such comparative position at the Kingston Immigration Holding Centre. I also found it interesting that they had private access to the media at Metro West but have not had that same experience in Kingston. She said that she was able to meet with them privately at Metro West, when that has not always been the case at Kingston.

I know too that the distance from their families has been a real issue for the men when they were transferred to Kingston. Since they are all from the Toronto area and that is where their families are based, the separation and distance between Toronto and Kingston has proven to be a real hardship.

It seems to me that there has been a pattern of deteriorating conditions that they have faced since they went to the Kingston centre and there is still no way of dealing with those deteriorating conditions. There is no outside, independent person who can resolve those issues.

I wonder if she could just say a bit more about that and about the need for an independent person to resolve those questions.

[*Translation*]

Ms. Meili Faille: Mr. Speaker, I would like to thank my colleague for his question. The thing I found most difficult when I visited the Metro West Detention Centre was seeing a man and a woman, a family, visit each other on either side of a glass partition. It had been that way for them for two years. It was totally inhuman.

Also, people were being strip-searched, and I could see why. There were also issues with respect to allowing the practice of Muslim rites, that is, various religious holidays. Apparently, some new things were being tried in connection with that.

At the time, it seemed there was also some vagueness about federal and provincial responsibilities. It was difficult for people to get health care because each time a detainee had to see a dentist or other health professional, an appointment had to be made with someone from the RCMP and a lot of security measures had to be in place to move a person under supervision.

At the time, our demands were simple: we wanted them to have better contact with their families. We could see why things worked the way they did. It was because the centre was not designed to detain people for indefinite periods. We received assurances that when the place the detainees were being transferred to was being evaluated, family life would be taken into consideration.

We found that that was not at all the case in Kingston. A close look at the facilities revealed that the detainees have access to a computer, a microwave and a refrigerator. They have a little canteen, although the food provided there is not very healthful.

However, what had gotten worse was that families had to travel farther to visit. The Millhaven centre is located about a half hour from Kingston. The only way for the families to get to Kingston is by bus or by train, which is not at all reasonable. Moreover, we were told that detainees would be allowed "contact visits", that is, private visits with their families, but that is not the case.

● (1125)

[*English*]

Ms. Colleen Beaumier (Brampton West, Lib.): Mr. Speaker, there are a number of issues here but we are just to discuss the motion. We know that if there had been enough evidence these men would have been charged.

I visited Mahmoud Jaballah a few years ago at the Metro West Detention Centre. It was very tragic. This man had spent five years visiting his wife and his children, watching them grow through a glass window and talking to them on a telephone. It must have brought a terrible amount of devastation to him.

It seems that because of the paranoia that we share with the U.S. and the fact that we were complicit in what happened to Mr. Arar, it cost us $10 million plus, and worse, the sense that we as Canadians are endowed with a superior sense of justice and humanity took quite a hit.

These seem like very reasonable requests. What would it cost to have this implemented? For us, the sense of justice and maybe our pride and our values could stand a little boost. We know that the $10 million has cost us dearly, not just in money but in our sense of worth. What does the member think this would cost the government to give us back a little bit of pride and a little bit of justice for these men?

[*Translation*]

Ms. Meili Faille: Mr. Speaker, when we met with the centre's administrators, we asked them twice about the cost of these requests. This centre cost several million dollars. In this day and age, I think it is a shame that people are not being treated humanely and with more compassion at this centre.

Yesterday, the administrators said they would send us the estimated cost. However, we now know how much this centre cost. I believe we should measure the cost on a scale of how much these people have suffered. Only history will judge us. It is sad, but yesterday we were wondering whether the government was just waiting for another case of what happened to Maher Arar. I would simply say to my colleague that I went to the centre and left there quite unsettled.

In 2007, and in the years to come, we expect people to be treated more humanely. I believe it is possible, but the vagueness around the management of the centre is totally unreasonable.

● (1130)

[*English*]

Mr. David Tilson (Dufferin—Caledon, CPC): Mr. Speaker, my question for my colleague is similar to the question I just asked one of my Liberal colleagues.

As I understand it, this matter is before the courts and the federal court has already made a decision that these individuals pose a danger to the national security or to the public safety of this country and that they should remain in detention until they can be removed from Canada. That is what I understand has been done to date.

We have an independent court that has made this decision. As I understand it, if the court saw fit it could put conditions on this motion, such as giving conjugal rights, my goodness, the court could do that, although I do not know whether it has been asked for.

However, the motion says that they want a correctional investigator to take over this issue. I do not understand that because the matter is before the courts and the matter is being dealt with. It is before the courts as we speak.

[*Translation*]

Ms. Meili Faille: Mr. Speaker, I would simply say to my colleague that it is true that some requests were made before the court and they are still there.

As far as the issue of security certificates is concerned, a decision should be made by the Supreme Court shortly in the case of Mr. Mahjoub.

Nonetheless, this does not reflect the spirit of the motion. Three people are currently being detained without charges. They are not prisoners. These people have the right to be treated the same way they would be at any other immigration detention centre. These people are being detained under an immigration policy, not under criminal policy.

[*English*]

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

I want to commend both the critic for the Bloc and the critic for the NDP for their very steadfast support in this case of these three men, but also for their position of being defenders of human rights, civil liberties and standing up for the Charter of Rights and Freedoms.

There is no question that members in the Conservative Party have to understand that these folks, these detainees, these prisoners, are being held on mere suspicion. The decision to hold them was signed off on by the Minister of Citizenship and Immigration and the Minister of Public Safety, neither of whom have the judicial competence to do so.

There is no question in my mind that the government and the officials holding these people are now at the point where they are embarrassed, because what they would like is to see these detainees leave the country and disappear. Is that really fundamentally good for the security of our country?

We should think about it for a minute. Let us suppose that we had Osama bin Laden in detention. Would it make Canada safer if we released him and sent him back to the caves in Afghanistan, Pakistan or wherever? Of course not, because Mr. Osama bin Laden could come back here quickly. I dare say that with Mr. Osama bin Laden the government would not be using a security certificate. We use a security certificate only when we are dealing with a matter of suspicion.

All of us in this House know that we just finished apologizing for the Chinese head tax. We have apologized to the Japanese for unlawful internment. We have done the same for the Ukrainian community, and there are many communities to come. It is because of the history that we have as a nation and the draconian laws that we had as a nation that I think we collectively came together as a nation on April 17, 1982, when we established the Charter of Rights and Freedoms.

I am going to talk about security certificates and the charter because I think this is so fundamental to this question. As for saying that a judge has decided, at the citizenship and immigration committee we heard evidence that the security certificate process the way it is set up is not workable.

We heard that from Justice Roger Salhany, who wrote the book on evidence. He explained to the committee the nature of the legal system we have. For any judge in Canada to make a determination, he has to hear both sides of the story. He has to hear from the lawyer for the defence. He has to hear from the prosecutor. From that, he will make a judgment.

The way one of these security certificates works is that a person is charged and it is applied against him. No case is proven, but suspicions are told to a judge in the presence of the prosecutor and the investigative officers. There is no defence attorney present. The constitutionality of the security certificate as it stands right now is before the Supreme Court. I dare say, and I believe, that the Supreme Court is going to amend our security certificate process.

● (1135)

When the security certificate process was first established, it was established for people with no status in Canada. In 2002, the security certificate process was extended to people who had status in Canada, who were immigrants but not yet citizens.

I know that the world got shook up by 9/11. I know that members of the House were shook up by 9/11. A terrible tragedy happened. The Anti-terrorism Act was passed, in which we had some very draconian measures. One such measure was investigative hearings, where one was compelled to testify against oneself. Preventative detention was also included in the act. However, we were smart enough, I must say, to put a sunset clause in the act. That sunsetted clause is going to expire. With the exception of the Conservatives, I believe the House is going to vote against it keeping it, because the act itself is very much against the Charter of Rights and Freedoms.

As for the very thought, back in 2004, that security certificates were going to be extended to citizens as well, I say that to Canadians because if they want to say they are Canadians and this does not apply to them, they should just remember that this did not apply to immigrants to this country, who had no status, this applied only to visitors and others, so this could very well apply to everybody.

Constitutionally, what is a security certificate? That question is before the Supreme Court right now. A security certificate is the ability of the government to ignore the legality section of the Charter of Rights and Freedoms. This section applies to all Canadian citizens right now, but it does not apply to those people under security certificates.

What are some of the legal rights that today's detainees are denied?

Everyone has the right to be secure against unreasonable search or seizure. Everyone has the right not to be arbitrarily detained or imprisoned. Everyone has the right, on arrest or detention, to be informed properly of the reasons for the arrest. Everyone has the right to retain and instruct counsel without delay. Everyone has the right to have the validity of their detention determined by way of habeas corpus. As well, everyone has the right to be informed without unreasonable delay of the offence. Everyone has the right to be tried within a reasonable time. Everyone has the right "to be presumed innocent until proven guilty according to law in a fair and public hearing".

These are just some of the legal rights that we as Canadian citizens enjoy but these detainees are denied.

What is the request before this House? It is not to overturn the Anti-terrorism Act, which we will. I am very pleased to say that it was my most solemn moment in this House when I stood up and voted against that legislation because I believed it so violated the fundamental principles of our justice system. It so violated the Charter of Rights and Freedoms that I could not support it. I did the same when security certificates were placed in the immigration act.

I do see a sunset coming to that act. I see the House coming to its senses and, as I mentioned, with the exception of the Conservative Party, we will be eliminating the sunset clause. I am looking forward to eliminating the process of security certificates altogether.

There is also a fundamental importance underlying this. In Canada, if we are going to fight terrorism, if we are going to fight for a secure country, then we can never repeat the mistakes of the past, mistakes such as saying to Japanese Canadians that we can treat them differently because they are Japanese Canadians, or saying to the Chinese that we can treat them differently because they are Chinese, or saying to Ukrainians that we can imprison them because they are different.

That is what fundamental human rights are about. We can never set up a situation where it is them and us, because our common security as Canadians is determined by the fact that we are an inclusive nation. We encourage every segment of our community and we expect every segment of our community, instead of feeling isolated, to have a stake in the peace and security of this country. That is what inclusiveness is all about and that is how we fight terror. That is how we fight to make sure that we have a democratic country where everybody is included.

● (1140)

Ms. Penny Priddy (Surrey North, NDP): Mr. Speaker, I have a question for the previous speaker. We have talked today about many broad issues, but it has been mentioned that we are here today to talk about the expansion of the oversight of the Correctional Investigator. I am wondering if my colleague could perhaps speak to the difference that he feels it would make in these men's lives if the Correctional Investigator had his authority expanded to have oversight over these three men as well. What difference would that make in their lives?

Hon. Andrew Telegdi: Mr. Speaker, what is so imperative is that these people are detainees and are under a terrible and horrible burden. They are here in custody forever unless they want to go back to Syria, in the case of one of the detainees, or Egypt. We know what would happen to them.

As for members on the Conservative side of the House who stand up and say that these people have a choice, that they can just leave, how many people would walk into a situation of torture? How many people would walk into a situation where they can be killed? That is the option that is left to them.

Unlike prisoners and convicts, who have a set release date, these folks are being held indefinitely. The obligation is on us, since we are violating their fundamental rights under the charter, to ensure that their stay is as reasonable and as humane as possible. To deny them things like an ombudsperson, which convicted offenders have, does not make any sense. It makes sense only if we believe that if we make it miserable enough for them, then they will go back to Syria, and perhaps be killed, and then the embarrassment would be over for Canada because we would have eliminated a very real problem that now exists in the Kingston holding cells.

The request for an ombudsperson is incredibly reasonable. Clifford Olson has an ombudsperson. He was convicted through due process with his charter rights intact. Yet these people are being held without that benefit. It does not make any sense.

● (1145)

Mr. Ed Fast (Abbotsford, CPC): Mr. Speaker, I listened carefully to the member's comments. What I think he has reaffirmed for the Canadian people is that the Liberal Party does not take terrorism seriously. He has suggested that security certificates violate the rights of those who are incarcerated for suspected terrorism. I believe I heard him say that he would like to see those certificates actually eliminated.

He also disagrees that individuals who are suspected of terrorism should be detained in prisons. I am a little concerned, because clearly terrorism around the world has become a very serious threat to free and democratic countries around the world.

I have a question for him. He has suggested that detainees should perhaps not be arrested strictly on suspicion, that we would have to go beyond suspicion to detain people. Is he suggesting that we should wait until a suspected terrorist actually commits an action that moves us toward a terrorist act before we detain that individual?

Hon. Andrew Telegdi: Mr. Speaker, it is pretty obvious from the commentary coming from the Conservatives that their way of fighting terrorism is the George Bush way of fighting terrorism, where they go into Iraq, terrorize the people, create terrorists where none exist. That is an action they have supported and it is a neo-conservative position. They like to call themselves new Conservatives, the new government. They are neo-conservatives. I am not surprised that we differ on the question.

The fact of the matter is we have laws in Canada. It is very simple. The police have reasons for their suspicion. They have evidence to base it on. They go to court and they make their case. At the same time, those people who are accused have the right to defend themselves. Otherwise all we would need is for somebody to make an accusation. In the paranoia of the post 9/11 world, that is what we have. We are operating on suspicion and paranoia. We are driving wedges between sections of the Canadian community.

I have always said that yes, we fight terror, but one has to prove one's case. One cannot act on mere suspicion. That is not upheld in the court of law that we have, a court of law which took centuries to evolve. I believe everybody has a right to his or her day in court, even though the Conservatives do not, because they just say, "Hey, you are a terrorist". It does not work that way.

There were societies, the Soviet Union with its gulags, and the Nazis with their concentration camps, who believed in that.

We learned from that and we learned from our own history of what we have done. We have learned from our own history some very painful lessons. That is why we have the Charter of Rights and Freedoms, so that our basic human rights are protected. None of that protection is being afforded to these people.

Hon. Jim Karygiannis (Scarborough—Agincourt, Lib.): Mr. Speaker, it is indeed a pleasure to rise on this motion. I want to thank my colleague from the NDP for bringing it forward; however, I want to reassure not only the Canadian public but the detainees who I know are watching right now that all parties together are working on this issue.

A lot of people have referred to the Kingston Immigration Holding Centre as Gitmo North, and it is Guantanamo North, nothing more, nothing less. One of the things that is lacking is a set of protocols, an ordered way to do things. It is a hodgepodge. We borrow some from here, we borrow some from there and we try to put it together.

If the detainees push, then we push back a little bit more. If somebody says anything, we push back. However we cannot push back Parliament. We cannot push parliamentarians back when they are bringing to light for Canadians three individuals who have been held for six and seven years without knowing why they are being held. There is a secret trial that is going to happen or is not going to happen. We are playing mind games with their families. We are playing mind games with them. This country should not be one of the countries that does this.

Unfortunately, less than one year ago, in April 2006, the holding centre was built in Kingston right beside Millhaven. It is not Correctional Service Canada. It is not CBSA and it is not Citizenship and Immigration Canada. It is just a holding centre. It has an administration building and it has living quarters for the three men who are being held.

The three men who are being held there do not have anyone who speaks for them. They can put in a complaint and they can raise issues and they are dealt with somewhere. We do not know where or by whom, but they are dealt with and they get a response. If they want to complain further, they have absolutely nowhere to go to.

Mr. Speaker, if you were to get a traffic ticket today, you could go in front of a judge and say, "I am innocent" or "I am guilty". These individuals have not yet had their day in court. They do not know why they are being held and certainly, in order to improve their living conditions, they have nowhere to go.

The minister visited and said, "I have seen the chocolate bars". Well, I visited two days later. These individuals have lost 25 to 30 pounds. They were drinking soya milk, water and orange juice. The minister says they have chocolate bars. I was there almost a week and half ago, and when I opened the fridge, there were four bottles of water and two bottles of orange juice. Yet when the committee went there yesterday, the table was filled with orange juice, soya milk and everything else. What hypocrisy. What a show was put on.

This goes back to my original thought. We need an ombudsman. These individuals need an ombudsman in order to be able to voice their concerns.

They are on the grounds of Millhaven penitentiary but they are not on there. There is a memorandum of understanding between the two departments. One department says one thing, one department says another thing. The correctional services officers who are looking after them are really on loan to CBSA.

One of my professors from university said, "Enough BS and verbal diarrhea to really baffle the brain". This is what we have from the Conservative government. We have absolutely no clear direction. The bureaucrats have no clear direction with respect to these men. There is nobody to oversee them.

Let us go over this issue. We need a protocol on how to deal with these detainees and should there be any detainees in the future of the same sort. We need a protocol that indicates how it should be done and we need an ombudsman to oversee it. The Correctional Investigator ombudsman should be one of the individuals who oversees this.

These individuals have not seen a medical practitioner. They have not seen a doctor for months. Mr. Mahjoub's health is ailing. He has high blood pressure. He has hepatitis C that he contracted when he was incarcerated. Yet in this country, not in Syria, not in Egypt, not in Iraq, not in Pakistan, but in this country, we do not give him health care.

● (1150)

One of the men has a hernia. I asked the officer yesterday, "When are you going to give him attention?" The officer said, "Oh well, it takes 18 months to get hernia operations in Kingston and the surrounding area". Eighteen months. That is enough to boggle the brain. In Kingston, in this country, it takes 18 months to get an operation. Is there enough verbal diarrhea and bullshit here to baffle the brains? We bet there is.

What is the minister doing? They got chocolates. If the minister had bothered to look at the men he would have seen that they had lost weight. If he would give his bureaucrats a clear mandate on how to do it, there would not be a problem with their health care.

Something which is more bizarre is that every day the men stand to be counted. Remember that there are three of them in a small building, something like 20 by 40 feet. That is ridiculous.

Yesterday we found out that there are five guards who are certainly a little more aggressive than the rest of them and they are making these men's lives miserable.

The minister is saying that if they want to walk out and go back, by all means. Has the minister forgotten about Arar? Has he forgotten what happened to Arar in Syria? Maybe we should spell it out for him. It cost $10.5 million. It cost an embarrassment to the government. Saying that they can walk out and go back to Syria is something that this country certainly cannot afford and it is not humane.

I think we must ask the Conservative minority government, the new government as the Conservatives say, to come to terms with reality. Regardless of whether the men are terrorists or not, we are not here today to debate that particular thing. We are here today to talk about the way they have been treated. We are here today to talk about setting protocols. We are here today to talk about the secret trials and sealed evidence. Not in this country.

These men must know what they are charged with. These men must know and be able to face their accuser. These men and their families should not be separated for seven years.

Mr. Mahjoub has children who were born in Canada. Mr. Jaballah has a grandchild whom he has only seen once or twice. Where? In Canada. It is a pity.

I join my colleagues, on this side of the House at least, the NDP, the Bloc and the Liberals, in urging the minister to look at this very carefully, to make sure that the minister puts in place protocols and guidelines that the holding centre and the detainees can be governed by.

There are 20 issues that the detainees have put forward. Issue one was dismissed. Issue two was dismissed, and it goes on for 20 issues. They were all dismissed.

If people are convicted, hardened criminals, they can have conjugal visits in jail. Their families can spend up to 72 hours with them. Imagine. I heard my colleague from Kitchener—Waterloo talk about Olson and Bernardo. We are talking about that calibre of criminal. They can have conjugal visits.

These individuals do not know what they are faced with. We tell them that they are terrorists. We tell them that they have links to al-Qaeda, but certainly we are not putting this forward. When their families visit, they are harassed at the gate before they get in. They go in and there is a short time when they meet and they are told, "You have a couple of minutes".

For the record, the chocolate bar that the minister did see and he said that the men got chocolates, was for the grandson of one of the individuals, should the grandson visit.

One has to ask why we are not moving in a humane fashion. What signal are we sending to the rest of the world?

I certainly urge the House to support the motion.

● (1155)

The Deputy Speaker: Before I proceed to questions and comments, I want to say to the hon. member that at one point during his speech he did use language which has been singled out as unparliamentary in the past. It did not create a disturbance so I let it go, but I just wanted him to be mindful of that and try to not do that in the future.

Hon. Stockwell Day (Minister of Public Safety, CPC): Mr. Speaker, I have three short items. First, would the member for Scarborough—Agincourt be willing to correct his statement when he made reference to a chocolate bar? Not only did I never make any reference to a chocolate bar, there was never any media report of that. Would he be willing to correct the record or show me where he got that fabrication?

Second, will the member acknowledge that it was the Liberal government that gave the order to construct this particular detention centre because the people who were being detained said that they should not be in a provincial facility?

Third, will the member also acknowledge that the security certificate process has been in place for almost 30 years and that it was brought in and supported by the Liberals?

● (1200)

Hon. Jim Karygiannis: Mr. Speaker, I wonder if the minister would stand and say that he failed to set protocols on how these men should be dealt with and that he failed in his job to ensure these people were afforded the rights on how they were handled. I wonder if the minister has enough fortitude to stand up and tell the country that he failed.

These people do not have an ombudsman and, therefore, have absolutely no way of having their grievances heard. If the minister will make those statements then I will engage in the other part of the conversation with the minister.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Mr. Speaker, I know my colleague feels strongly about the situation of the men detained at Kingston as he has been very involved in this issue.

I want to point out that the minister made an intervention a moment ago and asked the member to correct the record about chocolate bars. I think the minister, in describing the contents of the refrigerator that he saw at Kingston, said that there was chocolate sauce in the refrigerator. I believe that is on public record. In fact, I heard the minister himself say that on TV.

After visiting that facility yesterday, we certainly did not see any chocolate sauce in the refrigerator. However, as I said earlier, it does not matter what is in the refrigerator because the men are not eating. They are only taking liquids. One of them is only taking water at this point, while the other two only water and orange juice. It is a very serious situation.

The local grocery store could empty all its food and put it in the Kingston Immigration Holding Centre but it would not change the fact that these men are on a hunger strike and are facing serious and life-threatening health consequences because of that.

During our visit yesterday, we heard that two of the men had finally seen a doctor last Wednesday. We also learned that recommendations had been made for treatment and monitoring but that those arrangements had not yet been put into place. I wonder if the member might comment on the specific problems related to health care at the Kingston Immigration Holding Centre.

Hon. Jim Karygiannis: Mr. Speaker, I thank my colleague for talking about the chocolate bar. However, during our visit yesterday I am sure he will remember that Mr. Almrei went up and opened the cupboard and took the chocolate bar out. He said, "Here's the chocolate bar that the minister was talking about. How dare he go through my private property". That is what we heard, for the record.

The men are suffering from all kinds of health problems. Mr. Jaballah has sores on his tongue that are getting worse. Mr. Mahjoub has bad knees and hepatitis C. Mr. Almrei certainly has problems. Mr. Jaballah wants to have a hernia operation. Where I really lost my mind is when I heard that it takes 18 months to have a hernia operation.

The health situation of the detainees certainly has been deteriorating but it is not something that is a priority of the government nor of the minister when he stands up and wants to correct the record.

I would add my voice that health care should be given to these individuals and that a doctor should be visiting these detainees on a daily basis.

Hon. Stockwell Day (Minister of Public Safety, CPC): Mr. Speaker, this is an important element that we are talking about today. While I do not, in any way, take issue with the intent of this motion, I do suggest that the timing makes it awkward because this matter, as far as some individuals, is before the Supreme Court, which makes it difficult for myself as minister to address some of these issues as specifically as I would like to. I would hope that the member who brought the concurrence motion forward did not realize that this would be a restricting element. However, I will address this issue broadly.

First, the whole question of security certificates is something that has been with us in terms of a legislative element for a number of years in very specific items. It was first brought in, in its present modern day form, in 1977 by the federal Liberals. A security certificate is issued when someone, who is not a citizen or permanent resident, arrives on our shores and, after the person's information and background has been checked, which happens to everyone who arrives in Canada, Canadian or otherwise, it is determined from the person's record that the person may be a high security risk.

I want to emphasize that I am speaking in general terms. I am not referring to any present detainees because some of the people's cases are before the Supreme Court. If it is determined that the person is a high security risk, then the person is deemed to be inadmissible. At that point a security certificate is issued, which would allow us to remove the person from the country.

To show how rarely this is used, this has resulted in seven certificates since 2001. It is a tool that is used rarely and only in those circumstances where the information on the file of that person is so significant that it is determined that the person would be a risk to Canada's national security or a risk to Canadians.

I really wish the member for Scarborough—Agincourt would be more circumspect in his remarks, as a matter of fact, just plain factual. We obviously have no problem with debate on this item, as this is something we should be debating, but classical rules of debate and even modern rules of debate would call for factuality and not hyperbole.

The certificate that is given to people is something they are allowed to see. If they do not have their own legal counsel, they are given legal counsel and their legal counsel is allowed to see the case that has been made before them. The only exception to that would be if there were certain elements in the information that could possibly put another nation or Canada at risk for maybe disclosing the name of an intelligence officer somewhere. However, the information itself is made available to the legal counsel.

At that point in time, the people who have been served the security certificate have some options. They can freely return to their country of origin or to any third party country that will accept them. Now I realize there may be those who say that if they return to their country of origin they will be tortured or thrown in jail, and that is certainly their right to claim that, but then they would start a refugee claimant process. They would start a process where they would appeal the designation that they have been given.

Canada, as it is noted around the world, has the most generous and extensive refugee appeal process of any country in the world. That is not a matter for debate, it is just a matter of fact. I am not saying whether people like it or they do not like it, I am saying that it is a matter of fact. As a matter of fact, so extensive is the appeal process that a person can appeal literally for years, one appeal after another, and that is their right to do.

● (1205)

What does a government, which has been charged with the safety and security of its citizens, do when it now has an individual who is deemed to be an extremely high risk to the security of the country or to Canadians and has been given an inadmissibility order but is appealing it? The only responsible thing to do at that point is for the government in question to say that the person is allowed to appeal but that during the appeal the individual must be detained until he or she has either exhausted all appeals or has decided to return to his or her country of origin or to a safe third country. That, in effect, is why there are detention centres for people who wish to appeal, who have been designated a high security risk.

This process has been upheld in the Federal Court of Appeal a number of times, and not only the process, I can point to an actual individual who is not before the Supreme Court. Members will recall that a few months ago there was an individual who our security services deemed to be a spy. He had changed his identity and was living in Canada as a spy for Russia. He was given a security certificate and was detained because it was determined that he was a risk to Canadians and to the country.

He had his lawyers look at that security certificate, which they did. The individual wanted to stay in the country but the Federal Court upheld the security certificate and he was removed. That is an example. I cannot use present day examples because some are before the court. That is how the process works, not just in this country but most democratic countries have a similar process.

I must be careful not to mention specific individuals, but I ask members to picture individuals who have been served a security certificate and are using every possible means to appeal, which is their right. Picture them being held in a provincial correctional facility and they begin to complain about the facility saying that they should not be in with the regular inmate population. The government of the day, and let us assume the Liberal government of the day, constructs a stand alone site that is subject to the rules of all other detention centres, which are rules that are implemented by the Canada Border Services Agency.

We have a number of detention centres across the country where people, who have been deemed inadmissible, are being held for a period of time. These are not correctional facilities or prisons. They do not have, what some would say, the same rights but they are more accommodating than certain prisons, although others would say they are less. Whatever the view is in the particular circumstance, these facilities exist across the country.

They do not need to have, nor should they have, nor would it be appropriate, nor is it within the mandate of the Inspector General of Corrections, a person with whom I meet and who gives me a report, to also have the detainment areas of the Canada Border Services Agency. As a matter of fact, those detainment areas are reviewed constantly by a variety of other sources and other individuals in terms of their respect for human rights and human accommodations.

We now have a situation where a new facility was built at the cost of $3.2 million, a facility that members here, thankfully, have visited, the Red Cross has visited on a number of occasions and outside sources visit regularly. That particular facility is housed on the grounds of Millhaven near Kingston but not within the federal component of that. It is separate because these people are not so-called prisoners who have been convicted of a crime in Canada. This particular facility has six cells.

I do not know how many members have been to a prison facility and have seen a jail cell. It is not a master bedroom, nor is it intended to be. I can say that the cells in that facility are bigger than many that I have seen in correctional facilities. I am not saying that is nice and I am not saying they are wonderful and accommodating. I am giving a statement of fact.

The cell doors are open during the day and the detainees can walk in and out. There is a large corridor area and a fairly large kitchen, by anybody's standards, where only the people housed there have access to their own washer and dryer, microwave and a large refrigerator.

● (1210)

On the day I was there, as on other days, a variety of items were made available and housed in the refrigerator, such as juices, yoghourts, liquids from various sources, soy milk and honey. I do not know why everybody reacted when I said I observed a large container of chocolate sauce as well. I do not know why people zeroed in and leapt at that. It does show the focus when a member gives wrong information about chocolate bars.

It is important I raise that because it was raised by the member for Scarborough—Agincourt. He apparently told some detainee that the minister had seen a chocolate bar. I never said that because I did not see one. From what the member told me, I guess the person opened the cupboard in his cell and there was a chocolate bar. He accused me of going into his private property. That is what happens when gross inaccuracies are used in debate. Some poor gentleman thought I had gone through his private property. In fact, I did not, but I suppose he produced a chocolate bar. I do not know why that is relevant, but it should not be used by the member to deflect the import of the debate. It is ridiculous.

They are served meals three times a day. They have the right to accept the meals or not. They are also served snacks at different times. They have the right to accept those or not.

Outside of that area is a large yard where detainees can exercise or have fresh air for four and a half hours a day. Immediately adjacent to the yard and still separate from the inmate population is another facility, which has a private office, a separate medical examination room and an exercise area with full window views. It looked like it was fairly new, with universal type gym equipment and a coloured TV, with which I had no problem.

There is also another, not huge, but fairly large common area in which family visits can take place seven days a week. Should people choose to see their spiritual advisers, priests, imams, whoever they may be, they can also visit them at least twice a week. I heard of one fairly joyous ceremony, something that would equate to a ceremony for a young man, that took place in the not too distant past.

It bothers me when I hear people saying that there is no medical help available. A medical practitioner visits the cell area every morning at 10 a.m. to offer services. The services may be turned down. There is also a doctor and a psychologist who are immediately available, but not necessarily on a moment's notice.

All these things are in place because we believe in human rights in Canada. We believe in human respect. We believe in caring for all people, no matter what their particular situation may be.

I have gone over the reasons why individuals are housed and detained in a facility like that. I indicated that some of the people have cases before the Supreme Court. Again, the Federal Court of Appeal has not only upheld this process, but it has upheld some specific individuals in terms of the process being valid.

When the member for Scarborough—Agincourt launches into a tirade that is not factual and accuses the government of being disrespectful of human rights, he forgets it was his government that brought in the process. It was his government that defended it. It was his government that upheld it, as did the Federal Court of Appeal. I would caution him. He can get into debate and be vigorous about it, but do not reflect, in a pejorative way, on the intent, the personalities or the intelligence of people who for the last 30 years in the Liberal government and judges themselves in the federal court have upheld this. Let us have the debate, but let us make it on reasonable grounds.

The member said a number of things that were inaccurate. How can a member of the House be allowed to get up and talk about the confidentiality of somebody's state of health? Can members imagine if I did that? Imagine the howls of protest from all parts of the House if it were said of me that I was disclosing elements of a person's private health situation? I could not do it and I cannot do it. I can say that the health is monitored. However, I would not recommend that people go on a diet of only a variety of juices, or soy milk, or yogurt, or honey or other various concoctions for many weeks, and I am not reflecting on an individual now.

● (1215)

Yesterday I was asked why the government had not done something, why it had not intervened in their health situation. The fact is we cannot force people to eat. Meals can be brought to them, but we cannot intervene. We cannot plunge an intravenous into their arms and force them to eat. I hope anybody in that situation would finally choose to return to solid foods. We know people can exist for long periods of time on diets of soups, yogurts, juices, soy milk and honey, but I do not recommend it.

Nor am I saying that the facility is a pleasurable existence, but it is not the type of accommodation that would deprive people of human rights, as stated out and as upheld in the Charter of Rights and Freedoms in Canada and within our legal system.

The member also said that there were no protocols. Protocols have to be followed. Every complaint or grievance raised in that facility by any individual is catalogued and followed through. One of the members of the NDP, who had some genuine concerns, listed six particular ones. If I am not wrong, I think five of the six have been addressed, but I stand corrected on that. That member brought the information out in a factual way. He disagrees with the process. His debating points were based on what he saw as factual and what should be right or wrong.

The member also mentioned that there was no medical care or practitioner available. Every morning a medical practitioner is there and others are available on call.

I hope the many provisions the government has taken to secure the safety of Canadians will prove that we have done all we can. However, we never can do all we can. We never can do everything to make sure our society is 100% protected at all times. We put $1.4 billion in the last budget directly toward the safety and security of Canadians. With respect to our borders, we have provided $101 million for the next two years to train our border officers with sidearms. Another substantial amount of money has been provided to hire 400 more border officers for the work alone sites across Canada. Border officers work alone many times at midnight. The Liberals allowed this to exist for years, but we will put an end to it. We do not want any more work alone sites.

We have done many things to enhance security to ensure that trade moves quickly across the border. We have done things to stop people who have the wrong intent or people who we are concerned might harm Canadians or our country.

That is the essence of the process itself and where it came from. It is something that we feel should be in place. As I said, it is used very rarely. When people arrive on Canadian shores and the evidence is such that they are deemed to be a risk to the security of Canadians, or perhaps they have been engaged in human rights violations or other such things, there has to be a way to say that they are inadmissible. If they want to challenge that inadmissibility, there is a process in place so they can challenge it. Canada is one of the most generous countries in the world. It could take years.

In those cases of security risk, where their lawyers are allowed to see the information, other than strict national security items, then we will have to detain them until they exhaust their appeal process. At the end of the process, if the courts determine they are free to walk around, we have to deal with that. In fact, one court ruled in one case that the individual was free to be out of the detention centre, but had to remain under house arrest.

We have the safety and security of Canadians as our best interests and we will respect the human rights of all people in maintaining that.

● (1220)

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Mr. Speaker, I appreciate the sensitivity of the particular position of the minister in terms of making specific comments about specific cases. However, the debate is not about that. It it not about this issue nor his role. His role is to administer and set policy, and we are talking about that.

A bit of historical perspective has to be brought to this right now. That institution was built because we had these individuals incarcerated in provincial institutions. The message we got from them, quite clearly, in the last Parliament and again in this one, was they were not capable of doing it. We know there were specific problems with the administration of that.

When this was constructed, why did we did not anticipate the kinds of problems we are running into right now, without going into the specifics? Why do we not have policy in place to deal with this?

More specific, has he given any consideration to treat them no differently than we treat other prisoners and to provide some type of an ombudsman, whether it is the corrections investigator or somebody from the outside specifically appointed to take complaints, to try to deal with them? If there were specific policy issues that have to be addressed as a result of those complaints, we then would have a system in place to deal with them.

First, why did we not anticipate this? Second, why can we not put in place some kind of an ombudsman system?

● (1225)

Hon. Stockwell Day: Mr. Speaker, I appreciate what the member for Windsor—Tecumseh said about this as a debate about policy and not individuals. Unfortunately, a lot of the debate I have heard zeros right in on the individuals themselves and it makes it very difficult for the government to respond. In some cases the individuals have their cases at the Supreme Court.

Why were these grievances and problems not anticipated? The federal Liberal government decided to have a detention facility. I believe the decision to take it out of the main inmate population and to have a separate facility was correct. It was a prudent thing to do.

That facility, being largely governed under the Canada Border Services Agency, has a number of overseers, not only their own particular protocol officers, who have to oversee it and report on every instance and every grievance, but the Privacy Commissioner has access to it as does the Auditor General. As well, most of the senior officers of Parliament have access to concerns within their particular area that would relate to this.

On grievances, the filing of grievances is a very common thing within not just the prison system but in the detention system. I am not saying it is right or wrong. Nor am I saying it is abused. I was at a facility about three weeks ago, which housed a few hundred individuals. The number of grievances brought forward in a year were 1,300. I think close to 800 had been dealt with and 500 had not. That is 500 grievances that people on one side of the equation said should have been dealt with and people on the other side said they had been dealt with.

Grievances are a common process in the field labour management and collective bargaining. I met with a union leader only a few days ago. I was surprised at the number of grievances brought forward by members of the union. It was in the hundreds. I was also surprised by the numbers that had been resolved, but the unresolved ones were still in the hundreds.

The fact a grievance is brought forward shows that the person has the right to grieve. They are all reported. There is a protocol in place as to which ones are addressed, which ones are not addressed and why.

Mr. Ed Fast (Abbotsford, CPC): Mr. Speaker, I share in the minister's frustration. When we hear Liberal members of the House talking about chocolate bars, when in fact Canada and free nations around the world are facing this critical threat from terrorism, that is not encouraging.

I have two questions for the minister.

First, there has been some suggestion from our Liberal colleagues along the way that somehow the securities certificates represent a violation of the Charter of Rights of Canada. I invite him to comment on this. When these matters are dealt with by the Federal Court or the Supreme Court, do those courts take the charter into consideration?

Second, are Canadian citizens ever subject to these security certificates?

● (1230)

Hon. Stockwell Day: Mr. Speaker, I believe all questions are pertinent in this House, but the hon. member's question is particularly pertinent from the point of view of a detaining type of system because within his constituency reside a number of facilities. Now it is within the prison system, and I do not know that there is a CBSA facility in his constituency. I think if not on the border, it comes close to the border. However, he is well aware of what happens within any kind of a detaining system.

First, he asked if the provisions have been subject to the charter. When something procedural comes to the Federal Court of Appeal, as has happened in a number of cases with security certificates, the hon. justices who sit at that Federal Court of Appeal have to take into account the charter. They do that in a significant way, they look at precedent and all of Canadian law, especially when it comes to rights and the deprivation of rights. So, full charter consideration, at least in the minds of the Federal Court of Appeal to date, has been taken into consideration.

Then the member for Abbotsford asked if this applies to Canadian citizens. The security certificate process does not apply to Canadian citizens, nor does it apply to permanent residents.

Mr. Jim Abbott (Parliamentary Secretary to the Minister of Canadian Heritage, CPC): Mr. Speaker, I would like to invite the minister to briefly comment on what the reaction would be if indeed an unfortunate event occurred as a result of people being in our society who should have been isolated from our society. In other words, it is his responsibility, on behalf of our government and the government on behalf of Canadian people, to keep our streets and communities safe, particularly in these very perilous times. This measure that is being debated today obviously goes a long way to do that.

I wonder if he would care to comment on what he thinks the reaction of the Canadian public would be if in fact we did not exercise this kind of restraint.

Hon. Stockwell Day: Mr. Speaker, I would say to the Parliamentary Secretary to the Minister of Canadian Heritage that it is somewhat speculative.

However, if I can use past experience and past history, if a person were to come into this country who was not a Canadian citizen or a permanent resident and perpetrated some awful deed that resulted in extensive damage to property or in fact injury or death to Canadians and it was later determined that Canadian authorities knew the person was dangerous and did nothing, I would suggest that the government of the day would be quite rightly hauled upon the carpet by the citizens and by the opposition members for why it did not take action in allowing somebody who was deemed to be dangerous to be strolling freely about the country.

Mr. Blair Wilson (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.): Mr. Speaker, before I start I want to say how deeply disturbed I am with the words of the minister and the tack he has taken with respect of the lack of seriousness of the case at the correctional institute which is before us. He talked a little bit like I was watching *The Shopping Channel*, discussing bedrooms and tables and chairs. I do not think he fully appreciates or understands the seriousness of the matter before us.

The immigration committee, which I am proud a member of, visited these three men who are in dire straits, in dire consequences. They have been on a hunger strike now for over 80 days. The men have lost upwards of 45 to 50 pounds. Their lives are in jeopardy and that is one of the main reasons why the committee chose to travel by bus to Kingston to discuss the situation with these men, to discuss the problems they have with respect to their hunger strike, and to talk to the correctional officers and management of that facility to see how we can break this impasse.

This debate in the House of Commons and before Canadians is part and parcel of doing just that, of breaking the impasse. It is to try to save the lives of three men and at the same time try to adjust the justice system in Canada.

If I break down the issue and the motion before us, two basic issues come to light. One of the issues that is not being specifically discussed at the Kingston correctional holding facility is the issue of fairness of the security certificates. These three men are not dealing with the issue of the security certificates per se, they are dealing with the conditions they are being held in.

Parliament and Canadians want us to open up this debate in order to talk about some things of substance. The substantive issue is the fairness of the security certificates and how it balances the rights of the individual with the safety of the collective society.

We have had these men incarcerated for six and a half years, two years of which some of these men were held in solitary confinement. The immigration committee visited Kingston last October and actually went into the cells that some of these men were held in solitary confinement and, Mr. Speaker, you would not want to spend five minutes in solitary confinement in the cells that we witnessed, let alone two years.

The question is one of balancing the civil liberties of individuals and our human rights versus the safety of Canadians. These men have been held for six and a half years without being charged of any criminal offence, nor have they been convicted of any crimes.

The third important issue to remember is that they are being held indefinitely without knowing the evidence the government may or may not have on them. So they are not, nor are their lawyers, privy to the qualitative nature or the quantitative nature of the evidence against them, yet they are being held indefinitely in this institution.

We can argue if our system is fair and just when we have a law on the books that allows the minister to incarcerate three individuals for six and a half years without them being charged of any offence, without knowing any of the evidence against them. We can make that system much better and I do not know why the Conservative government or the minister is dragging their heels on this. Perhaps it is to garner favour with the Bush administration and to continue to champion against human rights and against Canadians. But the system can be made better.

The immigration committee has put recommendations out there. We have heard witnesses. One of them is to put a special prosecutor in place so that there is a mechanism by which those who have been accused can actually see and test the evidence against them. Right now there is no ability for these three men to test the evidence against them. I would call on the minister to initiate changes, to make the system better, and to make it safer for Canadians and balance the rights of individuals.

I will speak more to the point on the issue before us today relating to the conditions of the detainees. We were there and they are in dire straits. They have a number of grievances they have filed with the process.

● (1235)

The difficulty that they have, though, is that they are caught in between. They are not criminals on the one hand. They are being held through the immigration process as detainees. They are not criminals. They are detainees and because of that Canada has to deal with them in a different way.

We have to decide, are we going to hold them in maximum security, minimum security or medium security? The question right now is: How is this process managed? I would say that the minister is managing it irresponsibly because he is not in tune to the issues of the day and the problems that these men have.

I could list a few of the problems. They are in the motion here before us today. One problem is that the detainees are not allowed to have close family visits. Another one is that they are not allowed to have access to the canteen facilities. A third problem is that they are subject to daily head counts. My goodness, there are three of them in this cell. Any guard or any person going in there can count, "one, two, three" and realize that they are there. Yet, they are subject to daily head counts. Another grievance is that they are not being allowed to practise their religious beliefs. It goes on and on.

When I spoke to these three men I said that I did not want to try and deal with each one of their grievances one at a time. They have a list of 20 to 25 grievances. I believe a better approach is to take a systemic solution to what we have here. The problem we have is that there is no grievance mechanism for these men to deal with. The same shoe is on the management and staff there. They are used to maximum security penitentiaries where they deal with things one way. This is a new situation that requires new policies and procedures.

A new policy and procedure that we have put forward to the Department of Citizenship and Immigration is that an ombudsman be put in place to hear the grievances of these three men and deal with the issues one at a time as they come up. It is a common sense solution to a problem.

There are three men that are on a hunger strike right now because they cannot exercise their religious freedom, visit with their families, and have the other rights and privileges that normal prisoners who have been charged with crimes are allowed. We have a situation here that is untenable. We have to work as parliamentarians in the House of Commons to deal specifically with the solutions that are at hand.

The motion before the House deals with that solution. I would urge members from all parties to vote in favour of this motion and deal with the solutions to this problem.

● (1240)

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Mr. Speaker, I applaud the work that my colleague from the Liberals has undertaken and that the citizenship and immigration committee has taken in terms of trying to get some reason and sense into this issue and hopefully a resolution of it. I would like to indicate that I think all of us in the House appreciate the work that they are doing.

I would ask the member if he could address specific comments to the policy issue here that I see as glaring. On one hand we have individuals who are being detained in a grossly contrary fashion to the normal process in this country. They are in a process that does not allow them to make full defence, that does not even share with them what they are actually accused of in full detail, and some of them are now faced with the prospect of staying in custody on an indefinite basis. That is the situation in which they are detained. On the other hand, the detainees are not given even the same level of consideration and basic rights as are people who have been convicted of murder and other serious offences.

Would the member make some comments on what seems to be such an offensive juxtaposition of those two statuses?

Mr. Blair Wilson: Mr. Speaker, the member has gone to the crux of the matter. Here is the issue that we have to deal with right now. The men are being held as detainees without being able to see the evidence against them, without being able to have their lawyer see the evidence against them, and without being charged of any crime under the Criminal Code.

The government of the day could charge these individuals under the Criminal Code. These detainees could be charged and taken into court and allow the evidence to be heard and be given the same rights that all of us as Canadians enjoy. There is an inequality in the way that this policy is being enacted. That is one of the keys to it.

The minister said that this is a three sided prison. It is not a three sided prison. That is hogwash. These men are being held for an indefinite period of time and if they choose to go back to Syria and Egypt, they will most definitely face torture and their lives will most definitely be at risk.

The minister across knows this full well. The minister stood in the House and ranted and raved against Maher Arar, calling him a terrorist. We all know where that ended up. It has cost the taxpayers of Canada $10.5 million. I fear that the action that the minister is taking right now could very well cost taxpayers more money.

Mr. Jim Abbott (Parliamentary Secretary to the Minister of Canadian Heritage, CPC): Mr. Speaker, I find the presentation by the Liberal member absolutely breathtaking. First off, these men were put into their current status by his government six years ago. It is only in the last year that they have decided to go on this hunger strike.

The dire consequences are of their own making. If we are to, as the member put it, save their lives, what are we to do? Are we to overturn what his government undertook six years ago, obviously for good reason, under the direction of the Liberal justice or Solicitor General people in his government? What has changed other than the fact that these men are choosing, making the wilful, intelligent choice, to starve themselves?

I find this totally amazing, and I would also like to correct the member on a couple of things. He said that this was against human rights and against Canadians. He apparently must have been out of the room or did not hear what the minister had to say. In fact, these laws, these provisions, are not against Canadians. They are against people who, in the judgment of the government of the day, the Liberals and now the Conservatives, pose a threat to the well-being and safety of people in Canada. The law is not against Canadians.

Furthermore, I point out, as the minister did earlier, and perhaps the member did not hear, that the courts have taken a look at this and have said that this complies with the Canadian Charter of Rights and Freedoms. The member is representing the government that put these men in their current status and I find his position immensely hypocritical.

● (1245)

Mr. Blair Wilson: Mr. Speaker, I must say it is a little rich listening to the Conservative member on the opposite side lecture the House on civil liberties when he is now informing the government that is keeping these men incarcerated.

I would also like to educate the member a little with respect to the different avenues that are available to the minister and the government right now. We are holding these three men indefinitely in an institution. If he does not understand the human rights and social aspects of it, maybe Conservative members can understand the economic impact. I am talking their language now when I talk about the economic impact. These three men are being incarcerated indefinitely at a cost to the taxpayer of how much? It is costing the taxpayers $2 million a year right now.

Why do we not do something better? Why do we not release these men under house arrest? We can put GPS tags on them, release them on their own recognizance and have their families look after them, just like we have done previously with two other individuals who were held under security certificates. They have been released and are now under house arrest. Who is bearing the cost of that? They and their families are.

If the Conservative government does not understand the impact of human rights violations, they may understand the economics of it and stop paying $2 million a year to house these three men when they could be put under house arrest and be monitored just as well.

Mr. Ed Fast (Abbotsford, CPC): Mr. Speaker, it is really rich for the member to suggest after six years, five of which were under the watch of his party's government, that government policy somehow should change.

He made one remark in which he suggested to the Minister of Public Safety that he should be making changes to the system to make it better. My question for the member is this: during the five years that his party was in government and these individuals were detained, why is it that his government did not make a peep and did not make any changes?

Mr. Blair Wilson: Mr. Speaker, I would remind the member that we are sitting here before Canadians talking about the present situation. We are talking about the future. That is what is important, not the last five years of fiscal responsibility, of balancing budgets, paying down debt and giving the best economic prosperity to Canadians that they have ever seen.

No, that is not what we are here to talk about. What we are here to talk about is the future of Canadians and the future of our social justice system. We have a law on the books under security certificates that I believe is not balancing the rights of individuals with the rights of the collective. It is our job as parliamentarians to get that balance right. Things change. Time goes on. These men have been held for six and a half years. Their cases should be re-evaluated and the appropriate procedures should be followed.

I hope that all members of the House will listen to the recommendations of the Standing Committee on Citizenship and Immigration and vote in favour of this motion.

● (1250)

Mr. David Tilson (Dufferin—Caledon, CPC): To return to the motion, Mr. Speaker, as I understand it, the citizenship committee and the members of the opposition want an official known as the Correctional Investigator to have jurisdiction over this matter and do a number of things listed in the motion, including giving these people in custody conjugal rights, access to canteen facilities and a number of other things.

My question for the member is about the fact that the courts, which have already made a determination that these people pose a danger to the national security of Canada, have that right now. They can do those things. Why should this official do them?

Mr. Blair Wilson: Mr. Speaker, I would ask the member across the way if he has the opportunity when he is driving to or from his riding, or is around Ottawa, to drive to Kingston to that facility and examine the state that those three men are in right now and how they have to live their lives. They have been incarcerated for six and a half years. Two of the men have been in solitary confinement for two years of those six and a half years. All the time that they are—

The Acting Speaker (Mr. Royal Galipeau): Order, please. Resuming debate, the hon. Parliamentary Secretary to the Minister of Canadian Heritage.

Mr. Jim Abbott (Parliamentary Secretary to the Minister of Canadian Heritage, CPC): Mr. Speaker, it gives me a great deal of pleasure to speak to this motion, particularly in light of my own personal history on the issue. I have always been deeply concerned about the rights of Canadians and the freedoms that we have in our society.

Going back to Bill C-36 and what is presently under consideration by this House, the motion to give an additional three years to the anti-terrorism law, it turns out that I am going to have to confess to the House and to Canadians that I made a mistake. I made a mistake five years ago when I voted against this anti-terrorism bill. It was the position of my party to support the Liberal government on the anti-terrorism bill.

The bill was proposed immediately prior to the break week in October, and the debate proceeded to the break week around Remembrance Day. During that period of time and those two breaks, I went around my constituency. I went to classrooms and to coffee shops. I conducted town halls. I listened to the people in my constituency.

The major concern coming out of all of that was the fact that the anti-terrorism bill as such was so odious and so bad, and so crushed the individual freedoms and liberties for which hundreds of thousands of Canadians died, that nobody wanted the bill. Although there are the two provisions that are now before the House for debate in the bill, and there is a five year sunset clause, there are other provisions in the Anti-Terrorism Act that are virtually equally odious to the sense of freedom and the sense of fair play that we have in our society.

As a consequence of that, I chose to take a position contrary to the Canadian Alliance position at the time and contrary to that of my leader. I was one of two people in our party, I believe, who stood up and voted against that bill.

I am happy to say that I was wrong. I was wrong with my vote because, in the intervening period of time, we have seen that the police forces, the people who protect Canadian society, have not had occasion to enact any of those provisions, and that is good.

I was also wrong in taking a look at the potential for there to be a miscarriage of justice, for the potential for there to be excessive use, and for the potential for civil liberties of Canadians to be taken away.

Quite frankly, I feel somewhat qualified to speak to this particular motion because of the strong sense that I as an individual representing the people of Kootenay—Columbia have about the individual civil liberties of everybody in Canada.

Taking a look at this motion per se, and having listened to the presentation by the member for West Vancouver—Sunshine Coast—Sea to Sky Country, I find his position, if indeed it is representative of where Liberal members are coming from, to be absolutely breathtaking in the scope of its hypocrisy.

His position is unsustainable when we look at the fact that my colleague from Abbotsford and I pointed out, which is that it was the Liberal justice minister who went before the press gallery, who spoke very well, very strongly and very purposefully about the Anti-Terrorism Act, and who actually saw the incarceration of these men. If it was not she, it was her predecessor, also a Liberal justice minister.

● (1255)

For him to be standing here and saying that just because we have changed government, just because the Conservatives are now in charge of the keys on the doors that we should be changing the system, if there is such a thing as logic in that argument, it absolutely eludes me. I do not comprehend other than for possible political posturing and advantage, why he would have chosen to have made that speech.

Although I disagree in the most fundamental way with the position the NDP members are taking on this issue and the position they take on a number of related issues, in my judgment, although I believe they are fundamentally wrong, they are nonetheless doing it because they believe it. There is a consistency to the NDP position.

There is a total inconsistency to the Liberals' position. We never know what it is going to be from day to day. The new leader of the Liberals I believe took a position on the anti-terrorism bill, or at least certainly his party did, which the Liberals have now completely overturned and flip-flopped on.

As a person who is deeply concerned about the personal freedoms and the rights that we have in Canada, I say to the Liberals to get their act together, to get some principles on the positions they are going to be taking on these issues. It is far too important.

I will argue and do everything I can within the law, within the legislative power of Parliament to defeat what the NDP members are talking about, but I do respect the fact that they are taking what they consider to be a principled position. It is a position that they have.

I find myself in despair over the fact that on issues that are so fundamental, so bedrock to who we are as Canadians and what our society represents, the Liberals wish and wash and flip and flop and we never know where they are going to end up.

I felt compelled to stand on this issue because it is one that has been immensely important to me as long as I have had the extreme privilege that I have had to represent the people of Kootenay—Columbia in this place.

Hon. Karen Redman (Kitchener Centre, Lib.): Mr. Speaker, it had not been my intention to respond to my hon. colleague, but there are a few things I need to point out, having been in the Liberal caucus when we brought in this legislation when we were in government and now being in opposition.

I would like to point out to my hon. colleague that there are from time to time, as a matter of fact I think on most topics, a variety of views within this House. One should not speak disparagingly of others who do not share the same point of view. I have never sat in his party's caucus, but I hear that it is somewhat of a monolith of views and they feel very righteous in the fact that there is very little variation in the public face that they present.

I would like to point out to my hon. colleague, who I know has many years in this House and is a thoughtful man generally speaking, that the sunset clause was actually put in when we were in government as a backstop to what could have been perceived as draconian measures, what could have been seen as something that impinged on individual rights and freedoms. It was absolutely fundamental to us as a Liberal Party which then, I would underscore, was the government, but now is in opposition, to make sure that we had the balance appropriately calibrated between standing up against the new menace of terrorism and demonstrating to our international partners that we did take this very seriously, but not tipping the balance to such a degree that we indeed were giving up many of the values and characteristics that we hold dear as Canadians.

Thus we put in a sunset clause. Thus it is very consistent to ask hard questions that the Conservative government does not seem to want to ask, such as, if these have not been used in the intervening time, and we have been able to uncover a cell of terrorist activities as we did in Toronto in the recent past, one can legitimately ask if these are indeed necessary.

I would say that it is beneath members of this House in any way to pick that as being inconsistent or less valuable than the decisions that other individuals and parties in this House might make.

● (1300)

Mr. Jim Abbott: Mr. Speaker, my colleague, for whom I have a very high personal regard, has pointed out that the point of view that is expressed by members when they come to this House is shaped two ways. One is for me or for the member to be speaking as an individual; the other is to represent the view, the perspective, the position of the party.

In this particular instance, if we can step away from the anti-terrorism bill for just half a second and deal with the issue at hand, what I find deeply regrettable and certainly leading to the kind of ridicule and criticism that citizens have of ourselves as politicians in this place is the fact that it was her justice minister, it was her government, that put these men in jail in the first place. They were there, and have been there, for five and a half years under her government's regime. Now, all of a sudden, just because the government has changed, the Liberals in turn changed their entire party position. Why would they do that?

The consistency of our freedoms depends on the consistency of the administration of justice and the principles under which we are governed. As long as we are seeing a major party in Canada, the Liberals, flipping and flopping and dashing and not knowing which way that party itself is going to go, it ends up creating an insecurity within Canada.

If it was the Green Party or if it was the Rhinoceros Party or if it was somebody who was just coming into the political mainstream, that would be one thing, but, regrettably, I have to report that it is the Liberals who have governed Canada for the majority of time that Canada has been in confederation. For them to be flipping and flopping and just trying to find a comfortable position to get into is highly regrettable and really goes to the core of who we are as Canadians and the values that we have as citizens in Canada. I find it deeply regrettable that the Liberals are not prepared to stand on principles, if they could find some.

[*Translation*]

The Acting Speaker (Mr. Royal Galipeau): It is my duty to interrupt the proceedings and put the question necessary to dispose of the motion before the House.

Is the House ready for the question?

Some hon. members: Question.

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

Some hon. members: Agreed.

Some hon. members: No.

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

Some hon. members: Yea.

The Acting Speaker (Mr. Royal Galipeau): All those opposed will please say nay.

Some hon. members: Nay

The Acting Speaker (Mr. Royal Galipeau): In my opinion, the nays have it.

And five or more members having risen:

The Acting Speaker (Mr. Royal Galipeau): The recorded division on the motion stands deferred.

The House will now continue with the remaining business under routine proceedings.

* * *

● (1305)

[*English*]

PETITIONS

POLAND

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Speaker, I am pleased to present a petition signed by a number of Canadians, including from my riding of Mississauga South. The subject matter has to do with the Republic of Poland.

The petitioners want to draw to the attention of the House that Poland has successfully joined the EU, that Canada and Poland are active members of NATO, promoting peace and security globally, that Poland is using a biometric passport technology, and that lifting the visitor visas for Poland will increase family visitation, tourism, cultural exchanges and trade missions.

The petitioners call upon Parliament to lift the visa requirements for the Republic of Poland.

* * *

QUESTIONS ON THE ORDER PAPER

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

The Acting Speaker (Mr. Royal Galipeau): Is that agreed?

Some hon. members: Agreed.

GOVERNMENT ORDERS

[*English*]

CRIMINAL CODE

Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada, CPC) moved that Bill C-35, An Act to amend the Criminal Code (reverse onus in bail hearings for firearm-related offences), be read the second time and referred to a committee.

He said: Mr. Speaker, I am pleased to have the opportunity to speak to Bill C-35 which proposes that additional reverse onus situations apply in bail hearings for firearm related offences.

[*Translation*]

Procedural law is an important issue because it relates to how our criminal courts operate.

[*English*]

During this session of Parliament our government has introduced 10 bills to strengthen or improve Canada's criminal justice system. We have taken action to increase the mandatory minimum penalties for gun crimes, ban house arrest for serious offences, crack down on street racing, impose stricter conditions on dangerous offenders, and bring our impaired driving laws into the 21st century.

In Canada the law provides that a person charged with an offence has the right not to be denied bail without just cause. That means that the accused must be released unless the Crown shows that it is justified to keep the accused in custody before trial. Occasionally, the accused is required to show why pretrial detention is not justified. This is called a reverse onus.

Parliament has already created several reverse onus provisions for bail hearings. The concept was first introduced into the Criminal Code in 1976. When creating reverse onus provisions, Parliament must be mindful of balancing the rights of the accused to reasonable bail with the need to safeguard the safety of the public and to maintain confidence in the administration of justice.

The Criminal Code provides that there are three grounds that can be relied upon in order to justify keeping an accused in custody before trial. The first ground is to ensure that the accused will face the charges in court and not flee from justice. The second ground is to protect the public if there is a substantial risk that the accused will reoffend while on bail or if there is a risk that the accused will interfere with the administration of justice. The third ground is where the detention of the accused is necessary to maintain confidence in the administration of justice.

Bill C-35 is consistent with the principles that currently underlie Canada's bail regime. I would like to take a minute to talk about the proposals contained in the bill.

Bill C-35 creates a reverse onus provision for eight serious offences when committed with a firearm. They are: attempted murder, discharging a firearm with criminal intent, sexual assault with a weapon, aggravated sexual assault, kidnapping, hostage taking, robbery and extortion.

These serious crimes carry a mandatory minimum penalty of four years and under Bill C-10 the minimum penalty would increase in certain circumstances to five years on a first offence, seven years on a second offence and if they still do not get the message, 10 years on a third or subsequent offence.

Bill C-35 also creates a reverse onus provision for any offence involving a firearm or other regulated weapon if committed while the accused is bound by a weapons prohibition order.

A mandatory weapons prohibition order is imposed upon conviction for over 70 offences, namely, when an offender is convicted of an indictable offence in which violence against a person was used, threatened or attempted and for which the maximum penalty is 10 years or more; specific firearms offences; or trafficking, smuggling or producing drugs.

In other words, mandatory weapons prohibition orders are imposed on people who are convicted of violent crimes, drug offences or serious weapons related offences.

The courts are also empowered to impose prohibition orders after conviction for other less serious crimes if they consider it appropriate in the interests of public safety. These are called discretionary prohibition orders and they remain in force for up to 10 years. A mandatory weapons prohibition order remains in force for a minimum term of 10 years and in many cases for life.

It should also be noted that it is possible to have a weapons prohibition order imposed on a person even though the person is not charged with or convicted of a criminal offence.

An order prohibiting someone from possessing firearms or other regulated weapons can be obtained by the court for preventive reasons. If a peace officer or a firearms officer has reasonable grounds to believe that it is not desirable or in the interests of the public safety that a person should possess firearms or other weapons, an order to prohibit possession can be obtained and it can remain in force for up to five years.

Weapons prohibition orders are an important tool in our criminal law to help prevent firearm violence, whether it is firearm homicides or the full range of other firearm related crimes, but also accidental injuries and suicides.

Whether the prohibition orders that are currently in force were imposed in a mandatory or discretionary way following conviction for a criminal offence or in a preventive manner due to public safety concerns, I would like to highlight that there are approximately 35,000 prohibition orders currently in force in Canada.

● (1310)

Therefore, this proposal, which provides a reverse onus for anyone charged with an indictable weapons related offence, if already prohibited from possessing weapons, has a very broad reach, given the large number of offenders currently subject to a prohibition order.

The idea of triggering a reverse onus for persons charged with serious weapons related offences if committed while prohibited makes sense. These people already have been considered by a court to be a public safety threat. That is why the prohibition order was imposed in the first place.

They should not benefit from a presumptive entitlement to bail when they have demonstrated their inability to abide by a court order on a matter of direct relevance: their alleged reoffending involving weapons in direct contravention of an existing court order not to possess weapons.

The courts must be required to take a serious look at these types of cases. The accused persons should bear the onus of demonstrating why it is not justified to keep them in custody.

I realize that I have taken a bit of time on this point, but I think it is an important feature of the bill. As I said earlier, from a public safety perspective it makes sense.

Bill C-35 also creates a reverse onus provision for the three following serious firearm related offences: firearm smuggling, firearm trafficking or possession of a firearm for the purposes of trafficking.

While these offences do not involve the actual use of a firearm, where the safety of the public is directly put at risk, they are still serious offences nonetheless.

Those who are involved with firearm trafficking and smuggling are responsible for the illegal supply of guns to people who cannot lawfully possess them and who are very likely to use them for a criminal purpose.

We also have a problem with an underground firearms market where guns that have been stolen from within Canada or smuggled into country are traded and sold to people who are not allowed to possess them legally. We want to get at those individuals who are trafficking in firearms and we want this bill to apply to them.

Today in Canada street gang members and drug traffickers arm themselves with guns, usually handguns, therefore creating the demand for illegal guns. They are well organized and sophisticated illegal operations.

Law enforcement officers tell us that some of the schemes involve drugs first being smuggled to the United States and sold there, and the proceeds are used to purchase guns that are smuggled back into Canada. Law enforcement officers also tell us that some firearms traffickers even rent out guns for the night, if anyone can believe it.

We have a reverse onus that currently applies to those charged with drug trafficking and smuggling. There is no good reason not to include a reverse onus for those who are involved in firearms trafficking and smuggling. From a public safety perspective, although firearms traffickers may not be the ones actually pulling the trigger and causing the death of a person, they certainly play a significant role in the firearm homicide problem.

In addition to the reverse onus provisions, Bill C-35 also proposes additional factors that the courts must consider in determining whether the accused should be detained before trial in order to maintain confidence in the administration of justice. Namely, the courts must consider the following factors: whether the accused allegedly used a firearm in the commission of an offence; or whether the accused faces a minimum sentence of three or more years.

With respect to this provision, referred to as the "tertiary or third ground", it should be noted that certain terms ruled to be too vague in the existing provision are being removed in response to the Supreme Court of Canada decision in the case of R. v. Hall. Specifically, the phrase "on any other just cause being shown and, without limiting the generality of the foregoing" is being removed.

We know that Canadians are concerned about violent firearm offenders being released back into the community. The goal of Bill C-35 is to prevent the re-commission of offences, particularly gun violence, by persons out on bail.

Bill C-35 seeks to enhance the current bail regime by making it more effective with regard to serious crimes involving firearms and it does so in a way that is consistent with the Canadian Charter of Rights and Freedoms. Subsection 11e) of the charter recognizes the right not to be denied bail without just cause.

The Supreme Court of Canada recognized that there are situations in which the reverse onus is necessary to prevent absconding or reoffending while out on bail, for example, in drug trafficking cases.

I consider these bail reforms to be a rational and constitutional approach to tackling serious gun and gang problems that currently exist in our communities.

● (1315)

Police officers, provincial and some municipal governments, who are more directly involved in fighting crime, have been expressing serious concerns for some time about the release from pre-trial custody of persons involved in gun and gang related crimes. This tougher bail scheme for firearms offences responds to their concerns.

Persons involved in criminal gangs are able to easily regain possession of illegal guns, to continue with their criminal activities, which usually revolve around the drug trade and turf wars.

These proposals appropriately focus on serious firearm offences, and particularly when committed by those already prohibited from possessing firearms and other weapons.

These measures are beneficial for the victims and their families as well as for witnesses who may be reluctant to come forward with information or to testify for fear of retaliation. It is important that they be encouraged to cooperate with authorities and knowing that the accused is behind bars will help in that regard.

These measures are also beneficial for Canadians in general. This bill will help restore Canadians' confidence in the administration of justice. Bill C-35 confirms the government's resolve to ensure that Canada's criminal justice system appropriately safeguards the safety of the public.

It is important to note that this bail reform initiative is part of a larger plan for tackling gun and gang violence. The government's plan includes interventions at different levels. We have taken action to put more law enforcement officers on our streets and at our border points including armed border guards to help crack down on firearm smuggling and trafficking.

We have dedicated resources to help prevent crime and to focus specifically on preventing youth at risk from getting involved in street gangs and drugs. As mentioned earlier, we have proposed tougher sentences for those convicted of serious crimes involving firearms with particularly stiff penalties for repeat firearms offenders.

Canada's new government promised to tackle crime to make our streets safer.

Bill C-35 appropriately targets serious offences involving the use of firearms and it also addresses the emerging concern with respect to firearm trafficking and smuggling. Equally important, Bill C-35 targets violent repeat offenders by proposing a reverse onus for any indictable offence involving firearms or other regulated weapons if committed while the accused is under a weapons prohibition.

This is a minority Parliament. We have to have the support of all political parties and I say to them, it is not enough to talk about fighting crime at election time. We have to do it when we are sitting here in this Parliament. I believe that this is a worthwhile positive contribution to making the streets and Canadian communities safer.

● (1320)

[*Translation*]

Mr. Réal Ménard: Mr. Speaker, I rise on a point of order.

I would like to know if there was an error on the part of the Speaker or if it was I who misunderstood. You indicated that the bill would be referred to a legislative committee. This is the first time that has been mentioned.

Does the government really intend to do that or will this bill be referred to the Standing Committee on Justice?

The Acting Speaker (Mr. Royal Galipeau): The bill must be referred to a legislative committee.

[*English*]

Hon. Larry Bagnell (Yukon, Lib.): Mr. Speaker, the minister got off the bill at the end of his speech and talked about trying to reduce crime. However, I think the government has failed dramatically in the area where it could reduce crime the most and that is crime prevention.

I would like to ask him if he would approach the Minister of Public Safety and get the crime prevention projects that have been so successful across the country working again.

I have been trying to get one project which is just a repeat one approved. It has been sitting there for months. It is the better part of a year that it has been on hold.

The other big area is the aboriginal justice strategy. We have nine projects just in my riding, which is one out of 308 ridings which have been very successful. All that is on hold. People are being laid off before March 31 because they have not heard from the government. I would like the minister to ensure those are reinstated right away.

Another question I have is related to the resources needed for this bill. I am sympathetic to getting the bill to the legislative committee. However, any good analysis of a bill would also ask officials to say what the cost of the bill might be to the government. I wonder if the minister could give us the results of that investigation.

Hon. Rob Nicholson: Mr. Speaker, the hon. member mentioned other measures that we are taking to prevent crime. I can tell him that about two weeks ago my colleague, the Minister of Public Safety, on behalf of himself and on behalf of my ministry, announced the youth gang prevention fund. The fund is an attempt to intervene with individuals, who are susceptible to gangs and the related violence and crime associated with that, at a point where we try to get those individuals steered on to the right course.

With respect to the other measures that the hon. member mentioned, I appreciate his comments on those. Of course, it is part of the budgetary cycle and he would be aware of that, but I appreciate his comments.

The hon. member asked about the costs. I come from a school of thought that there is a huge cost on society when people continue to commit crimes. We never seem to get questions about that. However, the individuals we are keeping in jail or we are putting the onus on them as to why they should be released on bail, the hon. member should think of the cost that we are saving if they are not out of jail and reoffending with firearms. He should think of the cost to society for that.

As a government, we have put more money into crime prevention and crime prevention initiatives. I would ask the hon. member to think about the administration of justice and how important it is that the wrong people not be let out on the streets. I think he should take that into consideration.

● (1325)

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Mr. Speaker, I thank the minister for his speech and I will ask two quick questions.

I understand the significance of this bill, but why did the government choose to set up a legislative committee and to refer the bill to this committee? This is the first I hear of it. I glanced over at my colleagues, who were members of the committee, and we had the impression that the members of the Standing Committee on Justice and Human Rights would study this bill. I realize that this is the prerogative of the Leader of the Government in the House of Commons and does he perhaps have the answer?

Second, does he not find it contradictory for his government to abolish the gun registry, which is consulted 6,000 times a day by the police? It is a means of limiting the number of guns in circulation.

What is the use of increasing penalties or reversing the burden of proof for offences involving firearms if we do not permit the interception of firearms and if we do not give the police the means to determine whether or not firearms are in play when they are called to intervene? Is there not something contradictory, even illogical, in this reasoning?

[*English*]

Hon. Rob Nicholson: Mr. Speaker, with respect to legislative committees, sometimes the decision is made to refer bills to legislative committees in the interest of easing the burden on some of the standing committees. I believe the clean air act is before a legislative committee and that Bill C-27, dealing with dangerous offenders, is slated to go to a legislative committee.

I appreciate that the Standing Committee on Justice has a huge workload so this is a way to try to take a little bit of the pressure off that committee. I understand that some of the members will probably want to sit on both and we should be able to accommodate that.

I am surprised that the hon. member keeps flogging that dead horse with respect to the long arms registry. How many hundreds of millions of dollars need to be wasted on that before people finally figure out that we do not reduce crime by going after duck hunters. The problem is that was the mentality that we had in previous Parliaments. That is not how we reduce crime. That is about creating a bureaucracy and we do not want to go in that direction.

I want the money we use and the money we would save from that to go into more policing and into arming our border guards. The hon. member knows about the problems of smuggling and about the dangerous individuals who want to cross the border. I want the border guards to able to protect themselves. I would rather see the money go into items like that.

We disagree on that but I am hoping the hon. member will look at the bill and appreciate that it is good legislation. It has received widespread support, not just from members of the Conservative Party but also from the Premier of Ontario who thinks it is a good idea. The mayor of Toronto also thinks it is a good idea and I am hoping the hon. member thinks it is a good idea as well.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Mr. Speaker, from his analysis of his own government, I must say that getting rid of the long gun registry would only save the government about $10 million a year, which would give us perhaps 15 more police officers.

In terms of Bill C-35, the minister has on a number of occasions, in his diatribe with the Bloc, given anecdotal stories about the type of impact the bill would have. I wonder if the minister has any hard facts as to how many of these offences occur in the year where the person gets out on bail and then commits another offence. Do those statistics exist and, if they do, would he share them with the House?

Similarly, the eight serious offences, to which this reverse onus would now apply, does he have the statistics on the number of those per year, or are we faced here with, as we just saw with Bill C-10, a very few number of offences where this is an issue?

If that is the case, are we creating a system that will be a real burden for our judiciary and our legal aid in terms of responding to the types of applications that would come out under Bill C-35?

● (1330)

Hon. Rob Nicholson: Mr. Speaker, I would point out that approximately 35,000 individuals are now subject to a firearms prohibition. If any of those individuals are charged with another offence specified in this bill, the bill would apply to them.

I can tell the hon. member that many times police departments are not specifically collating these particular statistics, but it is nearly unanimous from police agencies across the country that something like this is needed.

Something I wanted to highlight in my speech and which I approached near the end was the intimidation factor that takes place. If someone is a victim of a firearms offence and then sees that individual back out on the street the next day, it is highly intimidating. Police officers tell us that these individuals become very reluctant to testify or to cooperate with the police.

One of the important effects of this bill would be to help the victims of these crimes to come forward and testify. I think that cannot be underestimated. I believe that is why the mayor of Toronto and individuals from other large cities across the country are supportive of the bill.

[*Translation*]

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): Mr. Speaker, I am pleased to speak here today to Bill C-35, An Act to amend the Criminal Code (reverse onus in bail hearings for firearm-related offences).

Before going any further, I feel it is very important to understand what Bill C-35 hopes to achieve, particularly the version of the bill before us today in the House.

[*English*]

Bill C-35 proposes changes to the bail provisions of the Criminal Code and would provide a reverse onus if an accused is charged with any of the following crimes, which are grouped into, relatively speaking, four groups of offences.

The first group comprises eight serious offences committed with a firearm: attempted murder, robbery, discharging a firearm with intent, aggravated sexual assault, sexual assault with a weapon, kidnapping, hostage taking and extortion.

The second group of offences are those that are indictable, involving firearms or regulated weapons if committed while under a weapons prohibition order. The minister spoke at some length about that second part but the bill comprises various types of offences.

Another group of offences is firearm trafficking, possession for the purpose of trafficking and firearm smuggling.

Again, we would like to appear at the committee and the legislative committee, should I be on it, and ask the government what is being done to stop the trafficking and importation of firearms in this country.

These are all serious offences. Individuals accused of any of these crimes must be dealt with, with the greatest care, to ensure these potentially dangerous individuals do not cause any more harm to society. I think everyone in this House would agree with that principle. I see that the member for Wild Rose would agree with this comment.

We must also remember that in Canada everyone is innocent until proven guilty. These rights, such as the presumption of innocence and the right not to be denied bail without just cause in section 11(d) of the charter, are firmly entrenched in our Constitution. Although our system presumes the accused is innocent pending trial, there are reasons in our community to deny bail. This can be done to ensure, under the three grounds of bail, that society remains safe.

The primary ground for denying bail is clearly the flight risk. Will the accused leave the jurisdiction? The secondary ground deals with the protection of the public. The third, although somewhat ambiguous but very much a part of our Criminal Code for some time, is whether the bail order would maintain confidence in the administration of justice. That is the tertiary ground and it is the one we should be the most concerned about with respect to the perception in the public of how well their justice system works.

As a footnote I might add that the government, although not with this bill, is doing a great disservice to our communities, cities, towns, villages and rural areas in their feelings of security. It is doing much to scaremonger and make Canadians very fearful of situations they need not be fearful of.

We in this House should stand up as bastions, as protectors of the Criminal Code and the criminal justice system, and tell Canadians that the Criminal Code of Canada does work, that the justice system as administered in Canada does work and that we are a safe country.

Under Bill C-35, if an accused is charged with an indictable offence committed while already released on another indictable offence charge, if the person fails to appear in court or breaches a release of a condition, if that person is accused of being a member of an organized crime or terrorism unit or other such grave offences, including drug trafficking and smuggling, or if the accused is not an ordinary resident of Canada, then the onus already shifts. We see in the Criminal Code, as interpreted in the case of the Attorney General of Quebec v. Edwin Pearson, that the Supreme Court of Canada has already dealt with the reverse onus provisions as they existed in the Criminal Code for some time by majority decision in 1992.

I would hope no one would leave this place and talk to the public, the press or their constituents and say that this is new law. This is not new law. This is an extension of existing law written in the code. I will be non-partisan here and say that the Criminal Code was created by both Conservative and Liberal governments and that it was a Conservative prime minister who wrote it. It is the best legislation Conservatives have ever brought in. It is from the 19th century and that explains a lot about the evolution of Conservative legislative prowess.

Nevertheless, these extensions are very timely and, if they are pinpointed correctly, I have no doubt that the legislative committee will use its wisdom in refining the bill and asking the questions that need to be asked.

● (1335)

It is good to see Conservative governments once again following the Liberal pedigree of good criminal law.

Since the last election, the Conservative government has been all about making Canada a safer place. It is trying to convince Canadians that our towns, villages and cities are full of dangerous gangs and criminals, roaming the streets at night, armed to the teeth, ready to shoot at everything that moves. This is simply not the reality.

[*Translation*]

In fact, crime rates have gone down in Canada over the years. Of course, there is still much work to be done and nothing is perfect. However, contrary to the image that the Conservative government is trying to project, Canada is not like a wild west town where chaos reigns supreme.

[*English*]

The Conservative government also seems to think all criminals pending trial are running loose in our communities, when the actual numbers from Statistics Canada say otherwise. There were 125,871, maybe more since this date in 2004, Canadians imprisoned and awaiting trial. Close to 84,000 were behind bars serving sentences. There were significant numbers of people, and more now, awaiting trial and not on bail, as perhaps the new stories would counter-indicate. The bail system works. It needs to be tweaked. The bill will go to committee and it will be discussed in the fullness of time.

The government has been trying to convince Canadians that it is hard at work ending crime and violence, but the facts speak otherwise. It has a plethora of justice bills before committees. Instead of doing omnibus reform and criminal bills, several at a time, it has chosen to do probably 20 by the time it is finished, because that is 20 news cycles, 20 news stories.

We cannot find one measure aimed in the justice bill package at preventing criminality. There is no bill before the House or before a committee that talks specifically about preventing criminality and violence.

We have also seen harsher sentences. I only need draw the attention of the House to the fact that a month ago, Judge Sylvio Savoie, in Moncton's Provincial Court, gave a repeat drunk driving offender five years, when the prosecution asked for four. Those stories, the stories of when judges use their discretion to impose harder sentences than were called for, need to be told, and they are out there. We need to balance the story.

We have seen a bunch of showboat legislation. In the new spirit of cooperation, I think the Conservatives have finally come to realize that they must put bills through committees that will pass. It is a minority Parliament. There must be compromise. In light of that sense and that new desire from the other sides with respect to justice bills, that it is too important to play politics, I think this bill can be saved.

The bill does need to be explained in terms of public perception, that it will not cure everything and that not everybody who is accused of a crime will be denied bail. There will still be the three grounds. There will be a procedural reversal of onus, which I think will be upheld by R. v. Pearson and R. v. Hall. Unfortunately, I did not get a chance to ask the justice minister. Nor did I hear from him *ab initio* whether he had received an opinion from the attorney general's department on the constitutionality of this legislation.

It is not a wild goose chase. When the Supreme Court of Canada had a split decision in 1992, on whether 11(d), the right to a fair hearing and the right to bail, was constitutional, and it was not a unanimous opinion, followed up later by R. v. Hall on the question of increased reverse onus on the procedural aspect of bail hearings, there is a good question as to whether this is constitutional. I hope the minister will be able to answer the question from our critic, the member for Notre-Dame-de-Grâce—Lachine, or in other venues as to the constitutionality of that legislation.

We need to know and Canadians need to know, once again, that legislation proposed by Conservatives is more than just a repeat of the press release, which went on the night before the bill was tabled. We need to know whether the bill has the merit and the substance which is required to stand the test of challenge in our courts.

During the press conference last November 23 in Toronto, the Prime Minister of Canada said, in referring to Toronto, that almost 1,000 crimes involving firearms or restricted weapons had been committed so far that year. I cannot do anything else but wonder how come so many weapons are out there, and I think that hon. members have asked the minister the right questions. What is being done to clamp down on the trafficking and importation of guns in our country?

The Conservatives can blather on all they want about how horrible the long gun registry was, but what is the alternative? What are they doing about getting those guns off the streets, seizing them at the borders and getting them out of circulation? As much as I think Bill C-35 is a good bill in principle, it will not take the guns out of the hands of the people bringing guns into the country.

● (1340)

As much as I think Bill C-35 is a good bill in principle, it will not take the guns out of the hands of the people bringing guns into the country. By and large, and I think it is a non-partisan issue, people who traffic in guns are not deterred by new legislation brought in by the Canadian Parliament. Many of the guns on the streets of our cities come from international gun smugglers. Therefore, the reverse onus on bail provisions in Bill C-35 seem to throw out a real challenge as to how the cause and effect of the bill introduced and the reduction of firearms in general will result. We need to ask these questions.

What is the government doing with respect to the gun licenses for life approach of the Minister of Public Safety? Chief Blair gave very telling testimony before the Standing Committee on Justice and Human Rights in Toronto. He said that with our existing laws, essentially the Criminal Code of Canada, and with the appropriate budget resources, he and his force were very successful in getting guns off the streets in certain parts of Toronto.

The question also becomes this. Where are the resources that will go to complement the Conservative justice agenda. Everything that is being proposed will cost money. Where is the money? Where is the plan with each bill and the costing thereon? These are good questions that will be put to the minister and others at committee level.

● (1345)

[*Translation*]

Harsher punishments and reverse onus in bail hearings, as Bill C-35 proposes, are good measures. We support these measures, but they will not help prevent crime or make Canada and our communities any safer over the long term.

[*English*]

As legislators, we have a responsibility to ask ourselves how we can prevent crime. Unfortunately, many questions are left without clear answers when we analyze Bill C-35. Would the money of Canadians be better spent on prevention, putting more police officers on the street? For example, would hiring more police officers in strategic locations be more effective than putting more people in jail and denying them their bail?

I will draw to the attention of the House the article in *The Globe and Mail* on January 24 by Bruce McMeekin. It is very important to consider that article is generally in favour of Bill C-35 and that perhaps the public would think the bill would have prevented some of the worst cases of slayings and gun crime in our history.

When we talk about the Boxing Day incident in Toronto and other events in that area, Bill C-35 would not necessarily have prevented those crimes. The existing bail provisions might have prevented them had the court hearing gone the other way.

What is important to remember is that the accused will still have an opportunity to get bail. Bail will still be awarded even if a person is accused for a second time for one of the listed crimes. The shifting of the procedural onus relates only to his or her ability to be free or not free pending the trial. It has nothing to do with guilt or innocence.

Under the existing reverse onus provisions, the standard of proof is on a balance of probabilities. People will still be able, with legal representation, to get bail, and bail might not have been given in previous situations.

We support the bill going to the legislative committee. There are many questions to be asked. Overall, Parliamentarians owe it through their oath of office in this place and to Canadians in general to be fair in representing how well our justice system works and that the exceptions to the rule are not the rule. The exceptions to the rule are egregious. When we have serious crimes that occur to people we know, people related to us, we take it very seriously and it is very bad, but it does not mean that we throw out the baby with the bathwater. It does not mean that all that went before was useless in combatting crime.

When will someone stand from the other side and say that the criminal justice system works in many regards? When will someone say that by tinkering with bail provisions and by referring this to the committee, we by no means support it in whole, we have many questions about this legislation? When will a member from the other side and when will the Minister of Justice stand and say that they support the good work done in the criminal justice system by all the players, the Crown prosecutors, the parole officers, the judges most who have been under constant attack by the government? When will the government stand and say we have a safe community?

We need to work on making it more secure and safe. I suspect 100 years ago parliamentarians were also trying to do that when they enacted revisions to the Criminal Code. No one in this place wants to have weaker laws with unsafe communities.

Bill C-35 will go to the legislative committee no doubt and it will receive a rough ride on many fronts. There are many loopholes with respect to the considerations to be given to the bill.

In short, we are pleased to comment on the bill, but there will be many questions at the committee. I hope the minister, the parliamentary secretary and the members of that legislative committee will be ready for them.

● (1350)

Mr. Myron Thompson (Wild Rose, CPC): Mr. Speaker, I could not resist getting up because the member went on for quite a while about how well the Criminal Code works in this country's justice system. He knows very well that there are tens of thousands of victims who would not necessarily agree with that and of course thousands of supporters of these victims who certainly would not agree.

The member is a lawyer. I bring that up to him every once in a while in committee because he likes to talk in legal tongues quite often, and it makes it a little difficult for those of us who are not lawyers to understand quite what he is saying. I almost gathered from his speech that he was saying the Conservatives are going back to good Liberal law with Bill C-35, and I thought it was rather strange that a lawyer would suddenly want to be a comedian.

Going back to good Liberal law? I have been here 13 years. I have seen good Liberal law in action. I have seen Liberals bring forward omnibus bills, which he said should be brought forward, in order to deal with all the legislation, omnibus bills, for example, like Bill C-2, which was an act to protect children. That was the purpose of it.

Yet in regard to that omnibus bill, although there are many aspects of it I wanted to support, I could not, because the Liberals kept insisting that child pornography might have something like a public good or a useful purpose. It was in the legislation. How can we go from an omnibus bill that would address such an evil thing as child pornography to that kind of terminology when the bill contained some things that were pretty good?

It makes absolutely no sense to me whatsoever that the Liberals would dare bring forward an omnibus bill that would allow child pornography. What has happened in 13 years is that child pornography has now become a $1 billion industry. There are great arrests going on now, but this should have been prevented 13 years ago when that Liberal government had a chance.

I do not need any lectures from that member or anybody on that side because I have seen them in action for 13 years. They do not take their justice system seriously. They do not take protecting society seriously or they would not have come up with some of the garbage I saw throughout those years. I think the member would humble himself a wee bit instead of talking about going back to good Liberal law. He should think about it.

Mr. Brian Murphy: Mr. Speaker, I thank the hon. member for his impassioned reply. I sit with him on the Standing Committee on Justice and Human Rights. I wonder why his government is shying away from him in sending this bill to a legislative committee and not having him look at it. I wonder why his government and his minister introduced their own omnibus justice bill. It is on the order paper.

To deal with the hon. member's serious discussion of Bill C-35, he will know that anything that toughens the laws is a good thing from his perspective, but perhaps what he does not listen to, while I know he respects all members on the committee, is that in order for laws to work they have to pass the test of the charter.

We have a charter. It is here and we have to deal with it. It is a wonderful institution. It enshrined the right of all Canadians to basic human and legal rights. We have it and it must be met. We cannot bring in laws just because we want to be on the news or drive around a ranch and tell people we are bringing in a bill. This is about whether the law works.

I take some umbrage at any suggestion that any member of the House in any party is against good law making our communities safer. This side, that side and every side wants good laws in this country and wants safer communities. It is a shame that the member, with his experience, would insult all members of the House on their integrity and desire to have a safe Canada.

● (1355)

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Mr. Speaker, I thank my hon. colleague for his speech.

Is there not a glaring contradiction between the rhetoric of this government, which wants to punish people and increase mandatory minimum sentences—even though some thirty witnesses appeared before the committee to tell us that this has no deterrent effect—and the fact that the government refuses to assume its responsibilities regarding gun control, by eliminating a public registry that Canadians want?

Does the hon. member recognize that a public firearms registry with mandatory registration helped keep 1.2 million weapons off the street? This registry is consulted 6,500 times a day by various police forces across Canada.

Does he not see that when it comes to inconsistency, contradictions, double talk and subterfuge, there is no better example than the rhetoric of this government?

Mr. Brian Murphy: Mr. Speaker, I thank the member for his question about firearms. It is appropriate to be speaking about the gun registry just before question period. I would like to add that our side supports gun control.

[*English*]

We think it is very important to regulate handguns and guns of all sorts. We think it is disgusting, frankly, that the Conservative government would bring in a bill, and I am speaking of Bill C-10, that excludes crimes committed with long guns and includes crimes done with restricted weapons.

In other words, a person could hold up someone and hurt them with a handgun in a 7-Eleven in Moncton, New Brunswick or Red Deer, Alberta and be subject to mandatory minimums of three, five and ten years, as the current legislation has proposed, but if the person went into the same store with a shotgun and did the same thing, the person would not be caught by that same provision. I ask members to tell me why that makes sense.

The hon. member asked questions about the long gun registry, but really he asked questions about the safety of our communities. The question goes back to him and to the members of the government, what are we going to do about controlling guns? Bill C-35 will not have much effect in getting guns off the street.

The remonstrances of the member for Wild Rose will do nothing to get guns off the streets and away from the borders. The minister said nothing about the money backing up Bill C-35, Bill C-10, Bill C-9 and other justice bills that will get guns away from the people who are using them.

We need to address that question in Parliament. When is the program coming? It is so close to question period that I wish the Prime Minister were here so I could ask him this question: what are we going to do to get guns off our streets?

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Mr. Speaker, if I may just follow up on those last comments, my analysis of the bill is that it in fact is going to increase the costs in regard to more judges and it is going to increase the costs for prosecutors and defence counsel. It is going to increase the costs in regard to the number of people we will have in our provincial institutions being held temporarily while they are waiting for their trials.

What I did not hear from the minister, and I would ask for some comments from the last speaker, is one word, other than ridicule, of any cost analysis for this. The reason for that, I have to assume, and I do not know if you will agree with me, Mr. Speaker, is that the Conservatives do not care. They are not prepared to put their money where their mouths are and help the provinces cover some or all of these expenses.

Would the hon. member comment on that and on what the situation is in his home province in each one of those areas?

Mr. Brian Murphy: Mr. Speaker, the hon. member for Windsor —Tecumseh is incredibly right when he says that none of the Conservative bills have come before us with the attendant packages of what they will cost.

In fact, we could extrapolate. The hon. member from the NDP is indeed experienced enough, and smart enough for sure, to extrapolate the costs if he knew how many more people would be affected by the bail provisions. Bill C-35 comes with no package, information or background, which suggests how many more people will be denied bail by the reverse onus.

Surely responsible government means that one does the studies first and then the costing, and the bill is brought in and then is referred to committee. The way the Conservatives do things is that they write the bill on the back of a napkin, they rush down to the CTV news centre, they get Mr. Duffy to interview them on how tough they are, and then they throw the bill to a committee whose members who may not understand all the ramifications of the bill. They have no intention of backing up these bills with the resources. That is some way to run a justice system.

* * *

● (1400)

[*Translation*]

AUDITOR GENERAL'S REPORT

The Speaker: I have the honour to lay upon the table the first report of the Auditor General of Canada for the year 2007.

[*English*]

Pursuant to Standing Order 108(3)(g), this document is deemed to have been permanently referred to the Standing Committee on Public Accounts.

STATEMENTS BY MEMBERS

[*English*]

CANADIAN WHEAT BOARD

Mr. Bradley Trost (Saskatoon—Humboldt, CPC): Mr. Speaker, I rise today not only as the member for Saskatoon—Humboldt but as the son, the grandson and the great-grandson of western Canadian grain farmers.

I rise today to support farmers having choice for marketing of barley and wheat. Currently, farmers in western Canada are forced to market their non-feed barley and wheat through a forced collective known as the Canadian Wheat Board, an institution whose monopoly powers were imposed during World War II for the sole purpose of bringing down the price of wheat.

In the upcoming weeks, farmers will vote on whether or not to loosen the powers of the CWB with respect to the marketing of barley. They will be given two options that would allow them more freedom in marketing their barley.

While the freedom to market one's own products should be self-evident, farmers have to fight for this right. The choice is clear: a totalitarian board and the low barley prices it has delivered, or change, with more freedom and higher prices for the barley growers of the Canadian prairie.

* * *

[*Translation*]

YOLANDE BÉLANGER

Mr. Anthony Rota (Nipissing—Timiskaming, Lib.): Mr. Speaker, I would like to pay tribute to Yolande Bélanger, who is celebrating 34 years of service at the Sainte-Anne parish in Mattawa.

Ms. Bélanger initiated a French language choral group. She worked for the mill for a long time and is a valued member of the Fédération des femmes canadiennes françaises. Above all, she has always defended francophone rights and culture in Mattawa and throughout Ontario.

It is thanks in large part to the efforts of Yolande Bélanger that Mattawa now has a French language secondary school. Ms. Bélanger, the mother of our esteemed colleague, the hon. member for Ottawa—Vanier, just celebrated her 82nd birthday.

On behalf of the people of Nipissing—Timiskaming, I want to thank Yolande Bélanger for all the work she has done over the years in her parish and its surroundings. Happy retirement Yolande, you deserve it.

* * *

SECURITY CERTIFICATE DETAINEES

Ms. Caroline St-Hilaire (Longueuil—Pierre-Boucher, BQ): Mr. Speaker, for over two months now, three detainees at the Kingston Immigration Holding Centre have been on a hunger strike, which is something that is not taken lightly by anyone except for the key player, the Minister of Public Safety.

The three men are protesting their detention conditions, which seem to be worse than those reserved for convicted criminals.

However, to be imprisoned at this detention centre, there is no need for a full trial. Being a suspected terrorist will suffice. People can be held there without knowing what, if any, evidence there is against them. They can be held there without the benefit of reasonable doubt, something the most hardened criminal would get. They can be held there without the right to appeal the Federal Court decision.

It is high time to reform this mechanism that applies to those who are suspected of terrorism and make it a process that respects basic rights, including the right to truly be able to defend oneself and the right not to be deported to a country where one might be tortured.

* * *

[*English*]

DALHOUSIE UNIVERSITY

Ms. Alexa McDonough (Halifax, NDP): Mr. Speaker, yesterday I was privileged to attend the awarding to Dalhousie University of the largest federal government university research award in Atlantic Canadian history.

This $35 million investment, made possible through the collaboration of the Canada Foundation for Innovation, NSERC and SSHRC, places Dalhousie at the epicentre of vital international oceans research into fisheries management challenges in the face of climate change.

The Ocean Tracking Network, integrating species monitoring across 14 ocean regions spanning the world's five oceans, is a testament to the incredible talent of researchers and students choosing Dalhousie as their academic home.

Academics and the entrepreneurial community worked together to make this initiative a reality, reinforcing Halifax as a global hub of economic dynamism and innovation.

I urge the government to seize this occasion to renew its financial commitment to the Canada Foundation for Innovation.

* * *

● (1405)

FIREFIGHTERS

Mr. James Bezan (Selkirk—Interlake, CPC): Mr. Speaker, I would like to salute two firefighters from my riding of Selkirk—Interlake.

Last week I was honoured to participate in the presentation of the Governor General's Fire Services Exemplary Service Medals to Fire Chief Robert Herda and Deputy Fire Chief Glen Basarowich for their 20-plus years with the St. Clements fire department.

This presentation to two brave and dutiful firefighters comes at a time when Winnipeg and Manitoba are mourning the tragic loss of two fire captains, Captain Tom Nichols and Captain Harold Lessard, who tragically lost their lives while battling a house fire on February 4.

This tragedy reminds all Canadians of the continual courage and service of all our firefighters, both professional and volunteer. They protect our families, our communities and our property.

I gratefully acknowledge Fire Chief Herda and Deputy Fire Chief Basarowich for their years of dedicated service.

As well, let us not forget Captains Nichols and Lessard, who made the ultimate sacrifice.

I thank all firefighters for their quiet heroism.

* * *

PEARSON INTERNATIONAL AIRPORT

Hon. Gurbax Malhi (Bramalea—Gore—Malton, Lib.): Mr. Speaker, the government's extortion of the highest amount of rent paid by the Greater Toronto Airport Authority in Canada is that it discourages some airlines from flying out of Pearson International Airport. The end result is that the three segments most affected by this situation are airlines, individual air travellers and small business owners.

Pearson International Airport is the largest airport in Canada and it is growing rapidly. However, if there is no action taken by the minister to remedy the rent situation, the economic viability of the airport, not to mention all the local businesses which derive substantial economic spinoff benefits from it, will be at risk.

I strongly urge the Minister of Transport, Infrastructure and Communities to act immediately to reduce the amount of rent it charges to the GTAA in order to avoid any further damage to the economic well-being of Pearson International Airport.

* * *

COURAGE IN PUBLIC POLICY AWARD

Mr. Steven Fletcher (Charleswood—St. James—Assiniboia, CPC): Mr. Speaker, I wish to offer my congratulations to one of my colleagues, the hon. member for Parry Sound—Muskoka who is also the Minister of Health.

On Saturday, February 3, 2007 the minister received the very first Courage in Public Policy Award from the Canadian Cancer Society and the National Cancer Institute of Canada to recognize his leadership in the creation of the Canadian Partnership Against Cancer Initiative.

The Canadian Cancer Society started to advocate for a coordinated approach to fight cancer in 1999. Year after year the previous Liberal government steadfastly refused. This Conservative government has once again shown leadership and got the job done.

Dr. Barbara Whylie, CEO of the Canadian Cancer Society said that the Minister of Health's "singular dedication was instrumental in seeing this project to fruition".

As the Parliamentary Secretary to the Minister of Health I am very proud to be associated with such an effective minister and government.

[*Translation*]

LES MOULINS RCM

Ms. Diane Bourgeois (Terrebonne—Blainville, BQ): Mr. Speaker, on December 5, the Les Moulins RCM celebrated its 25th anniversary.

In 1981, the municipalities of La Plaine, Lachenaie, Mascouche and Terrebonne decided to join together to boost their economic, cultural, tourist and environmental development.

Over the years, various political figures have led our RCM and helped this community of over 130,000 people develop a true sense of belonging.

On behalf of my constituents, to Jocelyne Caron, Micheline Mathieu, Gilles Forest, Irénée Forget, Richard Marcotte and Jean-Marc Robitaille, and to all the current and past staff of the Les Moulins RCM, I say happy anniversary and a sincere thank-you for your dedication and commitment.

* * *

CONVENTION ON THE PROTECTION AND PROMOTION OF THE DIVERSITY OF CULTURAL EXPRESSIONS

Mr. Luc Harvey (Louis-Hébert, CPC): Mr. Speaker, the new Government of Canada welcomes the official coming into force of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions on March 18, 2007.

Yesterday, in Ottawa, the Minister of Canadian Heritage and Quebec's minister of culture chaired a round table on the diversity of cultural expressions.

Working closely with the Government of Quebec and Canada's arts and culture community, the Government of Canada is actively taking steps to implement this convention.

Our government is proud to announce that it intends to stand for a seat on the intergovernmental committee and to propose that the committee hold its first meeting here in Ottawa.

The government also promises to contribute to the international fund for cultural diversity, which will defend and promote the objectives and principles of this treaty.

This reflects our government's leadership in protecting and promoting cultural diversity.

* * *

● (1410)

[*English*]

BLACK HISTORY MONTH

Ms. Raymonde Folco (Laval—Les Îles, Lib.): Mr. Speaker, since 1995 as a result of the dedication by the former member for Etobicoke—Lakeshore, Parliament Hill today celebrates our 12th annual Black History Month.

This year also marks the 200th anniversary of the abolition of the slave trade in the British colonies. In remembering our history we pay homage to Olivier Le Jeune, the first black person known to have lived in Canada from 1628; Mathieu Da Costa, the navigator and interpreter; Marie-Joseph Angélique, the slave hanged for burning down her master's Montreal home; and many others whose legacy of dogged determination continues.

The tradition continues through leaders like Jean Augustine, Afua Cooper, Roz Sonshine, Christine Williams, Garth Taylor and others.

On behalf of all Canadians and the citizens of Laval—Les Îles, I invite all members and staff to join us in Room 200 West Block in celebration of the slaves' walk to freedom.

* * *

SENATE TENURE LEGISLATION

Mr. Rahim Jaffer (Edmonton—Strathcona, CPC): Mr. Speaker, we know it took only eight days to travel to the moon and back and 80 days to travel around the world. It takes 102 days to bike the 5,000 miles across Canada and 180 days to play an entire season of NHL hockey. What is the connection between these events? They all took less than 259 days to complete.

What has not taken less than 259 days is the unelected, unaccountable Liberal dominated Senate's continued filibuster of Bill S-4 which limits the term of senators to eight years. What is surprising is that the Liberal senators continue to defy the will of their leader who is on record as supporting term limits for senators.

When will the Leader of the Opposition start to exert some leadership and tell his Senate Liberal colleagues to stop their filibuster of this bill?

* * *

IMMIGRATION

Ms. Chris Charlton (Hamilton Mountain, NDP): Mr. Speaker, on Thursday yet another family will be deported from my riding of Hamilton Mountain.

The Valencias have been in Canada for five years. Sergio and Blanca have established themselves in our community and have well paying jobs and family here. Their children are on the brink of success by excelling at their education.

Last week I delivered petitions with thousands of signatures to the minister asking that the Valencias be allowed to stay. This afternoon I am forwarding even more petitions and powerful letters of support.

In 1990 the Askov decision by the Supreme Court established the right to a trial in criminal matters within a reasonable amount of time as essential for protecting fundamental justice. Refugees deserve the same. No one should have to put their lives on hold for five years.

The Immigration and Refugee Protection Act, which was passed in 2002, calls for the establishment of an appeals division to deal with cases in a time sensitive manner. The Liberals refused to enact this part of their own legislation. The refugee appeal division, RAD, costs just $2 million to establish. We have a surplus of over $13 billion.

I urge the government to act today, because for families like the Valencias, justice delayed is justice denied.

* * *

INTERNATIONAL TRADE

Hon. Navdeep Bains (Mississauga—Brampton South, Lib.): Mr. Speaker, the Prime Minister and his government are selling out Canadians for trade deals that score cheap political points but undermine Canadian jobs.

We know that the Prime Minister sold out the Canadian softwood lumber industry. He bullied our producers into signing agreements and quotas. Despite the Prime Minister's claims, the government only recovered $3.5 billion out of the $5 billion paid out to the U.S. in illegal tariffs.

Now, rather than negotiating a fair trade deal with the European free trade agreement countries, it is selling out to Norway by scrapping tariffs on the shipbuilding industry which could directly eliminate 5,000 jobs as well as thousands of spinoff jobs, and it gets worse. It is about to sell out Canada's auto industry by not negotiating fair trade with South Korea. Just last week we saw 2,000 jobs lost at two Canadian car manufacturing facilities.

How many more jobs will we have to lose before the government acts? When will the government stop selling out Canadians?

* * *

● (1415)

[*Translation*]

SUMMER CAREER PLACEMENTS PROGRAM

Mr. Robert Bouchard (Chicoutimi—Le Fjord, BQ): Mr. Speaker, since mid-January, 55 non-profit organizations in my riding of Chicoutimi—Le Fjord have sent a letter to the Minister of Human Resources and Social Development and the Minister of Labour, calling on the government to maintain the entire budget allocated to the summer career placements program.

Thousands of students will soon be looking for work. In my riding, 165 jobs are jeopardized by the cuts and nearly 450 are at risk in the entire Saguenay—Lac-Saint-Jean area.

The Conservative government prides itself on cleaning up programs and, in the process, is doing away with an initiative that has proven effective and that helps thousands of students gain valuable experience.

Through the FECQ and FEUQ, some 160,000 college and university students recognize the value of the summer career placements program and are calling on the government to reverse its decision and stop making cuts to the program.

The Conservatives simply cannot ignore the cries of 160,000 students.

[*English*]

HOMELESSNESS

Hon. Bill Graham (Toronto Centre, Lib.): Mr. Speaker, the supporting communities partnership initiative, SCPI, is an internationally acclaimed, award winning Canadian program to fight homelessness. It was selected as a best practice by the United Nations and has been incredibly successful in enabling local municipalities to address the issue of homelessness.

Despite the success of SCPI, the government has cancelled it in favour of a plan that is short on specifics but very long on its political agenda. Delays of up to six months before the start of funding under the new scheme are faced by agencies across the country. In my riding, agencies such as Street Health and the 519 are today forced to cancel programs because transition funding has not been established.

For the sake of homeless people in our country, the government must commit today to provide transitional funding so that municipalities receiving SCPI funds can continue to fund this vital service. The homeless in Canada should not suffer because the government is playing petty politics at their expense.

* * *

ANTI-TERRORISM ACT

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Mr. Speaker, the Liberals are being quoted in the media claiming that they are going to vote down key elements of their anti-terrorism legislation because the government's motion does not reflect the changes recommended by the subcommittee.

As a member of the subcommittee, I am amazed by the lack of factual procedural integrity of the Liberals' arguments. A motion cannot amend the law. Only a bill duly passed can amend the law.

The sunset provisions as passed by a Liberal controlled Parliament demand that a non-amendable motion be laid before Parliament.

The government will address this issue in its response to the final reports of the House and Senate committees reviewing the Anti-terrorism Act. These reports have yet to be tabled in Parliament and their timelines exceed the deadline for the sunset clauses.

What the government has proposed is that these special powers be extended for three years. During such time, potential amendments can be considered and Canadians can continue to enjoy the protection of these balanced measures.

ORAL QUESTIONS

[*English*]

JUDICIAL APPOINTMENTS

Hon. Stéphane Dion (Leader of the Opposition, Lib.): Mr. Speaker, the Prime Minister wrote in June 2000 that "serious flaws exist in the Charter of Rights and Freedoms". He does not like the fact that the duty of the courts is to uphold the charter. In a blatant attempt to get around the charter that he does not like, the Prime Minister is stacking advisory committees to fill the bench with people who share his ideology.

When will the Prime Minister stop meddling with the courts and imposing his right wing agenda?

[*Translation*]

Right Hon. Stephen Harper (Prime Minister, CPC): On the contrary, Mr. Speaker.

[*English*]

I have always defended the rights of the courts to rule under the charter of rights, although I think there could be changes. We believe on this side that property rights should be included in the charter.

At the same time, this party is committed to ensuring that we appoint men and women of the highest quality to the courts of our land to enforce and apply our laws. That is what we did when we named Justice Rothstein to the Supreme Court of Canada.

[*Translation*]

Hon. Stéphane Dion (Leader of the Opposition, Lib.): Mr. Speaker, I would like to quote the Prime Minister once again. This speaks volumes about what he thinks:

[*English*]

> Yes, I share many of the concerns of my colleagues and allies about biased "judicial activism" and its extremes.

[*Translation*]

That is why he changed the makeup of the advisory committee: so that ultraconservative voices can dominate.

When will the Prime Minister stop abusing his power? When will he stop trying to fill the benches with ultraconservative judges?

● (1420)

Right Hon. Stephen Harper (Prime Minister, CPC): On the contrary, Mr. Speaker, the advisory committees the government has just appointed include people with very diverse perspectives, and they will make recommendations to the government to appoint men and women of the highest quality to the courts of our land.

[*English*]

Hon. Stéphane Dion (Leader of the Opposition, Lib.): Mr. Speaker, even Canada's chief justice urged the government not to change the selection process. She said, "We believe this is necessary to protect the interests of all Canadians in an independent advisory process for judicial appointments". Fairness and independence are being sacrificed in the name of a right wing political agenda.

When will the Prime Minister restore the balance and independence of the selection committees?

Right Hon. Stephen Harper (Prime Minister, CPC): Of course, Mr. Speaker, these committees are independent. The government does not even name all of the members.

On the contrary, if the leader of the Liberal Party wants to know why we should look at changing the process, just consider the fact that in 2002 his government appointed the wife of the national campaign manager of the Liberal Party to be chief justice of the Superior Court of Ontario.

Mr. Michael Ignatieff (Etobicoke—Lakeshore, Lib.): Mr. Speaker, the Prime Minister has a long history of trying to undermine the credibility of the charter of rights and the independence of the Canadian judiciary. Rights are rights are rights and what the government wants to do with judicial appointments is just dead wrong.

When will the Prime Minister stop trying to undermine the independence of the judiciary? When will he stop trying to impose his conservative ideology on the Canadian court system?

Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, nothing could be further from the truth. The individuals who have been appointed and will be appointed will be of the highest calibre. There was certainly no attempt by the government to do anything other than that.

I have to say to the hon. member that we do not need any lessons from the Liberal Party on rights. It is this party that has consistently, throughout its history, stood up for the rights of individual Canadians and we will continue to do so.

[*Translation*]

Mr. Michael Ignatieff (Etobicoke—Lakeshore, Lib.): Mr. Speaker, this minority government is casting doubt on the impartiality of the judiciary and is stacking judicial appointments committees with hand-picked partisans who share his social conservative agenda.

When will the Prime Minister rise in this House and confirm his dedication to the impartiality of the judiciary, which is a key principle of Canadian democracy?

[*English*]

Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, we are absolutely committed to the impartiality of the judiciary and any examination of the appointments that we made up to this point will confirm that.

As I indicated to the opposition members yesterday, all of the appointments that have been made by the government up to this point in time were made on the recommendations of the committees that were set up by the previous government. So what is their problem?

* * *

[*Translation*]

THE ENVIRONMENT

Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ): Mr. Speaker, for the past few weeks, the Prime Minister has been trying every which way to get a green conscience.

Just yesterday, he made an announcement with the intention of allowing the Government of Quebec to implement its plan to achieve the Kyoto protocol targets.

Some hon. members: Bravo!

The Speaker: Order, please. The hon. member for Laurier—Sainte-Marie.

Mr. Gilles Duceppe: Mr. Speaker, this is the first time they are applauding the Kyoto protocol.

The only problem is that the money is not on the table yet. We have to wait until the budget.

If the Prime Minister truly takes the environment to heart, why does he not transfer the money immediately to Quebec with no strings attached? Let him present a bill immediately.

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, I want to thank the leader of the Bloc Québécois for giving me this opportunity to discuss the announcement we made yesterday on Canada ecotrust, a major program that will be in effect across Canada. This program will help us to work in full cooperation with Quebec on environmental measures. In the meantime, this will also allow us to resolve the fiscal imbalance. With the infrastructure, UNESCO, this is good news—

● (1425)

The Speaker: The hon. member for Laurier—Sainte-Marie.

Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ): Mr. Speaker, we are skeptical and for good reason. As late as this past December, the Prime Minister denied the very existence of greenhouse gases and he still rejects Kyoto.

If he is serious, I challenge him to present his plan immediately here in the House. Let him present his trust immediately, here in the House, and the budgets to go with it. Let us know the conditions. Let him act immediately if he is serious.

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, seriously, it is impossible to deny the hot air emissions when the Bloc is here.

This is a good announcement for Quebec for controlling greenhouse gas emissions. This announcement and other agreements with the other provinces will be in the budget. We expect the Bloc's support for this program, for Quebec and for the budget.

Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ): Mr. Speaker, when the Prime Minister made his announcement yesterday, Quebec's environment minister, Mr. Béchard, stated that this program gave Quebec enough flexibility to carry out its plan to reduce greenhouse gas emissions.

If Mr. Béchard made such a statement, he must have been aware of the conditions imposed by the federal government. Since it is this House that will approve or reject the program, could the Prime Minister tell us the conditions he explained to Mr. Béchard?

[*English*]

Mr. Mark Warawa (Parliamentary Secretary to the Minister of the Environment, CPC): Mr. Speaker, yesterday was a very good day for Quebec and for Canada. Quebec Premier Jean Charest said yesterday about the ecotrust announcement: "I can tell you that the process as far as we are concerned is more transparent than the previous one. Now we know that the federal government is establishing a fund for the whole country. Everyone is participating in it. The other Liberal approach—", referring to the previous government, "—unfortunately lacked transparency. Now I feel the approach is much more transparent".

We are working with all the provinces and territories to clean up the environment.

[*Translation*]

Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ): Mr. Speaker, there is a huge difference between a sectoral approach and a territorial approach to implementing the Kyoto protocol.

The territorial approach is based on the polluter-pay principle. Can the Minister of the Environment tell us whether yesterday's announcement calls for a territorial approach, which is what Quebec wants?

Right Hon. Stephen Harper (Prime Minister, CPC): Mr. Speaker, the various provinces can find and take different approaches. That is the nature of Canadian federalism.

There is just one question. This program is supported by the Government of Canada and the Government of Quebec. Will the Bloc Québécois vote in favour of Quebec's interests here in the House of Commons?

* * *

PASSPORTS

Hon. Jack Layton (Toronto—Danforth, NDP): Mr. Speaker, despite recent hirings, Passport Canada continues to be plagued by problems. People are now waiting three or four months to obtain these documents that are vitally important to them. I am referring to workers who must travel to the United States for their jobs, students who wish to continue their education, seniors who wish to enjoy their well-deserved retirement.

These delays are unfair and unwarranted. What is the Prime Minister going to do to deal with and solve these problems that he should have seen coming?

[*English*]

Hon. Peter MacKay (Minister of Foreign Affairs and Minister of the Atlantic Canada Opportunities Agency, CPC): Mr. Speaker, we have already taken a number of steps to address the backlog.

As it currently stands, we are receiving somewhere in the range of 21,000 applications a day for passports, but we have hired upwards of 500 more employees at Passport Canada. The employees there are working around the clock to address the backlog.

We have also made available, through Service Canada offices, a greater availability to get those passports into the system. The employees there are working around the clock 24 hours a day.

I visited the office last weekend. I saw firsthand the incredible effort that is being put forward on the part of Passport Canada to address this serious issue.

● (1430)

Hon. Jack Layton (Toronto—Danforth, NDP): Of course the employees are working, Mr. Hard—

Some hon. members: Oh, oh!

The Speaker: Order, please. The hon. member for Toronto—Danforth has the floor to put his question.

Hon. Jack Layton: Mr. Speaker, the minister is trying to deflect on to the staff. When is he going to get serious about this issue?

The fact is people are having to drive all day long to get their passports. Then they are having to wait all day. The government dings them $70, a special charge, in order to correct a problem that the government itself created.

When is the Prime Minister going to take it seriously and correct the problem that the government created in the first place, and waive this extra charge which should not be there?

Hon. Peter MacKay (Minister of Foreign Affairs and Minister of the Atlantic Canada Opportunities Agency, CPC): Mr. Speaker, perhaps the member was referring to Peter Harder, who is taking his retirement, and I pay tribute to his long service to the Public Service of Canada.

With respect to his question, as I said in my previous answer, Passport Canada is working very hard to address this issue. We have received the report of the Auditor General, which also references the challenges. We have acted on the majority of those recommendations. We continue to make available, through Service Canada, more receiving agents and more training. We are going to have more people on the job in the coming days to address the backlog that has come about as a result of the western hemisphere travel initiative.

We are on the job. We are working hard to get it done.

* * *

[*Translation*]

JUDICIAL APPOINTMENTS

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Mr. Speaker, a mockery is being made of justice and this government has decided to take no action. There are increasing numbers of vacant positions in the courts, but this government is more than happy to wait for its favourite candidates to go through the ideological appointment process.

Why is this government depriving the courts of the resources needed to dispense justice in a timely and independent manner?

[*English*]

Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, I should let the hon. member know that we have made, now, considerably more appointments in the last year than the Liberals made in the year 2004. So, nothing could be further from the truth. We are making the appointments as quickly but as carefully as possible.

The hon. member would also know that with the passage of Bill C-17, the Judges Act, we had another couple of dozen judges go supernumerary. So, we are making progress on it, and I am sure she will be happy about that.

[*Translation*]

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Mr. Speaker, the Chief Justice of the Supreme Court of Canada, the Attorney General of Ontario, the Canadian Bar Association and the Quebec bar association have called on the government to take action but their pleas seem to have fallen on deaf ears.

Will the minister stop imposing ideological constraints and take immediate action to appoint competent and independent judges?

[*English*]

Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, we are certainly doing that. We have appointed 51 judges within the last year. I appreciate that there are a couple of dozen more vacancies. We will fill those as soon as possible.

Hon. Ralph Goodale (Wascana, Lib.): Mr. Speaker, the issue is the government's obsessive ideological determination to enforce its right wing social engineering. That worries Canadians, and stacking the courts is only part of it.

Conservatives openly insult the Chief Justice. They demean the Supreme Court. They belittle the Charter of Rights and restrict access, so the rich can go to court but the poor cannot.

Why will the minister not restore a sense of fairness in the rating of judicial candidates by eliminating the ideological blood test that he is now imposing?

Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, nothing could be further from the truth. The judicial advisory committees have been in place in our country for about 19 years. They have gone through four or five different changes. I think all those changes have improved the efficiency.

Adding a member from the police community will enhance the process and add another perspective. I think most Canadians agree with that.

● (1435)

Hon. Ralph Goodale (Wascana, Lib.): Mr. Speaker, the Conservative scheme to invent social engineering in the selection of judges is not only stacking the courts, but also slowing the filling of vacancies. The Chief Justice, the Canadian Bar Association, the judicial council, universities and many others have expressed deep concern.

A year ago the Prime Minister acknowledged being driven by an ideology that many Canadians would find distasteful, and that is still true today. However, he said not to worry, that the courts, more in tune with Canadian values, would hold him in check. Why has he now removed that assurance?

Hon. Rob Nicholson (Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, I take exception to the comments made by the hon. member. We have a much healthier respect for the charter than apparently that individual has, who said in the year 2000:

> Pierre Trudeau believed the Charter of Rights and Freedoms would bring us together. Yet the results haven't worked out that way.

Do members know who wrote that? It was the member for Etobicoke—Lakeshore, the deputy leader of the Liberal Party.

* * *

[*Translation*]

INDUSTRY

Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ): Mr. Speaker, the bad news of plant closings and job losses continues. Yesterday, we had the Shermag plants in Disraeli and Saint-Étienne-de-Lauzon, and today we have the Spielo plant in Sainte-Anne-des-Monts.

Conditions are difficult for the manufacturing industry in Quebec, and the federal government has a responsibility to do something.

Will the Minister of Industry admit that his laissez-faire economic theory, as applied in the case of Boeing, is not working, and that we have to develop an industrial strategy without delay to limit the damage in the industrial sector and stop the hemorrhage of jobs being lost that is killing our communities?

Hon. Jean-Pierre Blackburn (Minister of Labour and Minister of the Economic Development Agency of Canada for the Regions of Quebec, CPC): Mr. Speaker, we have, in fact, just received the news that Spielo will be closing down in Sainte-Anne-des-Monts, which means the loss of 85 jobs.

Certainly, in our regions, the loss of 85 jobs is a heavy blow. Therefore this is sad news. It shows the importance of having programs to assist the economic regions of Quebec and the entrepreneurs who want to propose business expansion or start-up projects. We are going to continue on that path.

Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ): Mr. Speaker, the loss of 85 jobs in Sainte-Anne-des-Monts is a heavy blow, but in the last four years, 100,000 manufacturing jobs have been lost in Quebec, and the losses continue. That is an even heavier blow.

The Standing Committee on Industry, Science and Technology has produced a unanimous report containing 22 suggestions that together comprise a complete industrial strategy, something we are in great need of.

Will the Minister of Industry abandon his dogmatic approach, which consists of giving free rein to market forces, and realize that his position demands that he take action and adopt a real industrial strategy? Will he stop hiding behind the Minister of the Economic Development Agency of Canada for the Regions of Quebec?

Hon. Jean-Pierre Blackburn (Minister of Labour and Minister of the Economic Development Agency of Canada for the Regions of Quebec, CPC): Mr. Speaker, I would remind the hon. member that this case is a matter of regional economic development. Certainly, if the business owner comes to us for assistance of some sort to stay in operation, we will consider it seriously.

However, I would like to point out that we have created the CEDI-Vitality program, which allows business owners to receive both repayable and non-repayable contributions. That program is very popular in the regions of Quebec, and we are going to be taking a look at this situation, because, I would repeat, the loss of 85 jobs really is significant in that region.

TIRE MANUFACTURING INDUSTRY

Mrs. Claude DeBellefeuille (Beauharnois—Salaberry, BQ): Mr. Speaker, 800 jobs are on the line at the Goodyear plant in Valleyfield. The Government of Quebec is ready to do its part, the City of Valleyfield is ready to join in, but the federal government is dragging its feet over an interest-free loan that would still not be enough to re-open the plant. The time has come to act in order to save the 800 jobs at Valleyfield.

Why is the federal government refusing to put an offer on the table that is proportionate to the effort by Quebec and the City of Valleyfield?

Hon. Jean-Pierre Blackburn (Minister of Labour and Minister of the Economic Development Agency of Canada for the Regions of Quebec, CPC): Mr. Speaker, I have here an article from *La Presse* of August 16, 1999, with the title: "Goodyear Employees Discouraged: The multinational tire company has put off modernization of the plant at Valleyfield". The article says, "According to the union president, without the implementation of new technology, the future of the plant can not be ensured beyond five or 10 years".

Why did the Bloc Québécois not intervene in 1999, eight years ago, so that the Goodyear plant would not be announcing what it is announcing today? Why did the Bloc Québécois not intervene?

Mrs. Claude DeBellefeuille (Beauharnois—Salaberry, BQ): Mr. Speaker, Henri Massé, of the FTQ, contends that the Prime Minister does not want to provide any money to save the Goodyear plant because he is opposed to government intervention. Beyond any principle, a whole region is being threatened by the closing of the Goodyear plant.

What is the Minister of Industry waiting for to do his job and fight to save the 800 jobs at the Goodyear plant? Does he intend to act as he did with Boeing and allow market forces to decide without doing anything?

● (1440)

Hon. Jean-Pierre Blackburn (Minister of Labour and Minister of the Economic Development Agency of Canada for the Regions of Quebec, CPC): Mr. Speaker, I recently met with the mayor of the city, as well as with union representatives and other socio-economic stakeholders. As a matter off fact, tomorrow night, my colleague, the Minister of Public Works and Government Services, will be going to Salaberry-de-Valleyfield to announce, with the Quebec government, a plan to try to keep the jobs in that region.

* * *

[*English*]

GOVERNMENT PROGRAMS

Ms. Ruby Dhalla (Brampton—Springdale, Lib.): Mr. Speaker, millions of Canadians are being left behind in the Conservative government's push to steer Canada toward a right wing, narrow, ideological path.

Let us take the homeless. Shelters are closing because funding is in limbo. The homeless are being turned back into the cold.

When will the minister stop playing partisan politics with the most vulnerable in our society? When will the minister step up to the plate and have an inclusive plan, a national plan, for the homeless?

Hon. Monte Solberg (Minister of Human Resources and Social Development, CPC): Mr. Speaker, the member has her facts wrong. On Friday, the government announced that there would be transition funding to ensure that projects underway already under the national homelessness initiative would continue until they were completed. Then, on April 1, the new homelessness partnering strategy will begin.

The government will not cut $25 billion out of the Canada social transfers that hurt the disabled, the homeless and the aged. That is the Liberal record.

Ms. Ruby Dhalla (Brampton—Springdale, Lib.): Mr. Speaker, the bottom line is it was a piecemeal approach. The Conservative government has taken no action, has no plan and has shown no leadership when it comes to the homeless in our country.

Let us take a look at the minister's track record. He is the same minister who voted against the child tax benefit. He is the same minister who voted against increased funding for children. He has not created a single child care space. Now the homeless are being ignored by the Conservative government.

Why is it that the Conservative government likes to pick on the most vulnerable? Why is it that there are more losers than winners in Stephen Harper's Canada?

Some hon. members: Oh, oh!

The Speaker: The hon. member for Brampton—Springdale knows very well that using member's names is not a good idea in the House. It is contrary to our practice. She will want to ensure that she refers to members by their title or constituency name in future.

The hon. the Minister of Human Resources and Social Development.

Hon. Monte Solberg (Minister of Human Resources and Social Development, CPC): Mr. Speaker, the government moved very quickly to ensure that Canadians had choice in child care. In fact, within four months of coming into office, 1.4 million families were receiving cheques, benefiting 1.9 million Canadian children.

What is disturbing is that member sat idle while her leader said back in October that he was prepared to cut that transfer if he became prime minister. He would take that money away from Canadian families. He would take choice away from Canadian families.

Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.): Mr. Speaker, Canadians are the victims of the Conservative government's narrow-minded, right wing ideology.

The government is stacking the judicial appointments committees and the courts. It killed the court challenges program because it helped those who did not share its social conservative agenda. Now students, looking for summer jobs, are victims of the $55 million cut to the summer career placement program as are worthy community organizations across the country.

Why does the Conservative ideology include cutting jobs for students?

Hon. Monte Solberg (Minister of Human Resources and Social Development, CPC): Mr. Speaker, it is kind of hilarious that the member would be concerned about a few million dollars in cuts to summer career placement. When it came to billions of dollars in cuts to the Canada social transfer to the disabled, to the elderly, to students, he said nothing.

The fact is jobs are being created today for students and everyone under the leadership of our finance minister. Last month we created 89,000 jobs. The economy is on fire thanks to the leadership of the finance minister.

Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.): Mr. Speaker, we can see the government's social conservative colours shining through by looking at who is suffering because of its actions. We have students without jobs, families without homes, discrimination victims with nowhere to turn, parents with no child care and there does not seem to be any help on the way.

Only one of the $3.6 billion in cuts that the government has planned has been announced. It is getting worse. Who will be the next victims of these cuts?

● (1445)

Hon. Monte Solberg (Minister of Human Resources and Social Development, CPC): Mr. Speaker, the government has acted very quickly to address the needs of disadvantaged people. It was this government that announced $1.4 billion to go toward housing in Canada. In December $270 million to the homelessness partnering strategy was announced. In the House today, Bill C-36 in committee will deliver more benefits to disabled Canadians.

Guess what? The common denominator to all of those things is the fact that the Liberals voted against them. That is the hypocrisy of the Liberal Party.

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CANADIAN FORCES

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Mr. Speaker, yesterday we heard troubling news that widows of Canada's brave men and women who had served in Afghanistan were being denied benefits related to mortgage insurance claims. The finance minister stated yesterday that he would raise this issue with Canadian banks.

Could the minister update the House on any response he may have received?

Hon. Jim Flaherty (Minister of Finance, CPC): Mr. Speaker, as members know, this issue was raised in the House yesterday. I said that I had written to the financial institutions and I would report back to the House as soon as I heard from them.

I have heard from the financial institutions. I am pleased to advise the House that the Canadian Bankers Association has confirmed that in most instances the policies, which are underwritten by insurance companies, do not include any war related exclusions and where such exclusions exist, the banks are waiving the exclusions for soldiers serving in Afghanistan.

I have received similar confirmation from Manulife that it will not rely on such clauses to deny otherwise valid claims.

[*Translation*]

CANADIAN TELEVISION FUND

Mr. Charlie Angus (Timmins—James Bay, NDP): Mr. Speaker, after a month of inaction, the Minister of Canadian Heritage sent a letter to Vidéotron and Shaw. How polite. Yet yesterday, Vidéotron issued a statement in defiance of all the rules. The company does not intend to support the fund and will not comply with the conditions of its licence.

My question is simple. Who is in charge of heritage policy—Vidéotron or the minister?

Hon. Maxime Bernier (Minister of Industry, CPC): Mr. Speaker—

Some hon. members: Oh, oh!

[*English*]

The Speaker: Order, please. Perhaps hon. members could contain their joy at having the minister rise to answer the question. We have to be able to hear his answer.

[*Translation*]

The Minister of Industry has the floor. Order please.

Hon. Maxime Bernier: Mr. Speaker, I do not understand the opposition members' reaction. This is a serious problem. I would like to tell my colleagues that the government is determined to protect Canadian content in radio and television broadcasts. This is very important for Canada's new government. The laws must be respected. As the Minister of Canadian Heritage said this morning in committee, all stakeholders must obey the law, and stakeholders like Shaw and Vidéotron must make their monthly contributions as the law dictates. The CRTC must take the necessary measures to ensure that happens.

[*English*]

Mr. Charlie Angus (Timmins—James Bay, NDP): Mr. Speaker, the CTF crisis is a power play by industry, which believes the minister is either unwilling or unable to stand up for her portfolio, as we have seen right here. No wonder. She has been missing in action on every key file under her jurisdiction, from museums, women's centres, aboriginal languages programs. We have never had a heritage minister so closely tied to lobbyists and industry. They are even rewriting the terms of their licenses.

I ask the government to maybe save the taxpayers some money and ask that limo-riding phantom to step down.

Hon. Bev Oda (Minister of Canadian Heritage and Status of Women, CPC): Mr. Speaker, the government recognizes its responsibilities. It recognizes that there needs to be stability, not only in how it carries out its responsibilities but in how the agencies do their work.

This is a serious situation. We respect the fact that all licensees must respect the regulations and play by the rules. The CRTC has responsibilities and it will take appropriate action, which is why I have asked Shaw and Vidéotron to resume monthly payments immediately.

● (1450)

Ms. Tina Keeper (Churchill, Lib.): Mr. Speaker, yesterday, Quebecor announced that instead of making contributions to the Canadian television fund, it would create an independent fund for its own television productions.

Losing its contribution in accordance with the CRTC guideline would be the end of the CTF. Artist unions and other stakeholders fear that the private interests are taking over the government initiatives.

Will the minister put her foot down right away and stop the destruction of the Canadian television fund?

Hon. Bev Oda (Minister of Canadian Heritage and Status of Women, CPC): Mr. Speaker, as I told the hon. member at committee this morning, and I am telling the House again, the government is committed to Canadian programming and the Canadian Broadcasting System.

We recognize the seriousness of the situation but we also respect the responsibilities of the CRTC and the government. We are confident that the CRTC will take appropriate action, which is why I have asked Shaw and Vidéotron to resume their monthly payments. I know the CRTC will be acting.

Ms. Tina Keeper (Churchill, Lib.): In a letter, Mr. Speaker, two months too late. Even the CRTC said today that it is up to the minister to help resolve this, not ignore it. We still have two of Canada's largest media companies trying to sabotage the television fund.

Why has the minister ignored her responsibility and allowed Shaw and Vidéotron to renege on their obligation to the fund?

Hon. Bev Oda (Minister of Canadian Heritage and Status of Women, CPC): Mr. Speaker, it was pointed out this morning that the best way to move a resolution to this very serious situation forward is for all parties to work constructively and in cooperation.

As I said before, this is a serious situation and we must respect the laws. The first action that must be taken is for everyone to respect the rules and the laws, which is why I have asked Shaw and Vidéotron to resume their monthly payments.

[*Translation*]

Hon. Lucienne Robillard (Westmount—Ville-Marie, Lib.): Mr. Speaker, the minister and the CRTC have finally woken up, but it is too little, too late. Yesterday, Quebecor announced that it could not waste any more time and that it would invest in its own fund from now on, which will have a negative impact on the leverage of government contributions. The minister refused to comment again this morning.

Does the minister realize that her lack of leadership is jeopardizing Canadian broadcasting policy?

Hon. Maxime Bernier (Minister of Industry, CPC): Mr. Speaker, the Minister of Canadian Heritage spoke this morning in committee and her message was clear. The minister said that all stakeholders must obey the law, comply with legislation and make their monthly payments.

This side of the House feels that the protection of Canadian content in television programing is important. We are committed to this and we are asking the CRTC to do its job in this file.

Hon. Lucienne Robillard (Westmount—Ville-Marie, Lib.): Mr. Speaker, the Canadian cultural community is certainly not reassured to see that the Minister of Industry is following in the tracks of the Minister of Canadian Heritage with his laissez-faire approach to the free market in Canada. The minister still needs to be reminded of her responsibilities.

Why does she want to dismantle the Canadian Television Fund on the sly? Why is she allowing two private companies to dictate Canadian cultural policy?

[*English*]

What next? Does she want to abolish the CBC too?

[*Translation*]

Hon. Maxime Bernier (Minister of Industry, CPC): Mr. Speaker, one would think we were in the middle of an election campaign. The opposition is trying to scare Canadians. The opposition is distorting the minister's remarks. It is important to bear in mind that businesses must respect their obligations and we must ensure that they do so. This is very important to the members on this side of the House and I hope to have the support of the opposition in ensuring that Shaw, Vidéotron and all other Canadian businesses respect their legal obligations.

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OFFICIAL LANGUAGES

Mr. Richard Nadeau (Gatineau, BQ): Mr. Speaker, the Commissioner of Official Languages has stated that he was not consulted when the Canadian Forces' new bilingualism policy was being developed.

How could the minister responsible for official languages defend the Canadian Forces' policy last week without hesitation, when even the Commissioner of Official Languages was not consulted?

● (1455)

[*English*]

Hon. Gordon O'Connor (Minister of National Defence, CPC): Mr. Speaker, the previous commissioner of official languages reviewed the military's plan for languages and found it to be quite satisfactory.

[*Translation*]

Mr. Richard Nadeau (Gatineau, BQ): Mr. Speaker, the commissioner has also criticized the late date of 2012 and said, "I don't want to wait until 2012 to see whether this approach works better than others".

How can a minister from Quebec who is responsible for defending la Francophonie abdicate her responsibilities and let the commissioner of official languages express serious concerns that she should have had in the first place?

[*English*]

Hon. Gordon O'Connor (Minister of National Defence, CPC): Mr. Speaker, as I said yesterday, the previous plan was declared a failure year after year by the language commissioner. The military revised the plan and we will now work toward meeting all the requirements of the Official Languages Act.

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AFGHANISTAN

Hon. Denis Coderre (Bourassa, Lib.): Mr. Speaker, it has been more than a week since the Minister of National Defence avoided our question on detainee abuse in Afghanistan.

Even the chairman of the Military Police Complaints Commission has said:

> —the relevant military authorities have already had considerable opportunity to initiate internal processes, but have waited until this public complaint to do so.

Could the minister explain to the House why he failed to act sooner? Why the cover-up?

Hon. Gordon O'Connor (Minister of National Defence, CPC): Mr. Speaker, I completely reject any idea of a cover-up in our department.

Three investigations are going on right now: the military investigation service, a board of inquiry and now the Military Police Complaints Commission. They are all unfettered as they carry on with their investigations. Whatever results they find will be published and the public will be aware of them.

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FOREIGN AFFAIRS

Mr. Ron Cannan (Kelowna—Lake Country, CPC): Mr. Speaker, the United Nations General Assembly recently adopted the Convention on the Rights of Persons with Disabilities, which is the result of negotiations that concluded on December 13, 2006.

Given Canada's continued engagement in this important issue, could the Minister of Foreign Affairs tell the House what Canada's plans are with respect to the signing and ratification of this convention?

Hon. Peter MacKay (Minister of Foreign Affairs and Minister of the Atlantic Canada Opportunities Agency, CPC): Mr. Speaker, Canada was very proud to have participated in this important negotiation on the Convention on the Rights of Persons with Disabilities.

The recently finalized convention promises to be an important tool for the protection and promotion of human rights of persons with disabilities. The convention, of course, is an essential part which will need to be consulted with the provinces and territories as they will be responsible for implementing these changes in relation to the education, health and employment of persons with disabilities.

We are looking forward to working actively and expeditiously with the provinces to see that we bring this matter forward in a positive way. I know all members will want to do the same.

GOVERNMENT APPOINTMENTS

Mr. Paul Dewar (Ottawa Centre, NDP): Mr. Speaker, partisan appointments were supposed to be a thing of the past with this so-called new government but today we learned that the wife of a long time assistant to the former minister of justice has been appointed to the Parole Board.

While this appointee is a qualified parole officer who no doubt deserves consideration, the appearance of patronage taints the appointment.

Will the government accept that transparency is what ordinary Canadians want in the public appointments process?

Hon. Peter Van Loan (Leader of the Government in the House of Commons and Minister for Democratic Reform, CPC): Mr. Speaker, I welcome the opportunity to discuss the quality of the appointments we are making.

The individual in question, Patricia Haasbeek, has incredible qualifications to be on the Parole Board: a certificate in criminology, a correctional officer's certificate from Manitoba justice, applied counselling with the University of Manitoba and chemical dependency intervention. In fact, she worked in corrections and domestic violence for almost three decades.

Ms. Haasbeek is someone who is eminently qualified, typical of the kind of people we are putting forward, in contrast to the kind of people that used to be put forward by the Liberals for the board, like Robert Besner, a former Liberal candidate in 2004 in British Columbia.

Mr. Paul Dewar (Ottawa Centre, NDP): Mr. Speaker, he forgot one thing: a long time Conservative.

Had the government simply adhered to the NDP amendments to the Accountability Act, this appointment would be above reproach. To be clear, the Conservatives had a choice. They could have chosen the quick establishment of the public appointments commission but they chose patronage as usual.

Will the government do the right thing, stop its dithering and set up the NDP proposed public appointments commission immediately?

● (1500)

Hon. Peter Van Loan (Leader of the Government in the House of Commons and Minister for Democratic Reform, CPC): Mr. Speaker, we did the right thing again in appointing a very highly qualified individual to the Parole Board. We did try to put in place an appointments commission but, as the member will recall, it was the NDP, together with the other opposition parties, that led the charge to discredit a highly qualified individual.

Had we had that process in place, this question would be academic. We wish the opposition members had supported it, instead of dragging people's names through the mud as they like to do.

[*Translation*]

AFGHANISTAN

Hon. Denis Coderre (Bourassa, Lib.): Mr. Speaker, on the issue of the abuse that some Afghan detainees have suffered, the behaviour of the Minister of National Defence is cause for concern. He is in the know, he has received documents. There is proof that he receives reports every time detainees are transferred. Now, he is refusing to answer, because he is hiding behind the investigations.

Given that he knows more than he is letting on, how will he respond to these investigations? Is he willing to testify? Is he willing to release the documents? Is he willing to tell us what he knows, or will he stick his head in the sand as usual?

[*English*]

Hon. Gordon O'Connor (Minister of National Defence, CPC): Mr. Speaker, I can assure this House that at no time was I aware of any abuse of prisoners, period.

I will remind this House that three investigative activities are going on right now: the National Investigation Service, the Board of Inquiry and the Military Police Complaints Commission. They will get to the bottom of it.

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CANADA-U.S. RELATIONS

Mr. Laurie Hawn (Edmonton Centre, CPC): Mr. Speaker, the rules requiring all air travellers to present acceptable documentation for travel to the United States are now in effect. For most Canadians, a passport will be the document of choice but for frequent travellers to the U.S. there is an alternative in the NEXUS program.

Could the Minister of Public Safety please tell this House how a membership in the NEXUS program can expedite border clearance?

Hon. Stockwell Day (Minister of Public Safety, CPC): Mr. Speaker, I was pleased to be in Toronto yesterday at Pearson International Airport where we announced the extension of the NEXUS program. It has been successfully piloted in Vancouver. Thousands of Canadians now enjoy the program.

Any Canadian citizen or permanent resident can apply for the program with a background check. Once they receive the card they will be able to cross the border at any of the airports. It eventually will be extended across Canada. With the card, people only need to look into an iris screener, touch the screen for quick access to the questions and then they can immediately cross the border. Children 18 years and younger can also apply for the program free of charge.

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AGRICULTURE

Hon. Ralph Goodale (Wascana, Lib.): Mr. Speaker, my question is for the Minister of Agriculture and it concerns the barley vote that is just beginning.

Could the minister explain to barley producers why he has put a proposition before farmers, which is in fact a nullity and an impossibility to achieve? In fact, his own task force told him that the middle option, purporting to have one's cake and eat it too, is a physical impossibility. Why has he tainted the whole vote by including that nullity in his question?

Hon. Chuck Strahl (Minister of Agriculture and Agri-Food and Minister for the Canadian Wheat Board, CPC): Mr. Speaker, it is not confusing to farmers, I can tell the member that. However, it may be confusing to Liberals.

Yesterday I met with about 40 or 50 farmers in Saskatoon. It was a typical farmer meeting held in a coffee shop and where both sides of the issue were represented. The farmers were very clear on what exactly we were talking about.

We can have either on the ballot. We can have the status quo, which is the monopoly that the Wheat Board has, or we can get rid of the Wheat Board. That is not our position but it is a position that somebody might take. Some people may want to market their own barley. Some people may choose the Wheat Board while others may not. I hope a lot of farmers choose that second option because it is a good one.

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PRESENCE IN GALLERY

The Speaker: I would like to draw to the attention of hon. members the presence in the gallery of the Honourable Mary Anne Chambers, Minister Responsible for Children and Youth Services for Ontario.

Some hon. members: Hear, hear!

GOVERNMENT ORDERS

● (1505)

[*Translation*]

CRIMINAL CODE

The House resumed consideration of the motion that Bill C-35, An Act to amend the Criminal Code (reverse onus in bail hearings for firearm-related offences), be read the second time and referred to a committee.

Mr. Réal Ménard (Hochelaga, BQ): Mr. Speaker, I am pleased to speak to Bill C-35, concerning release on bail.

I must say that the Bloc Québécois, my leader, my colleagues and my colleague from Châteauguay, will not be supporting this bill. Not because the issues raised are not important, but we believe that this government has an insidious reflex, a dangerous propensity and tendency to want to undermine the principles of natural justice.

This bill wants to narrow the important concept of presumption of innocence. There are litigators in this House. I know that the hon. member for Marc-Aurèle-Fortin was an extremely vigorous, formidable and respected attorney.

I have a small anecdote. Yesterday, I was at my last law course on evidence and procedure when, quite nonchalantly, my professor told me and my colleagues that he had an idol. He was referring to the hon. member for Marc-Aurèle-Fortin. Obviously, I was flattered by association by this tribute to the hon. member for Marc-Aurèle-Fortin. It was the part of the course when we were talking about plea bargaining. It was extremely moving to me to hear my professor tell me that in the courts of justice where the hon. member for Marc-Aurèle-Fortin worked as a stern defence attorney, he was a tough and formidable man. The professor explained to us that there was something insidious in plea bargaining, but that without it, the judicial system would break down under the pressure of all these charges and all these cases that have to be tried.

I know that the hon. member for Marc-Aurèle-Fortin will agree with me that there is something absolutely sacred in the presumption of innocence. We have learned that we have to minimize cases where there is reverse onus. The presumption of innocence must never be lost. It is the responsibility of the prosecution, it is the responsibility of the Crown to prove that the accused breached a provision of the Criminal Code.

Of course the Bloc Québécois is in full agreement with the idea—in fact it made a significant contribution to it—of giving police officers the most effective tools for conducting investigations and bringing people to justice.

In Quebec charges are not laid by the police. They are laid by attorneys general. But we are constantly concerned about the need to provide the police with the most effective tools. This is why in the past we have asked for extended wire-tapping warrants. This is also why we demanded provisions in the anti-gang law to bring charges against organized crime in the 1990s.

The most worrisome thing is to hear the Minister of Justice say that the bill will help prevent crime. This could not be less true. If the government is really concerned about crime prevention, perhaps—and I am sure that many members feel as I do—the Minister of Public Security will sign some projects under the national crime prevention strategy so that community groups can get down to work in our various ridings at the grassroots level with people in the communities, and do some real prevention work.

● (1510)

So Bill C-35 proposes that, at the appearance stage and in some cases even at the preliminary investigation state, the onus be placed on the accused, the person charged. Therefore before the trial the accused has to be able to show that he can be set free.

The Bloc Québécois does not think that this should be automatic. Being set free when one has broken the law is not a constitutional right. The constitutional right is the right to be represented by a lawyer, the right to be heard and to have a fair trial.

What we do not understand is why the Crown, why the Crown attorney, should be exempt from demonstrating that we are in the presence of an accused who does not deserve to be set free.

Once again I want us to be clear about this. We agree that in some situations an accused should not be set free and should be detained until his trial begins. The Criminal Code has such provisions. I would remind members that we are not before a judge or in a trial. We are in a situation where bail is an option. We are weighing the evidence, we are at the stage of an appearance or a preliminary investigation.

There are situations, of course, when it is prudent, justifiable and perfectly comprehensible for the Crown to say that an individual should not be released, for example when evidence might be destroyed, when the individual may not appear as required for his or her trial, or when the individual poses a danger to the victim or the community.

We also already have provisions that require people charged with an offence to show themselves why they should be released. This is true, for instance, in cases of gangsterism.

I was a member of this House when we passed Bill C-95. In its original version, this bill stated that if five people had been found guilty of five offences over the previous five years, they were members of a gang. It was the crime of gangsterism. Nowadays, the term has changed and we speak of a criminal organization.

We agree that if the information or indictment involves Criminal Code sections 467.11, 467.12 or 467.13, this is a serious enough matter. If a person is accused of gangsterism and is one of the members of society that has been criminalized to this extent, we agree that there should not be any automatic responses and it should be up to the person to demonstrate that he or she does not pose any threat to society. In most cases, these people are not released.

This is true not only of the old charge of gangsterism but also, as the hon. member for Châteauguay—Saint-Constant pointed out, of the new gangsterism provisions passed in 2002. It is true as well when release conditions have been violated, when someone who was already out on bail or probation violated the conditions. If an individual already tried once to dodge the legal system and violated the conditions, it is completely understandable that he or she will not be released.

The bill goes much too far and there is a problem and considerable concern about offences committed with a firearm. I can never say enough about the inconsistencies, contradictions and stupidity of this government. On the one hand, it asks us parliamentarians to pass stricter legislation on offences committed with firearms, while on the other, it is willing to leave more arms in circulation.

● (1515)

What a disappointment it has been to us to see this government maneuvering, ever since it was elected, to abolish the gun registry.

The police have reminded us that this registry is consulted all across Canada, not just by the RCMP; not just by the Sûreté du Québec, and not only by the Montreal police. Police officers and law enforcement officers consult the registry 6,500 times a day. That is not insignificant.

I want to thank the researcher for the Bloc, Olivier Bernard, for providing us with very precise statistics. I will share them with you. What a contradiction this is. The gun registry, with compulsory registration, has been in existence for several years, notwithstanding the fact that the Conservatives have tabled a bill to dismantle it. This registry that is consulted an average of 6,500 times per day is not unimportant. There are 1.2 million restricted firearms that were required to be registered. That means 1.2 million firearms that were taken out of circulation thanks to this registry.

What does this mean? The Standing Committee on Justice and Human Rights is now debating that point. We are going through clause-by-clause consideration of Bill C-10. Unfortunately, it is not a good bill because it is based on a philosophy that has been refuted by I do not know how many studies.

The bill seeks to impose mandatory minimum penalties for a number of crimes committed with a firearm. The Bloc Québécois is concerned about rigour and consistency. When Allan Rock established the gun registry, he established minimum mandatory penalties for crimes committed with a firearm.

We would like to know what that has meant. Scientific studies presented to the committee show that there is no correlation between minimum mandatory penalties and any deterrent effect that the presence of those penalties in the Criminal Code could have on criminals.

As a legislator, it is normal to ask questions about the consequences of public policies before adopting them.

What inconsistency, what contradiction. I am anxious to see some sign of enlightenment in the Conservative caucus. Someone who was a bit enlightened could make the government see reason. They could make it understand that one can not, on one hand, adopt or table bills that call for more severe penalties for crimes committed with a firearm, and, on the other hand—as though there was a constitutional right to bear arms—freely allow firearms to be carried as if that were not something that had consequences.

I am again appealing to all members to ensure that the government listens to reason, as urged by the police association. Many stakeholders from civil society have told the government that it does not make sense to dismantle the gun registry.

The shortcoming of Bill C-35 is that it is much too general. In some cases, pre-trial release is not justified. We reiterate that point and we concur. However, at present, we are discussing a number of offences that, in our opinion, should not automatically allow for reverse onus.

We must not shift the presumption of innocence without concern for the consequences to the administration of justice. We cannot toy with the principles of natural justice. Very often, I heard Conservative members, whom I will not name out of kindness—although I have a terrible urge to look at them and point them out, I will not do so—say that it was as though the Charter were a necessary evil.

● (1520)

Naturally, it is easier to devise the judicial system when we think in black and white and when there is no need to reconcile respect for the burden of proof or for disclosure of evidence, for example. That is certain. There is obviously an imbalance when we want a society where, on the one hand, there is the Crown with all its resources and means and, on the other hand, there are the offenders.

The Bloc Québécois supported increasing penalties for the most serious offenders. Again this morning, I made a proposal to the committee in an effort to bolster the fight against organized crime, with its contemporary incarnation of street gangs. We know that street gangs are a significant phenomenon. They are a reality in Montreal and in Toronto and, I am told, are organizing in Calgary, Saskatoon and Halifax. And of course there is Vancouver, where street gangs are a very important reality.

We cannot just go along with this idea that justice will be administered more effectively and things will be more acceptable if reverse onus is generalized. We do not believe that this is the right approach.

Unfortunately, we cannot support the bill as it currently stands. What is more, I was very surprised to learn something, which I checked with my leader. I think the government could have had the courtesy to inform the members of the Standing Committee on Justice and Human Rights that it planned to create a legislative committee. Of course, the government has the right to create a legislative committee.

For the people who are watching, a legislative committee is a committee that has a limited lifespan, existing only as long as a bill is being studied. For example, legislative committees studied the language-based school boards when the constitutional amendment was made and also studied Canada's clean air act and same-sex marriage. Obviously, this means double the time for the people on the committee, and I believe I will be sitting on it with my colleague from Châteauguay—Saint-Constant. In my opinion, the government could have had the courtesy to tell us about it.

The bill is too broad, because it targets all offences involving firearms. In my view, this is not the right approach. We repeat: the Bloc Québécois will always support legislation that gives the police more resources to conduct investigations, for example.

We recognize that, in a certain number of cases, maximum sentences need to be increased. We believe that. We support Bill C-10, which creates two new offences. We voted for the bill in committee, and we will vote for it at the report stage if the committee decides to send Bill C-10 back to the House. We will support the two new offences created by Bill C-10: robbery to steal a firearm and breaking and entering to steal a firearm.

In conclusion, I call on the government to take a much more moderate approach, and I hope that the members of this House will understand the risk that reverse onus poses to the administration of justice. Because of these concerns, the Bloc Québécois will vote against Bill C-35 at second reading.

● (1525)

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Mr. Speaker, I have a question for my hon. colleague who just addressed the House concerning Bill C-35. I would first like to draw his attention to the following point. The Alarie report clearly states that one of the reasons for the Bloc's loss of seats in the Quebec region is because the Bloc brought up same-sex marriage and the maintenance of the firearms registry. It is therefore absolutely false to say that the firearms registry is becoming an issue. It is no longer an issue in Quebec or in the regions, in general. I am not the one saying this. It was indicated in the report prepared by Ms. Alarie, Vice-President of the Bloc Québécois.

Additionally, I could not but notice that my hon. colleague is a good orator and an excellent debater. However, I would like to point out to him that the Bloc's research often leads it towards France and the French justice system. I bring this up because, in the French justice system, the accused is considered guilty until proven innocent. Quite often, the Bloc seems to admire French culture and French justice. Everything that is French should apply in Canada.

I therefore ask my colleague why he does not support Bill C-35, which represents just one small part of what goes on in France, which as the Bloc members must know, has now decided to move more towards English law. Why is my colleague so vehemently and absolutely against Bill C-35, when the country that he most admires uses these provisions and has been using them for more than 200 years?

Mr. Réal Ménard: Mr. Speaker, I would like to tell the member for Charlesbourg—Haute-Saint-Charles that I looked to France—Marianne, eldest daughter of the church—for inspiration because that country has achieved sovereignty. Unfortunately for him, when he makes such comparisons, he inspires us all and reinforces our belief that Quebec must become sovereign.

I hope that by inviting us to consider the French judicial model, where presumption of innocence does not exist, the member is not suggesting that his government would do such a thing. That is not our legal tradition. To my knowledge, none of the stakeholders—indeed, no member of our civil society—would like to see that model used here. The main reason the Bloc Québécois cannot support the bill is that we believe reverse onus, as proposed for eight offences, is not the right solution.

This would not prevent prosecutors or the crown attorney from acting. If a person should not be released, if that person is a danger to society or used a firearm inappropriately, it remains the prerogative —if not the responsibility—of the justice not to allow that person to be released. I repeat, pre- trial release is not a constitutional right.

The main difference between how the Bloc Québécois and the Conservative Party view the justice system is that we, the Bloc Québécois, trust judges while the Conservatives do not have much respect for the judiciary.

I would like to conclude by thanking him for his confidence in Hélène Alarie. I think that in her report, the vice-president of the Bloc Québécois concluded that we will be first in line to win back Quebec in the next election. I would like to caution him against being overly confident because we have set our sights on Charlesbourg—Haute-Saint-Charles.

● (1530)

[*English*]

Hon. Larry Bagnell (Yukon, Lib.): Mr. Speaker, when I asked the justice minister about the costs of implementing this bill, he refused to answer. His non-answer suggested that the government had not done an analysis. Does the member think it is good law making when the government just assumes the bill is going to be defeated and it has not set aside any money for the costs to implement this bill? Those thousands of dollars could be used for crime prevention.

My second question is related to crime prevention. The member has already mentioned one issue which shows that the Conservatives are not serious about helping to reduce crime and could proliferate crime. One example is the decimation of the crime prevention funds. I have been trying to get a project in Watson Lake approved for over a year. Crime prevention funding seems to have stalled. I thought the Conservatives wanted to stop crime. The other example is the aboriginal justice strategy. There are nine projects in my community alone, which is one out of 308 ridings, that have proven to cut down on crime, cut down on incarceration, and cut down on repeat criminals.

Does the member really believe that the government is serious on crime if it is not proceeding on all these things that actually cut down on crime?

[*Translation*]

Mr. Réal Ménard: Mr. Speaker, our colleague is right to remind us how sad it is to see, I am sure, that many of us have been under pressure when it comes to the national crime prevention strategy.

I hope the government understands that it is important to bring projects to the grassroots and that our communities need this money. I agree with the hon. member. It is clear that we need more solid information on the financial consequences of this bill, particularly for the provinces which, in some cases, will see an increase in the number of prosecutions.

[*English*]

Mr. Myron Thompson (Wild Rose, CPC): Mr. Speaker, I listened to the member's speech and for a while I was not sure whether he was talking about the gun registry or just what he was talking about; he kind of wandered all over the place. I want to stick specifically to the purpose of this bill.

I can see no connection to whether the registry has basically saved any lives. I hear talk about it being used 6,000 times a day or whatever it is, but police have told me it kicks in regardless of what they are searching for, whether it is a car licence plate or the address of a person, but that is neither here nor there.

In my riding a young mother in her house was a victim of a sexual assault. Somebody who was asking for directions assaulted and viciously attacked the young mother. Three days later she was recouping, sitting on her front porch and lo and behold, who wandered into her yard but the same individual.The alleged crime was indeed a fact, but it was an alleged crime. It was the same at a corner grocery store which was held up by two people with guns. Three or four days later outside the same store the two individuals were standing on the corner. They were loose.

Surely the member would realize the impact that would have on the victims. Yes, the individuals are alleged to be criminals as there has not been a conviction but they were out on bail. What we are saying through this bill is that violent attackers, be they alleged or convicted, should not be released on bail. The experience of the two people, including the young mother, I can assure the member was traumatic, yet bail was allowed.

That just cannot happen in this society. It just cannot happen. I do not care how few cases there are, it cannot happen even once. We cannot allow this to go on. Does he agree?

● (1535)

[*Translation*]

Mr. Réal Ménard: Mr. Speaker, I want to thank our colleague for his question. I know that he has been interested in the work of the committee for at least 10 years and his point of view is very important to me. He often shows common sense, which I respect very much.

Nonetheless, I must say to him that we have to get one thing straight. We are claiming that there are cases where release on bail is not indicated. We agree, but we believe it is the responsibility of the prosecution to prove it. Beyond the exceptions in the Criminal Code, we believe it is the responsibility of the prosecution to prove it.

In the most obvious cases, such as the examples he gave, I do not believe that a judge would allow release on bail. We agree with him that there are certain cases where this is not indicated. However, we do not want to broaden the cases of reverse onus.

[*English*]

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Mr. Speaker, I rise to address some comments to Bill C-35, a government bill that at its essence introduces the use of the reverse onus to a number of new offences under the Criminal Code and provides a framework within which that reverse onus would be applied in our courts.

Bill C-35 is typical of the government's agenda. It has consistently presented short, individual issue bills to the House that have tied up debate in the House quite extensively. This certainly has tied up the justice committee very extensively and has put us way behind in coping with those bills.

It was not necessary. This is all about a political and ideologically driven agenda of the government. If it were really serious about dealing with crime and these particular issues of crime, in this case gun related ones, we could have been moving much more quickly, effectively and efficiently by having a number of these bills combined into an omnibus bill.

I am happy to say that I have carried on some discussions with the new Minister of Justice. I am hoping that we may in fact get a more positive response from him than has been reflected by his predecessor or by the government to this point, so that Canadians can have assurances that gun crimes and other crimes, serious ones in particular, are being dealt with as effectively as possible by the House and by the government, and that the criminal justice system will serve them to its absolutely peak of efficiency.

That is not the case with the government, because to a great extent, and there are some elements in the bill that I think reflect it, the government really is not serious about getting tough on crime. What it really is serious about is using the misfortune of so many victims of crime for its own political ends: to get elected and to try to form a majority government. That is really what this is about. That, quite frankly, is to the government's shame.

Having said that, I note that this bill, like so many others that have been introduced, has some basically solid elements to it, but again like so many, our position on it is that the government may have very well strayed over into the extreme, which it has a very strong tendency to do. I think the government is repeating that here.

Because I think the bill is fixable in committee, even though the government is sending it to a legislative committee rather than the justice committee, I believe it can be amended to bring it into line and to make it more effective and more usable.

I think it is important to make this point, and again, this is to perhaps repudiate some of the sales job that has gone on from that party and the government around this particular bill. The point needs to be very clearly made because oftentimes I hear members of the Conservative Party who do not really understand our existing law trying to portray this new one as covering fields that have already been taken care of.

The reverse onus already applies in the situation whereby an individual accused has been charged with an indictable offence and released on bail and then is charged again. On the second time, the reverse onus applies to that, so they are not released on a second offence unless they can establish to the satisfaction of the court that they are not a safety concern for society as a whole. That is already in our existing law, as is the reverse onus in a number of other types of crimes. Organized crime, terrorism and certain drug trafficking, drug smuggling and drug producing offences all have the reverse onus already applied.

● (1540)

We could go on. A number of them are applicable at this point, as are some of the more serious ones such as murder, treason and war crimes. All of these have reverse onus already applicable. What this bill is proposing to do is to extend it to more serious offences. I believe the government's number was eight offences.

Again, the government may very well have crossed over the line on some of these. Our courts, all the way to the Supreme Court, have made it quite clear that reverse onus can be used in appropriate circumstances. Where it has been tested up to this point, the courts have supported its use in the sections of the code that I have already mentioned. The government may have crossed the line with some of these, so it will be important at the committee stage to take evidence to try to ascertain whether the government, as it has so often in the past, has taken an extreme position and whether we have to bring it back somewhat from that.

However, certainly there are areas in which we do need to use the reverse onus more extensively than we have up to this point, so we will be supporting the bill with the expectation that at committee we will be able to make the proper amendments.

The other thing that I think is really important to appreciate is the fact that the whole bill of course is open to an attack under the charter, so we have to be very careful with regard to the way it is drafted. There is some wording that is unusual, let me put it that way, wording that I have not seen in the Criminal Code in the past at any time. There may very well have to be some amendments made to make sure that it is not so general and so vague that it will be subject to an attack under the charter and therefore struck down. There may be amendments along those lines. I can see a couple of areas where that is probably going to be necessary in the course of the work that the committee will do.

There is another major point, and again I think it is to the shame of the Conservative Party, which constantly brings forward this kind of legislation without understanding, or perhaps caring, about the circumstances. In this bill, there are going to be some consequences in terms of additional pressure on our courts, on our police officers because of the additional time they will probably end up spending in court testifying, and certainly on our prosecutors and our judiciary.

In all of those cases, the costs of those additional judges, the extra courtrooms, the prosecutors and, in a number of cases, the costs of the defence counsel through the legal aid systems in the provinces, are borne by the provinces. Up to this point in the roughly one year that this government has been in place and has been introducing these bills, we have seen a total disregard on the part of the government to take into account those consequences.

We have not seen any analysis in the previous bills that we have had before the justice committee. Whatever analysis we had on costs was drawn out by the opposition parties. I will take some particular credit for that, but all of us have looked at it and have drawn some of it out so that we understand the consequences of passing this legislation.

Because the analysis has not been done, there have been no arrangements made by this federal government to in effect subsidize or in any way financially assist the provinces in meeting these cost commitments that we impose upon them. That of course is having a deleterious effect on the relationship between the provinces and the federal government, as we have seen in a number of other areas in the past when we as a federal legislature pass laws that commit the provinces to spending money and provide no assistance for them to do that.

I have to say with regard to costs that my biggest concern is the number of additional incarcerations. We have to expect that this will happen. It is an inevitable consequence of this bill and is what the bill is intended to do. There will be additional incarcerations and those incarcerations will be in institutions that are owned and operated by the provinces.

● (1545)

We have no idea of how many there will be. We attempted to see if the minister had any sense of how many when he was addressing the House this morning. As is so typical, the government has not done the analysis. That will have to come out of the work the committee does. This is probably where the major cost is going to be. It is a cost that is borne entirely by the provinces. At this point, the provinces will have no idea of how much that is going to be because the analysis has not been done at the federal level.

There is another point, though, with regard to that. We know from evidence before committee that all of our provincial institutions in every province, without exception, is either at capacity or has an overcapacity for most of the institutions that house alleged criminals pending their trials. They are all overcrowded or at best are at capacity. By adding additional bodies to those institutions as part of the incarceration group, we will be taxing the facilities beyond their ability to respond.

That is significant in two ways. A judge looking at that situation will be much more prone to say that he or she is going to release the person, that the person may in fact be a danger to society but the judge is going to release him or her because there is really no capacity to deal with the person. The provinces have not been able to afford to expand the physical plants, says the judge, so he or she is going to release the person simply because of that.

Or, what is much more common, and which causes one of these unintended consequences that the government never thinks about, is that we are going to have the situation whereby a person is ultimately either pleading guilty or is convicted and is before the court during sentencing after conviction saying that he or she had to spend six months, a year and maybe even longer in some cases in a facility that was totally inadequate by Canadian standards. We know that is going on right now. Those convicted persons are given extra credit for that time.

If the sentence is for five years, the court may very well say that the person has already spent a year incarcerated so the court is going to give credit for that. Plus, as a bonus, because the incarceration was so bad and the circumstances were so bad and the system is so poor, the court may give the person credit for another year or perhaps even more. That is beginning to happen. It is quite common to get two for one credits, but now the arguments are coming for three to one credits.

If we build this legal infrastructure without taking that into account and providing the financial resources to the provinces to provide adequate housing for people who are accused of crimes, that is going to be the consequence. Thus, at the end of the day, we are going to have people getting out of our federal institutions—that is where they end up if the sentence is for more than two years—at a much faster rate, which is the complete opposite of the intention of the government, certainly, and I think of most of us who are looking at this bill and at what we want for the criminal justice system.

We are in the situation where that needs to be looked at by committee. The bill is now going to a special legislative committee. This is obviously another attempt by the government to speed up the process of bills going through. It would be much faster if the government used my suggestion, which I have made repeatedly, of using the omnibus bill approach, but even there the reality is that the legislative committee cannot sit at the same time as the justice committee.

Again, I do not know if either the Minister of Justice or the House leader appreciate this, but the legislative committee cannot sit at the same time as the justice committee because it is a justice bill. We will be scrambling to try to find slots of time whereby those of us who are sitting on that committee, and I am assuming I will be one of them, will be able to fit it into our schedules. It probably is not going to save any time. It is going to be a slower process in many respects than if the bill had been sent to the justice committee.

I would point out again that this was done without consultation with the opposition parties. Again, this is a reflection of a course of conduct of just how serious the government is with regard to dealing with crime in this country.

● (1550)

At the end of the day, as a party we will be supporting this bill at second reading to go to committee, but at committee we will be expecting in some cases minor amendments and in other cases some fairly serious amendments to ensure that this does comply with our existing criminal justice system standards, the charter in particular, and also to get more background material so we fully understand the consequences of this legislation.

Mr. Ken Epp (Edmonton—Sherwood Park, CPC): Mr. Speaker, the member gave a very interesting speech and one of the things he included in it was reference to the increased costs of incarcerating more individuals.

My question is very pointed. Does he just outright reject the idea that by making the sentences more sure, in the sense that these people will know that after the third time they have done something, they may land in jail instead of walking the streets, that it may deter them? Does the member just absolutely reject the idea of a jail sentence that is sure being a deterrence?

Mr. Joe Comartin: Mr. Speaker, this bill has nothing to do with that issue. This has nothing to do with the sentencing of people convicted. This is all about the bail procedure and nothing about sentencing, so the two do not have anything to do with this.

Regarding costs though, all through my life and I learned this from my Irish mother, we pay our own way and do not expect to conduct ourselves in such a way that somebody else picks up the tab for us. So I say to the member and to his party, if they are serious about crime and handling it responsibly, do not dump the costs on the provinces. Take some responsibility. Be sure of what they are doing and once they know what the consequences are, then pay the debt.

We are passing these bills. We are passing this responsibility on to the provinces and we should be there at the table with a cheque to ensure that these costs are covered by the federal government, which is in a much stronger position to cover them than the provinces.

Mr. Myron Thompson (Wild Rose, CPC): Mr. Speaker, I have always respected the hon. member's opinions although I do not agree with him most of time and I think he knows that, but I certainly respect him as a family man and as a person who believes in protecting society.

I have heard him mention that these things are happening for political gains. First, does the member really believe after 13 years that I would make some kind of effort toward something like this for political gains? Second, everyone realizes there are costs attached to everything that we do, but the most important thing is, are we willing to provide legislation to protect people?

I did not hear any message in the member's speech about the importance of protecting people with regard to releasing the accused on bail. I found that rather strange coming from this man. I believe he wants to see people protected, but he did not mention the fact that if we do not let them out, then they cannot hurt anyone again. That has happened. Not a great number of times, but it happened in my riding twice. The trauma of the people being released is enough to frighten victims beyond belief.

I wish the opposition would put more emphasis on that. As far as the bail being taken away from the sentencing time, that is the way it works, two years for one, and I see no bearing on that. Life is a little tough in prison and there is a message for some people right there. They should not go there and they will not have those miseries. Stay out of there.

I believe the member thinks that safety is really important for the protection of society, but I did not hear him mention that factor. Does he believe that the bill will protect society in any measure at all, or is it just useless in that respect?

● (1555)

Mr. Joe Comartin: Mr. Speaker, actually I thought I had talked fairly extensively about the support we were giving to the bill because it is needed in a number of circumstances.

My colleague from Wild Rose asked if I see him using this for political gain. I do not. I respect him as he does me. We disagree all the time. I cannot say the same thing about a number of other members of his party, including the former justice minister. However, this is just being completely partisan on my part.

Putting that aside, this is really about passing laws that are effective in protecting the Canadian public and will, in fact, be used.

I want to go back to the two examples that my colleague gave to my friend from the Bloc about the woman who was sexually assaulted and the robbery in the corner store. It is really interesting to compare these stories with what we heard from Chief Blair in Toronto. Using the same system, ramping up the services with no new laws, just using the existing ones, he shut down three street gangs in his city.

When I heard the story the member gave us with regard to the woman who was sexually assaulted, I could not help but ask why the prosecutor did not have a condition on the bail release for that alleged perpetrator to not be anywhere near that address. That would be a very common clause. In defence of that prosecutor, it was probably not put in because he or she was so over-worked that the point was missed. That happens a lot. If the prosecutor did put it in, the police should have charged that person immediately. Chief Blair did that and he did it very effectively without new legislation.

The NDP is obviously very concerned about protecting Canadians. We just want to do it effectively. We think there are parts of this bill that will do that.

Mr. Charlie Angus (Timmins—James Bay, NDP): Mr. Speaker, I listened with interest to my colleague's discussion and he clearly laid out the issue. The issue before us is the need to balance public safety, which is something we as New Democrats are very strong on, particularly in light of the proliferation of guns and the concern about gun violence. We need to send a clear message that gun violence is not going to be tolerated in our society.

I would like to juxtapose that with the Conservative Party's cheapening of the suffering of crime victims in order to make political messages. The Conservatives send stuff into other people's ridings saying that so and so is soft on crime, or so and so supports all kinds of nefarious and disgusting activities because so and so does not have the extreme views of the Conservative Party on many things.

This legislation comes to us as something to deal with the threat of gun violence, so of course there is support for it. As with pretty much any bill the Conservatives bring forward, they make it so big that we could drive a Mack truck through it. They are trying to sweep up into their net many other crimes while scaring the general public about crime.

What steps does the hon. member think need to be taken to ensure the public interest is protected? What steps need to be taken to ensure that the Conservative Party does not use bills like this for cheap partisan purposes?

● (1600)

Mr. Joe Comartin: Mr. Speaker, in the ten percenters that are going out, the Conservatives are very guilty of attacking not just the NDP but they are attacking the Liberals. I do not know if they are going after the Bloc in Quebec as well, but it cheapens the debate, there is no question.

The Conservatives accuse others of being soft on crime. I get that all the time when a bill comes before the House. I get it in householders and ten percenters. They are also being sent on the issue of the age of consent. I have been a strong proponent of dealing with that issue, dealing with it appropriately and effectively, and still the NDP is accused of being opposed to it. Although it will be an independent vote, the vast majority of us are in favour of it.

We get those false accusations simply to stir the pot in key ridings where the Conservatives think they can win by sending out that kind of scurrilous material. It demeans the political party. It demeans the individual member of Parliament who sends out that kind of junk.

Quite frankly, to answer the basic question of how to deal with it, the House will have to look at what kind of material will be allowed into our ten percenters if that kind of conduct continues.

Mr. Rob Moore (Parliamentary Secretary to the Minister of Justice and Attorney General of Canada, CPC): Mr. Speaker, it is a great pleasure today to rise to speak in support of Bill C-35. This government bill would amend the bail provisions of the Criminal Code to provide a reverse onus for firearm related offences.

It was with great interest that I listened to the speech of the hon. member for Windsor—Tecumseh and the exchange in questions and answers. I think parts of it were quite informative.

The government said it would tackle gun crimes with effective measures that would be targeted at the right group. That group, as all right thinking people know, are those who would use a firearm for a criminal purpose and not law-abiding firearms owners.

We have seen the effects of targeting the wrong the people. When we have a problem, we should all know intuitively that we have to target the problem and not target what is not the problem.

In Canada the law-abiding firearms community, people who are duck hunters or who represent us at the Olympics in shooting sports, are not the problem. The problem, as we all know, are those who would use a firearm in the commission of an offence against an innocent Canadian, against another person.

Like Bill C-10 on mandatory minimum penalties for serious and repeat firearm offences, Bill C-35 is appropriately directed at the gun crime problem that we must address in Canada.

I am proud that the government has come forward with this important legislation. It aims to protect Canadians from the threat of gun crimes.

In the context of studying and debating Bill C-10, both in the House and at the Standing Committee on Justice and Human Rights, we have heard from many witnesses, professors, criminal justice experts and police representatives, all describing the gun crime trend in Canada. We have received many statistics from the Canadian Centre for Justice Statistics. As a general overview, I believe it is fair to say that while there has been a decline in most firearm offences in Canada over the last few decades, there has been a growing problem in many parts of the country with respect to guns and gangs.

This is precisely why the government, in Bill C-10, has targeted specifically individuals who use handguns and other prohibited weapons in the commission of a crime and gangs that use firearms to victimize other Canadians.

In many areas the problem largely revolves around the drug trade or turf wars, particularly in many of our large urban centres. Police officers have expressed the concern for some time that they have come across more illegal guns, particularly handguns, in their investigations. The problem with guns, gangs and drugs is not only communicated to us by the police. There have been several cases reported on in the media in the last year to confirm the prevalence of gun violence in many different parts of Canada.

In the last year or so there has been the Dawson College shooting in which a student was killed and approximately 20 others were sent to hospital, many with very serious injuries.

There was the shooting of three police officers in Winnipeg late last fall. Earlier in the year a Windsor police officer was killed in the line of duty.

There was a shooting in London, Ontario last fall where the accused, charged with four counts of attempted murder, was released on bail. I will repeat that one. Bill C-35 seeks to address the issue of bail.

Also, there was the 2005 Boxing Day shooting in downtown Toronto, which resulted in the tragic death of another innocent young woman.

These are just a few examples, as Canada has on average a couple of hundred firearms homicides each year.

Some people may say that, as parliamentarians, we ought to be cautious and not react too swiftly with legislative reforms to address a few high profile horrendous cases. However, we must be alert to the undercurrent behind an emerging trend and be prepared to act decisively to address the problem.

● (1605)

I have always found it problematic when individuals say that it is just anecdotal or that it is just one example. Of course it is just one example. These are the life stories of many Canadians, in fact the life and death stories of many Canadians. It means something to them and to their families. We should all agree in the House that if we can prevent one of these anecdotal crimes, then we would be doing a great service to those individuals and our country.

Bill C-10 was the government's first step in tackling the problem of gun crimes. This initiative was coupled with other measures to help prevent crime, such as funding for programs directed at keeping at risk youth from getting involved with guns, gangs and drugs in the first place.

This is another aspect that we hear all the time at justice committee and public safety committee. People ask these questions. Why do we not go to the root cause of crime? Why do we not address funding shortfalls? Why we do we not put more resources to youth at risk? I am pleased to say we are doing that. We are addressing youth at risk. The Minister of Public Safety recently announced funding for programs targeting at youth at risk.

We are also using preventative measures such as putting police on the streets. From many jurisdictions where this has taken place, we know that putting police on the streets does have an impact on crime. However, sometimes there are those cases where the crime does happen. In spite of all the preventative measures we take and in spite of the police being on the street, someone commits a crime with a gun against another Canadian.

That is where our Criminal Code comes into place. It is our responsibility at the federal level and as parliamentarians to ensure that the Criminal Code is up to snuff, it is up to date, it is up to the task of preventing crime and protecting Canadians.

I feel that Bill C-35 is an important component of our plan to fight gun crime at the beginning of the criminal justice process. Bill C-35 deals with bail hearings. After people are charged, they are brought before the court for a bail hearing, unless they are released by the police because they do not pose a threat to public safety nor represent a risk of absconding.

During bail hearings, the prosecutor usually bears the onus of demonstrating why an accused should be denied bail. In some situations, the onus falls on the accused. Bill C-35 proposes to add other reverse onus situations to specifically include serious offences involving firearms.

Why does this make sense? Evidence has shown that someone who is involved in an offence regarding a firearm or someone who is violating a prohibition order involving a firearm could indeed pose a significantly greater threat than someone who perhaps stole a stereo, for example. We need to crack down on all crime. I cited an example earlier in my speech where someone, who is out on bail, committed horrific acts against innocent Canadians.

Bill C-35 proposes a reverse onus for the offences of weapons trafficking, possession for the purpose of trafficking and weapons smuggling. It also proposes a reverse onus for any indictable offence that involves a firearm or other regulated weapon if the offence is committed while the accused is under a weapons prohibition order.

It should be noted that this reverse onus is not limited to offences that involve the actual use of a firearm or other weapon.

Bill C-35 proposes a reverse onus for eight serious offences when committed with a firearm. Those offences are as follows: attempted murder, robbery, discharging a firearm with criminal intent, sexual assault with a firearm, aggravated sexual assault, kidnapping, hostage-taking or extortion.

Bill C-35 proposes another amendment to require the bail hearing court to consider the fact that a firearm was allegedly used in the commission of other indictable offences, when deciding whether the accused could be kept in custody in order to maintain confidence in the administration of justice.

Lastly, an amendment is proposed to provide that the courts must also consider whether the accused faces a minimum term of imprisonment of three years or more for a firearm related offence.

● (1610)

The new reverse onus situations proposed in Bill C-35 will assist in ensuring that persons involved in serious weapon related offences are not released back into the community without full consideration by the courts of the risks such individuals pose to the safety of the public. It will help address the underlying problem that has emerged in recent years with respect to guns, gangs and the drug trade.

When we talk about guns and gangs in the urban centres, we often focus on the urban centres. It is not limited to the urban centres. Firearms offences take place in probably all areas of Canada. In my province of New Brunswick and in my riding of Fundy Royal we hear about these offences. The Criminal Code applies equally to all areas of Canada because all Canadians are deserving of that protection. This is not something that is limited only to the cities.

We have heard overwhelmingly from the cities. We have heard from the city of Toronto, Canada's largest city, that this legislation is exactly what is needed to deal with some of the problems it is experiencing with gang and gun violence.

I urge all members, whether from a rural or an urban area, regardless of their political stripe, to listen to what the experts and front line workers have to say, those who work with victims, those who work in the justice field and those who work in corrections. Listen to what the mayors of the cities have to say about people who have committed offences, or charged with them, and are out on bail. Hear what they are saying about putting the onus on those individuals to prove why they should be out on bail, or released onto the streets, especially when the incident involved a firearm or a criminal act while they were on a prohibition order for a firearm.

I urge all hon. members to consider supporting this worthwhile bill.

● (1615)

Mr. James Rajotte (Edmonton—Leduc, CPC): Mr. Speaker, my friend's speech laid out very well the rationale for this legislation. As well, he outlined the government's comprehensive justice package in this area. He mentioned a few of the bills, obviously addressing such things as age of consent legislation, which many of the parents in my riding have requested, changes to conditional sentencing and street racing.

The government has been busiest in the justice area. I think there are at least nine bills at some stage before Parliament, showing the government's view that we need to reform the justice system.

I appreciated the member not getting into the rhetoric, but taking a factual approach and showing how the reverse onus would be used for the very serious crimes in an effort to reduce gun and gang violence. I come from the best kept secret in Canada, the city of Edmonton, the most beautiful city in our country. Unfortunately, it has been plagued by some serious tragic incidents involving guns and gangs.

Would the parliamentary secretary reiterate, factually, exactly what this legislation will do to try to combat the serious growing problem we have within our nation?

Mr. Rob Moore: Mr. Speaker, I thank the hon. member for Edmonton—Leduc for his work on the justice file. We had the privilege of having him before the justice committee on his private member's bill recently and I thank him for his work in that regard.

When we talk about Criminal Code amendments, we oftentimes get bogged down with terms that are familiar to all of us in the House but for people who are watching us on TV and paying close attention to the debates on justice issues, there may be some unfamiliar terms.

This bill puts the onus, the responsibility, on the person who has been brought before a judge for a firearms related offence, and I will mention those again: attempted murder, robbery, discharging a firearm with criminal intent, aggravated sexual assault, kidnapping, hostage taking, or extortion. Those are the criminal acts when committed with a firearm and also specifically there are the firearms related offences of firearms trafficking, possession for the purpose of trafficking and firearms smuggling.

As well there is a reverse onus for any indictable offence that involves a firearm if it is committed while the person is already under a weapons prohibition order. A weapons prohibition order means that someone has been through the justice system and a judge has said that the person has to abstain from certain activities, and may have to keep a curfew, keep the peace and not be in possession of a firearm.

We know of some tragic examples where weapons prohibition orders have been ignored, individuals have obtained weapons and individuals have been killed as a result. Currently there are over 30,000 individuals in Canada who are subject to a weapons prohibition order.

What we are doing in all of the situations that I just set out is saying to the people who were arrested that they have to show to the court why they should be granted bail. It is not the other way around. The onus, the responsibility, is going to be on them to show why they should be granted bail.

[*Translation*]

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Mr. Speaker, I listened with great interest to what my colleague, the Parliamentary Secretary to the Minister of Justice, had to say.

I was struck by one of the figures he mentioned: that there are currently 30,000 Canadians who are prohibited from possessing a firearm.

Does he have more specific details than just that one number? Were these people found guilty of a criminal offence involving a firearm?

● (1620)

[*English*]

I am in a quandary. It is all very well and good to say that 30,000 Canadians are under a prohibition order to possess a firearm. That would presume obviously and clearly that those individuals have been convicted of some criminal offence, but it is not clear whether or not they have all been convicted of one of what we would call the serious offences on which Bill C-35 would actually place a reverse onus for bail. If not all of them, what percentage of them were actually convicted of the specific offences that would be touched by Bill C-35?

I would truly appreciate it if the parliamentary secretary would provide that information. If he cannot at this moment, I am sure he or the government officials would be more than happy to bring that information to committee, should this bill go to committee.

Mr. Rob Moore: Mr. Speaker, I thank the hon. member for her work on the justice committee. I will take this opportunity to congratulate her on her appointment as justice critic, which often puts me on the receiving end of that criticism, but that is fine because that is the way our system works.

Actually there are about 35,000 individuals in Canada who are currently under a prohibition order. The answer to the hon. member's question is no, those prohibition orders do not always result from the serious offences that I set out, but could result from a number of other offences that may involve a firearm but are not listed in Bill C-35.

The bill groups three different groups of individuals together: those who have committed one of the eight serious offences that I listed, and I will not list them again; the three offences specifically related to firearms, firearms trafficking, possession for the purpose of trafficking and firearms smuggling; and those that are currently under a firearm prohibition order. Those are the three groups that are captured by the bill. All of them in some way knew they had committed an offence involving a firearm, a serious offence. They have been involved with illegal acts involving a firearm, such as trafficking or smuggling, or they are under an order not to be in possession of a firearm. They are all firearms related.

We are saying that if an individual is arrested for an offence involving a firearm and is before a judge, the onus is on the individual to prove why on balance the judge should grant bail. Bail is not a right in our system; it is something that can be obtained, but the individual is going to have to prove why he or she should receive it.

The Acting Speaker (Mr. Andrew Scheer): It is my duty pursuant to Standing Order 38 to inform the House that the question to be raised tonight at the time of adjournment is as follows: the hon. member for Davenport, Literacy.

Resuming debate, the hon. member for Notre-Dame-de-Grâce—Lachine.

[*Translation*]

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Mr. Speaker, as the justice critic for the official opposition, I am very pleased to rise in this House to discuss Bill C-35, An Act to amend the Criminal Code (reverse onus in bail hearings for firearm-related offences).

Before I begin my speech, I would like to thank the Parliamentary Secretary to the Minister of Justice for his kind words of congratulation on my appointment to the critic portfolio.

No doubt everyone is aware that Bill C-35 amends the Criminal Code to provide that the accused will be required to demonstrate, when charged with certain serious offences involving firearms or other regulated weapons, that pre-trial detention is not justified in their case.

The bill also introduces two factors relating to such offences that the courts must take into account in deciding whether detention is justified or not.

I can say right now that the Liberal Party is not opposed to the principle of reverse onus on bail issues. This principle is already in use in Canadian courts. It is in the Criminal Code for serious offences, such as murder.

● (1625)

[*English*]

Therefore, our party would in fact like to see this bill referred to the Standing Committee on Justice and Human Rights so that we can ensure it will accomplish what it sets out to do, that it does indeed meet appropriate safeguards, such as that of our Canadian Charter of Rights and Freedoms, and that legal and criminal experts do concur in its usefulness.

Accordingly, I would normally have respectfully asked my caucus colleagues to support sending Bill C-35 to the Standing Committee on Justice and Human Rights at second reading. However, the motion that the government has tabled would have this bill go to a special legislative committee. As such, I have not had an opportunity to study the ramifications should the House decide to send it to a legislative committee. I honestly believe that the bill should go to the justice committee. However, I would welcome comments from the parliamentary secretary on behalf of the government as to the reasons for sending it to a legislative committee rather than to the justice committee.

Getting back to the bill itself, given that the bill would amend the current provisions of Canada's bail system, perhaps we should begin our inquiry with a look at how bail arrangements now function.

It is the charter that sets out the basic measures regarding bail. The charter's section 11 lists the fundamental legal rights of Canadians who stand accused of certain crimes. The charter states:

> Any person charged with an offence has the right:
>
> a) to be informed without unreasonable delay of the specific offence;
>
> b) to be tried within a reasonable time;
>
> c) not to be compelled to be a witness in proceedings against that person in respect of the offence;

That means a person cannot be forced to incriminate himself or herself.

> d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal; and
>
> e) not to be denied reasonable bail without just cause—

The charter sets out the very conditions by which our criminal provisions must operate. It has as a principle that an individual who is charged of a crime is not to be denied reasonable bail without just cause.

As I mentioned, the Liberal Party is not opposed in principle to reverse onus in the case of bail. We ourselves have brought in provisions over the years since Confederation on the creation, adoption and subsequent modification and amendment to our criminal justice system provisions that provide for reverse onus for certain crimes. That is not the issue here.

Members may then ask about the last point, which makes clear that liberty pending trial is the presumption and basic entitlement of every Canadian under the charter. We are all presumed innocent, as many of my colleagues who have spoken to this bill have underlined, and we are all granted the right not to be denied bail without just cause.

Then let us talk about which reasons could motivate a judge to deny bail to a suspect accused of a particular crime where there is not already a reverse onus provision in the Criminal Code. Charter section 11(e) which states "not to be denied reasonable bail without just cause", presumes then that the individual charged with a criminal offence has the possibility of getting bail and it is up to the Crown to show to the judge why that accused should not be awarded bail.

● (1630)

Current provisions hold that bail can be denied on one or more of the following three grounds. The first or primary ground is to ensure that the accused does not flee from justice on any charges currently before the courts. This could be someone who has been charged for a crime but who has not yet stood trial but who is then found, on reasonable grounds, to have committed another criminal offence and is charged with new charges. This is a primary ground where the judge could and would probably refuse bail on the grounds that the accused was a real danger of flight risk.

The secondary ground on which a judge may refuse or deny bail to a suspect is to protect the public if there is substantial likelihood that the accused will reoffend if released.

The tertiary ground is to maintain Canadians' confidence in the administration of justice in their country, for instance, in light of the gravity of the offence. Many times if someone is charged with an offence that is particularly heinous and quite grave, the judge will take that into account and deem it necessary to deny bail in order to preserve Canadians' confidence in the administration of justice.

Under the circumstances that I have just outlined, the prosecutor bears the onus of demonstrating why an accused should be refused or denied bail.

[*Translation*]

However, as I said a few moments ago, there are some cases where the accused has the onus of demonstrating that pre-trial detention is not justified.

There is a range of situations in which the accused—the accused, not the Crown—must satisfy a judge that he or she deserves to be released before trial. I would like to offer a few examples.

When the suspect is charged with an indictable offence committed while already released and awaiting trial on another indictable offence. In that case, it is the accused who will have to satisfy the judge that there are reasons and grounds that justify the judge granting release on bail.

When the suspect fails to appear in court or has allegedly breached a release condition. This is another situation in which it is the accused who must satisfy the judge that he or she deserves to be released while awaiting trial.

When the suspect is charged with an indictable offence involving organized crime, terrorism or security of information.

There is also the case of a suspect charged with an indictable offence consisting of drug trafficking, smuggling or production.

And last—although this list is not exhaustive—when the suspect is not a Canadian resident and is charged with any indictable offence.

These are situations in which, under the existing provisions of the Criminal Code, the accused has the burden of proof and must satisfy the judge as to the reasons why he or she should be released.

The reverse onus already exists in those situations. That is proof that the Liberal Party is not opposed in principle to the idea of reverse onus for release on bail.

As well, a person charged with murder, treason, certain war crimes or other rare indictable offences is automatically kept in detention until he or she is granted interim release after a hearing before a superior court of criminal jurisdiction.

We can therefore see that there are a variety of situations in which the principle of no pre-trial detention, a principle found in section 11 of the Charter, is already reversed in the Criminal Code. Thus there are various reasons that can justify the reverse onus.

Speaking as justice critic for the official opposition, as I said earlier, we would like to see this bill sent to a committee, but to the Standing Committee on Justice.

I stand to be corrected if information is wrong. The government is offering as its reason that this will expedite matters, that the Standing Committee on Justice is buried in work and that it would not be able to examine a bill like this expeditiously and effectively.

But a legislative committee will for the most part be composed of the same members—as the House is aware—because it is the members of the Standing Committee on Justice who have expertise and experience in this field.

● (1635)

We are simply going to divide them in half, and the work will not get done any faster.

Before addressing this subject, I would like to point out that the government has not answered certain questions. Here are a few examples.

[*English*]

When the government publicly announced its intention to rewrite some of our bail laws, there was interest and support but questions were asked. At the time, some of the concern, which no longer appears to exist, about the then long promised legislation, focused on whether the law would survive constitutional scrutiny. In my view, it most likely will, but if the bill should become law, we can expect to see challenges to the courts on the constitutionality of the bill.

However, most experts, leaving aside the constitutional issue, which most experts now seem to downplay, are still troubled with the larger issue, which is whether bail laws are an effective tool for cracking down on gun violence.

I believe the government would admit that bail has not been researched as extensively as other areas of our criminal justice system and that some of the most basic questions regarding the effectiveness of our bail laws as they exist today remain unanswered. For instance, how many people who are currently charged with gun crimes are actually granted bail? In a longitudinal study, how many individuals convicted of committing a gun crime have been released on bail? Under the current criminal provisions, it is possible for a person to actually reoffend while awaiting trial and reoffend in a firearm related offence. We do not have any of that information.

I noted the comments made by the member for Wild Rose, in response to members of an opposition party, when he said that we need to act. I agree that we need to act, but I do not think we need to act cautiously. We need to act in full knowledge so that we know that the legislation we bring forward will achieve the objectives that we want it to achieve.

We also want to ensure it will be effective. The worst thing any government or any Parliament can do is adopt legislation on the basis that it will make our communities safer but in the end does no such thing. It gives a false sense of security to Canadians, which is not a good thing. When Canadians realize that the legislation does not make them safer, it becomes that much more difficult to convince Canadians that other legislation is effective.

It is difficult to bring in legislation, but particularly legislation that restricts the scope of freedom, the liberty and the rights we all enjoy in particular situations. The bill is being touted as one that would make our communities safer. It may very well do that but we need the information.

● (1640)

In 1995 the Commission on Systemic Racism in the Ontario criminal justice system found that blacks accused of a crime were more likely than white people accused of a crime to be imprisoned before trial. That means to be denied bail while awaiting trial. That difference in the numbers could not be explained away or justified by the factors normally considered in granting bail.

In 2004 there were 125,871 Canadians in prison and awaiting trial, and 83,733 behind bars serving sentences. That is according to Statistics Canada.

I hope the government would agree that this bill should go before the Standing Committee on Justice and Human Rights. The government should bring us the information that will assure us and Canadians that should the bill be adopted, it will in fact be effective and achieve the objectives it is supposed to and make our country—

The Acting Speaker (Mr. Andrew Scheer): Questions and comments. The hon. member for Wild Rose.

● (1645)

Mr. Myron Thompson (Wild Rose, CPC): Mr. Speaker, I will make this short and to the point as I see there are other questioners.

I made reference to a person who had committed sexual assault had been let out on bail. I also mentioned that two people who had committed a crime with a gun by holding up a store were let out on bail. Does the member think the fact that they were let out on bail traumatized the victims any more than they already were? Or does she think the fact that they were let out on bail would not affect the victims?

I would suggest to the member it had a tremendous impact on the victims. We as politicians should prevent as much trauma in the life of victims as we possibly can. I see the bill doing that.

Hon. Marlene Jennings: Mr. Speaker, one of the grounds on which a judge makes a determination as to whether or not an individual should be released on bail while awaiting trial is whether or not, given the gravity and the nature of the offence of which the individual is accused, it would shake, lessen or erode Canadians' confidence in the administration of justice within their country.

I do not have all of the facts of the two cases that my colleague mentioned so I have no clue whatsoever what evidence the Crown put forward to argue that the accused should not be released on bail while awaiting trial. I have no information because the member has not provided it to this House as to what evidence or proof the accused put forward as to why he or she should not be denied bail.

One thing is clear. If evidence was put before the judge who released those individuals, one of the grounds for their release would be to maintain Canadians' confidence in the administration of justice in this country, for instance, in light of the gravity of the offence. That in and of itself should likely have, without all of the information, provided reasonable grounds for the judge to deny bail, and that is without there being a reverse onus.

As I said, Liberals are not opposed to reverse onus. We have been in government on many different occasions for many different decades and we ourselves have brought in provisions that create reverse onus on bail issues.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Mr. Speaker, I would like to ask my colleague a question. Throughout the various testimonies that were heard by the Standing Committee on Justice and Human Rights, one of the main issues was that, in my province and especially in Montreal, firearms can be found in any restaurant in Montreal within half an hour.

Furthermore, the hon. member for Ahuntsic published a book that effectively summarizes the situation in Montreal, namely, that there are currently 34 street gangs in the city, which are giving firearms to children as young as 11 and 12. Why? Because they are engaged in drug trafficking and prostitution.

All of this was summarized in the book, which is an excellent read, incidentally. I urge everyone to consult it. They will then see why Bill C-35 is needed at this time.

My colleague often tells us that we have a right-leaning ideology, because we propose bills that perhaps go against their ideology, which tends to promote certain things that would take away from the sense of security that we wish to ensure. However, the sentiment must also be accompanied by legislation and changes to legislation.

Can my colleague tell me how the reversal of onus, which Bill C-35 proposes—and which will be introduced—goes against section 11(*e*) of the Canadian Charter of Rights and Freedoms, which states: "Any person charged with an offence has the right not to be denied reasonable bail without just cause"?

How do the two or three short sentences of Bill C-35, which are referred to as amendments, infringe on section 11(*e*) of the charter?

● (1650)

Hon. Marlene Jennings: Mr. Speaker, I have said that simply having a provision or section in the Criminal Code that reverses onus in the case of pre-trial bail has been deemed constitutional on many occasions. I have listed several situations where this is true. I therefore cannot see what the Conservative member is driving at with his question. I truly do not understand what he means.

Perhaps someone else could ask me a question and explain what the hon. member means, because I do not understand. I have already said that Criminal Code provisions that reverse onus in the case of pre-trial bail have been deemed to comply with the Charter of Rights and Freedoms and that Liberal governments have brought in several of these provisions since Confederation.

Perhaps you will allow the member to ask another question so that he can explain what he means, because I do not understand him. I am confused, and that is something that does not happen often. Yet my colleague is very good at confusing me, both in committee and in this House.

[*English*]

Mr. Myron Thompson (Wild Rose, CPC): Mr. Speaker, I listened to some of the answers that were given to specific questions, in particular by the last member, the Liberal lawyer. Bless her little pea picking heart. She just does not get it. She just does not understand exactly what it is that we are getting at.

I am putting it as plain as I can. A person is assaulted. It is traumatic and shocking. There is an arrest. The accused is in jail. The victim is at peace. The police did their job. Then the courts allow bail. How does that make the victim feel?

Do not fear. The judge tells the accused not to go near the victim. That does not mean squat to these criminals. When we are talking about violent offenders using guns and getting released on bail, it creates further trauma in the lives of victims. I really do not see why Liberals have so much difficulty understanding that.

I am extremely proud of the ministers in my party, both past and present, for pushing these kinds of pieces of legislation forward. They heard the message that I heard and that I have been hearing for 13 years: Canadians want us to do something about crime in this country, particularly violent crime. I applaud these people for bringing forward legislation that addresses many people's concerns.

I am pleased to hear that the NDP is supporting this bill, but to say the Conservatives only put it forward for political gains is nonsense. I know that every member in the House today heard the same message in their ridings. Canadians want us to clamp down on crime, particularly those involved with the use of guns. I am proud to be part of an organization that is attempting to do that.

The other thing I want to mention is the omnibus bill. Bloc and NDP members all seemed to insist that in order to do legislation properly there should be more pieces put together to form a big bill and cover all these things. For 13 years the justice committee has been dealing with omnibus bills brought forward by the previous government.

Here is the problem. In some of these omnibus bills there were certain aspects that I kind of liked and that my party was supportive of, but then there were other portions that we did not particularly like. Efforts were made to amend those portions to make them better and then finally we end up with a total package. The omnibus bill then comes before the House and we have to cast a ballot.

Like the old saying goes, if one takes a spoonful of sugar before the medicine goes down, one can swallow the whole idea more easily. I never ever felt good about supporting an omnibus bill that had certain sections in it that I could not support and yet other sections I could.

The biggest example I can think of is the child protection act. Over the years when we worked on that particular piece of legislation, we could never get one aspect right and that was how to deal with child pornography, one of the most evil acts in the country which has grown into a $1 billion industry because we did not do anything about it right from the very beginning. We attempted to, but could not do it because the legislation was concerned about the rights of certain individuals being trampled on, like freedom of expression or freedom of speech.

● (1655)

Then, some judge in a court case decided that child pornography might have some artistic merit. I think we all remember that. Suddenly the police had to take every item of child pornography they managed to confiscate and examine it carefully to make sure it did not have some artistic merit.

We all agreed about this in the House, and even the government thought it was a good idea, so it brought in another bill and tried to get rid of certain wording to make it right so that we could get after this child pornography. The Liberals tried "public good", but nobody could agree that any child pornography would have any public good. Then they tried another term: "useful purpose". After much debate, we could not go along with that either, so the omnibus bill had to leave in certain things that left it open to child pornography, such that people who offended others with that material could use some of those excuses to carry on with what has grown into a billion dollar industry today.

I do not feel very good about that, nor should any member of the House who has been here for the last few years. Nor should any member who is here today feel good about that happening. We should have broken up the omnibus bill and dealt with child pornography with legislation that would defeat one of the most evil things that occurs in our society. But we do not do that.

I know that bail has caused a lot of trauma in the lives of a lot of victims simply because the offenders are out again. Violent offenders are released on bail. It happens. My personal belief is that there should be no bail for any violent offender, but as for putting reverse onus on them, I can go along with it.

If the onus is on the individual to explain to me why he should be allowed bail, I will go along with that. I will not go along with this constant letting out on bail of people who have traumatized victims across the country only to traumatize them again because they are free again. It does not matter what kind of court order there is for these people not to go within 1,000 yards, or not to go to that site, or near a school or whatever. That does not matter to these offenders. Getting out is what matters to them.

This bill is an attempt to just bring in another measure of safety to our society, a little more protection. Our Canadian society has demanded a lot of things. We need to adapt to the changing times and the changing crimes going on today. We need to update and enhance our bail regime to reflect our collective denunciation of gun crimes, which I know we all do.

Let us leave the duck hunters alone. Let us leave the deer hunters alone. Let us go after the criminals. Somebody once said to me that we needed to get to the root cause of crime but we did not know where to start, and suddenly, eureka, someone discovered it: the root cause of crime is criminals.

Lo and behold, it is a new discovery: criminals cause crime. What makes that happen? We are not too certain in a lot of cases. We use some things to try to give them an excuse sometimes. We have to quit doing that. We need to address the fact that people in this country have to make choices, and the choices cannot be crime, because if that is the choice, they will not like the results.

● (1700)

Fighting crime includes preventive measures. I consider Bill C-35 part of those measures.

With Bill C-35, those accused of serious offences involving firearms or other regulated weapons will have to justify why they should get bail, and rightfully so. Canadian citizens expect those who pose a significant risk to public safety to be kept behind bars. That is what Canadian citizens expect. They want a criminal justice system that protects them from violent crimes. That has to include an effective bail regime.

This is only a small part of the things we need to do. Yes, I believe in rehabilitation, and I believe in prevention. I believe in getting to the root causes. We must deal with them, but at the same time we have to get a message out there to those who violently attack people with guns, or without, that it is no longer going to be acceptable, because Canadian citizens, who expect to be protected from these people, will be protected. I am pleased to be part of a group of people running this country at the present time who want to do exactly that.

We need new tools to combat crime and to ensure that our streets and our homes are safe. One of those tools is to make it more difficult for a person charged with serious violent crimes to get on bail. Bill C-35 will make that happen.

Bill C-35 will make bail more difficult to obtain for an accused who is charged with the following: a serious crime involving the use of a firearm, possession of a firearm for the purpose of trafficking, firearms smuggling, or with any weapon-related offence allegedly committed while the accused is bound by a weapons prohibitions order.

I ask all members of this House to please support these kinds of measures for the sake of the safety of our communities. Several of our large urban centres are now facing a new brand of criminality. The member from Edmonton who was in the House a few minutes ago made that point about the changes that are happening in his city involving the criminal use or illegal possession of firearms.

Innocent people are being affected by inner city gang violence, random shootings and armed robberies. We only have to go back to Boxing Day, that dreadful day, to remember that. And there are killings in schools. We need to protect Canadians from these threats.

On the recent trends with respect to gun crimes, I want to illustrate the threat that such crimes pose to public safety. According to 2005 statistics on crime, rapes, homicides and attempted murders increased in 2005.

Homicide is the most serious of all criminal acts, including first and second degree murder, manslaughter and infanticide. Following a 13% increase in 2004, the homicide rate increased by a further 4% in 2005. Police services reported a total of 658 homicides in 2005, 34 more than 2004. The rate of two homicides per 100,000 people was the highest since 1996.

The rate of attempted murders also increased by 14% in 2005. There were 772 attempted murders, 100 more than in the previous year. The rise in the number of homicides at the national level was primarily driven by large increases in Ontario, where there were 31 more homicides than in the previous year, and in Alberta, where the number of homicides for 2005 increased by 23.

Even if the overall crime rate was lower in Canada this past year, the crime rate for these violent offences was on the rise and continues to be on the rise.

● (1705)

According to a Statistics Canada 2005 homicide survey, gang related homicides as a percentage of all homicides continue to increase. The percentage of firearm homicides reported as being gang related was 2.1% in 1993, with 13 victims. It was up to 9.1% five years later in 1998, with 51 victims. In the last two years, there was an average of 78 victims each year, representing 13.4% of all firearm homicides.

According to this same report, the number and percentage of handguns used in firearm homicides have continued to increase over the last three decades. In 1974, 76 or 27% of all firearm homicides were committed with handguns. In 1984, 66 or 29% of all firearm homicides were committed by handguns. In 1994, the number increased considerably to 90 incidents, representing 46% of all firearm homicides. In spite of a very significant decrease in overall firearm homicides since the mid-1990s, the number of handgun homicides increased to 112 in 2004, which is 64% of the firearm homicides.

There has been a lot of emphasis in the speeches today with regard to the gun registry. Obviously these figures tell me that it is not the registry that is going to save the day. It is not working. It is causing a lot of grief for duck hunters and law-abiding people, but it does not appear to be causing enough grief for the criminal element.

With respect to firearm robberies, it should be noted that while firearm robberies have declined considerably over the last decades, the portion of handgun robberies has increased. In 2004, 85% of all firearm robberies were committed with handguns. The number of firearm robberies doubled in Nova Scotia between 2003 and 2004. Several metropolitan areas have firearm robbery rates well above the national rate. The rates for 2004 were: in Montreal, 24 per 100,000 population; in Winnipeg, 19.7 per 100,000 population; in Toronto, 18.6 per 100,000 population; and in Vancouver, 17.8 per 100,000 population.

All of these remain much higher than the national rate of 11.8 per 100,000 population. In spite of a downward trend in crime, as they say, it is beginning to skyrocket in other major centres.

Increases have also been noted in the use of handguns in other violent crimes, including firearm crimes such as attempted murder and extortion. The statistics compiled by the homicide squad of the Toronto police service for 2006 reflect these trends. There were 62 murders in Toronto as of November 22, 2006. Of the 46 persons that were arrested, 14 were on bail at the time of the murder and 17 were on court-ordered firearms prohibition orders. Let me repeat that: 14 were on bail at the time of the murder.

Whether we live in a big city such as Toronto or in a rural setting like mine, we all want to feel safe in our homes, on our streets and in our public places.

Communities, as well as participants in the justice system, have reason to be concerned about the release from custody of people involved in gun and gang related crimes. We need to protect Canadians who wish to go about their daily lives without the fear of being the victim of a crime. Most certainly, we need to go about our daily lives without the fear that some person in jail because of a very violent and heinous crime dare be released on bail only to traumatize the residents of that large city or that rural setting. The point is that this is happening far too often.

● (1710)

I applaud my minister for bringing forward legislation that attempts to help make our communities and our society safer. I will fight for that cause for as long I stand in the House of Commons. I never will give up that fight.

I beg all members of the House to hear the Canadian citizens. They are calling for measures to do what this bill would do, which is make our communities safer. Please support the bill.

Mr. David Tilson (Dufferin—Caledon, CPC): Mr. Speaker, I congratulate the member for Wild Rose on his usual excellent speech in the House, particularly for providing the facts as to the problems with gun related crimes in our society today.

For the life of me, I do not understand why there is so much opposition to this. To me, it is a no brainer. Some members of the official opposition have said that they do not object to the reverse onus clause per se. However, they and other members of the opposition would rather have an omnibus bill. The member for Wild Rose spent quite a bit of time one that.

They say that it will violate the charter. We hear this about every bill that is introduced in the House. The minister has indicated this legal people have said that it does not. Only the courts will decide that.

They are grumbling because it will go to a legislative committee as opposed to a standing committee. I do not understand that argument. They have asked what this will cost. That will be revealed in due course, I suppose. However, I assume from that, if it costs too much, we should not do it.

Would the member for Wild Rose respond to the objection on the cost.

Mr. Myron Thompson: Mr. Speaker, as far as I am concerned, whenever we bring forward legislation to this place to try to make our communities safer, the protection of the public is the number one concern. Will the legislation cause our public to be safer? That is the first question that has to be answered.

The second question that needs to be answered may be will it pass the charter test or it may be what is the cost.

First, do we have the will to create a system that will make our society safer? If so, we will find the money to do that. That is just the nature of the human being. It is the nature of a family man. We will do what it takes to protect our families. If it costs a little extra, we will meet the costs. Priority number one is what we need to do to protect society.

I do not believe for a moment that the charter was invented to hinder justice. I believe the charter is there to protect the rights of people. We cannot allow the costs to make our society safer to be a major concern. The protection of Canadians is the most important thing. In my view, if we keep that in mind, all these things will fall into place.

● (1715)

Mr. Dean Del Mastro (Peterborough, CPC): Mr. Speaker, I am always impressed with not just the thought that the hon. member puts into his speeches in the House, but also the great passion that he brings with it.

When the bill was first introduced by the Prime Minister, he was flanked by Jim Stephenson, the father of Christopher Stephenson who was abducted, raped and killed by a man who should not have been in society, quite frankly. He had been convicted on several occasions for significant crimes. I talked to Mr. Stephenson when he was in Peterborough. I know he is a big supporter of this bill and he believes it will protect society.

Has the hon. member had anybody in his riding raise concerns about the bill or is the opposite not true, that everybody who we seem to talk to supports the bill very strongly and the principles on which it stands?

Mr. Myron Thompson: Mr. Speaker, when I go out into my riding, I guarantee that there will be no objection to the bill. The bill is very popular in my constituency. I believe if every member sitting in the House went into their ridings and asked the same question, they would get big support.

Our job is to deliver what society expects from us. The most elemental duty we have is to protect our people, particularly from crime. Do not let politics interfere with doing one's duty. Do not make rash statements that this is only for political aims. That is nonsense.

I advise very strongly that no one look me in the eye and suggest that I am doing this for political gain. This is not about that. I would never suggest the same to anyone else. If members do not want to do what is right for Canadians, which is our most elemental duty, to protect the people of our country, if they do not want to do what it takes to do that, then they should leave this place and not come back. That is their elemental duty.

Let us get off of this stuff about political purposes, political gains and aims. Let us start concentrating on the victims of our land, who I believe have been overlooked far too long.

Mr. Charlie Angus (Timmins—James Bay, NDP): Mr. Speaker, I listen with interest, as always, to my hon. colleague's speech. I seem to have heard the gist of it repeated a number of times because he is very focused on this issue, and I respect him for that.

We are talking about a bill that would protect citizens from gun crimes and how to best do that. We have had this discussion before. How do we balance public protection and rights. Rights are not something to be discarded or seen as for the weak kneed. Rights are fundamental in our society.

Earlier the member talked about the issue child pornography. Every member in the House, just as the vast majority, or 99% of the people watching, would see this as a very fundamental issue in terms of protection. I do not think that Canadians take that issue lightly.

The member spoke about how inaction by the House had created a billion dollar a year child pornography industry. I do not think those are the numbers in Canada. Also, because of a judge's ruling on some guy's material on whether it was art or pornography, this created a situation where every piece of child pornography had to be reviewed for its artistic merit. That is a rash statement. I simply do not think it is true.

So people back home do not panic, our police services are out there all the time fighting child pornography issues. They know they do not have to worry about whether it has artistic merit. That line of argument is frankly bunk and it is not true.

I am correcting the record and reminding the member that he is impassioned about this issue, but he has to also recognize that every member in the House takes that issue very seriously, just as we take the issue of protecting our citizens seriously.

The question that we are bringing to the House is how to go about that in a system that works, that is deliverable and that does not, at the end of the day, hurt our society.

● (1720)

Mr. Myron Thompson: Mr. Speaker, this is the problem. The member said that what I said was false. Every police department in the country came to this place. One witness, who testified before many of us, made it loud and clear that because of that court decision, every piece of child pornography had to be examined before charges could be laid. That is a fact.

Why the member does not know that is because I guess he does not care enough about it to check into it. He should take a visit to Toronto and ask the police department.

Mr. Charlie Angus: Mr. Speaker, I rise on a point of order. I have spoken with respect toward that member, but I will not sit here in the House and have him throw over the fact that I do not care about the issue of child pornography, just because he is getting himself worked up. I ask him to retract that, calm himself down and then finishes his response.

Mr. Myron Thompson: Mr. Speaker, what I said was that he did not care to look into it. I did not say anything else about him. Just like his statement is not true, that they do not have examine it. The member should look into it and he will find he is wrong.

I should be upset for him telling untruths about me.

The Deputy Speaker: Order, please. I do not want either member to get too upset. I just want to resume debate.

The hon. member for Châteauguay—Saint-Constant.

[*Translation*]

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): Mr. Speaker, I am pleased to take part today in the debate on the second reading of Bill C-35 to amend the Criminal Code to reverse the burden of proof in bail hearings for individuals arrested for having committed firearm-related offences.

Since arriving in this House, I have commented on several government bills pertaining to justice. With regard to this new proposal, I believe that it is essential to put Bill C-35 into context because this bill lacks a solid factual foundation to determine if it will be effective with respect to firearms-related offences.

At present, it is up to the crown to prove that the accused must not be released on bail because he or she represents a danger to society. In the Criminal Code, the burden of proof rests with the accused only in very specific cases.

I would like to provide the context for amendments suggested by Bill C-35. First of all, there is reverse onus at the bail hearing for certain firearms-related offences. The accused will have to prove that he should not be detained prior to his trial. The bill adds two factors that the judge must take into account in making a decision to release the accused or to place him in custody for the duration of criminal proceedings. These two factors are the use of a firearm and an offence that involves a minimum prison term of three years or more.

In this sense, the Conservative government's bill seeks to broaden the existing range of exceptions that reverse onus. As I mentioned earlier, the accused bears the burden of proof for certain, specified offences, such as breach of release conditions, involvement in organized crime, terrorism, trafficking, contraband or drug production.

If this bill passes, it will add to these cases, which we consider serious, another set of exceptions in which people accused of committing a crime with a firearm will have to prove to the judge that they can be released without fear for society. This is very difficult to prove, especially for someone accused of attempted murder, discharging a firearm with intent to wound, sexual assault with a weapon, and so forth.

As I was saying, I have had a chance to study some of the government's justice bills. Once again, Bill C-35 raises considerable concern because it is of the same ilk as some of the previous ones and falls back on the rhetoric of toughening up the law, instead of looking at crime prevention, in order to give the impression that the government is doing something.

This demagogic approach is apparent in the repeated government gestures in the area of justice. For example, they attack judicial discretion, make lists that fail to deal with the particular realities, and concentrate on repression when there is no scientific basis for it. Here once again, they are attacking the basic principles of our justice system. These gestures make me wonder, therefore, what they are doing and the reasons for this bill.

I would like to focus on two concerns that I think pose a threat to our current legal system. First—and this is something we have already seen in previous bills—Bill C-35 undermines judicial discretion in sentencing. In the British legal tradition, it is incumbent upon the Crown to show that a person cannot be released because of fears for public safety. I do not believe that putting the onus on the individual in the legal system is the right way to proceed or that it affords the opportunities to which everyone is entitled. We know very well that there are already exceptions in very serious cases, but they should not be made the rule.

At present, judges can impose any reasonable conditions they consider appropriate, such as curfews or a prohibition on the consumption of alcohol or drugs. They can attach other conditions as well, such as the need to appear before a law enforcement officer at certain times, remain within a certain geographical jurisdiction, and provide notification of any change of address or employment.

Secondly, there have not been as many studies of release on bail as of other facets of the criminal justice system. We might not have answers to even the simplest of questions, beginning with this one: how many people accused of committing a crime with a firearm are actually released on bail?

With regard to this glaring lack of relevant information, I wonder about a press release issued on November 23, 2006, in which the Prime Minister mentioned that more than 1,000 crimes had been committed with a firearm in Toronto alone. According to his police sources, 40% of these crimes were committed by someone who was on parole, bail, temporary absence or probation. Why does this government mix all the release categories together to justify Bill C-35, when its bill specifically targets people who are on bail? Does the government have any relevant statistics for this particular release category?

I would also like to mention the article in the November 24, 2006, issue of *La Presse* indicating that even the Montreal police could not say how many crimes involving firearms were committed by repeat offenders.

● (1725)

What is more, according to Tony Doob, a criminologist at the University of Toronto, the statistics in this area do not tell the whole story, because someone could be out on bail as a result of simple theft, a situation Bill C-35 would not address. People accused of offences involving firearms are already faced with something like reverse onus. The expert adds that the question is whether the bill will make it possible to imprison a dangerous person who would not otherwise have been incarcerated.

Speaking of relevant statistics, I will add that there are more people behind bars awaiting trial than people serving sentences. According to Statistics Canada, in 2004, there were 125,871 Canadians in prison awaiting trial, while 83,733 people behind bars were serving court-ordered sentences. I can therefore conclude that the main objective of the bill—to reverse onus in the case of release on bail for all people accused of crimes involving firearms—lacks judgment and clarity.

For all these reasons, I am opposed to Bill C-35, even though there are some exceptions.

Government Orders

BUSINESS OF SUPPLY

OPPOSITION MOTION—KYOTO PROTOCOL

The House resumed from February 8 consideration of the motion and of the amendment.

The Deputy Speaker: It being 5:30 p.m., pursuant to order made Thursday, February 8, 2007, the House will now proceed to the taking of the deferred division on the business of supply.

Call in the members.

● (1750)

The Speaker: The question is on the amendment.

● (1800)

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

(Division No. 104)

YEAS

Members

Alghabra
Angus
Atamanenko
Bagnell
Barbot
Beaumier
Bell (Vancouver Island North)
Bennett
Bevington
Black
Blais
Bonsant
Bouchard
Brison
Brunelle
Cannis
Carrier
Chow
Coderre
Crête
Cullen (Skeena—Bulkley Valley)
Cuzner
Davies
Demers
Dewar
Dhalla
Dryden
Easter
Faille
Freeman
Gagnon
Gauthier
Godin
Graham
Guarnieri
Guimond
Hubbard
Jennings
Kadis
Karygiannis
Laforest
Lalonde
Layton
Lee
Lessard
Loubier
MacAulay
Malo
Marleau
Martin (Esquimalt—Juan de Fuca)
Mathyssen
McCallum
McGuinty
McKay (Scarborough—Guildwood)
André
Asselin
Bachand
Bains
Barnes
Bélanger
Bellavance
Bevilacqua
Bigras
Blaikie
Bonin
Boshcoff
Bourgeois
Brown (Oakville)
Byrne
Cardin
Charlton
Christopherson
Comartin
Crowder
Cullen (Etobicoke North)
D'Amours
DeBellefeuille
Deschamps
Dhaliwal
Dion
Duceppe
Eyking
Folco
Fry
Gaudet
Godfrey
Goodale
Gravel
Guay
Holland
Ignatieff
Julian
Karetak-Lindell
Kotto
Laframboise
Lavallée
LeBlanc
Lemay
Lévesque
Lussier
Malhi
Maloney
Marston
Martin (Sault Ste. Marie)
Matthews
McDonough
McGuire
McTeague
Ménard (Hochelaga)
Merasty
Mourani
Murphy (Charlottetown)
Nash
Ouellet
Pacetti
Patry
Perron
Picard
Priddy
Ratansi
Regan
Rodriguez
Roy
Savage
Scarpaleggia
Siksay
Simard
St-Cyr
St. Denis
Stoffer
Telegdi
Thibault (Rimouski-Neigette—Témiscouata—Les Basques)
Thibault (West Nova)
Tonks
Valley
Wappel
Wilfert
Wrzesnewskyj
Ménard (Marc-Aurèle-Fortin)
Minna
Murphy (Moncton—Riverview—Dieppe)
Nadeau
Neville
Owen
Paquette
Pearson
Peterson
Plamondon
Proulx
Redman
Robillard
Rota
Russell
Savoie
Scott
Silva
Simms
St-Hilaire
Steckle
Szabo
Telegdi
Temelkovski
Turner
Vincent
Wasylycia-Leis
Wilson
Zed– — 166

NAYS

Members

Abbott
Albrecht
Allison
Anders
Batters
Bernier
Blackburn
Boucher
Brown (Leeds—Grenville)
Bruinooge
Cannan (Kelowna—Lake Country)
Carrie
Casson
Clement
Day
Devolin
Emerson
Fast
Fitzpatrick
Fletcher
Gallant
Goodyear
Grewal
Hanger
Harvey
Hearn
Hill
Jaffer
Kamp (Pitt Meadows—Maple Ridge—Mission)
Kenney (Calgary Southeast)
Komarnicki
Lake
Lemieux
Lunney
MacKenzie
Mayes
Merrifield
Mills
Moore (Fundy Royal)
Norlock
Obhrai
Pallister
Petit
Prentice
Rajotte
Richardson
Scheer
Shipley
Smith
Ablonczy
Allen
Ambrose
Anderson
Benoit
Bezan
Blaney
Breitkreuz
Brown (Barrie)
Calkins
Cannon (Pontiac)
Casey
Chong
Davidson
Del Mastro
Dykstra
Epp
Finley
Flaherty
Galipeau
Goldring
Gourde
Guergis
Harris
Hawn
Hiebert
Hinton
Jean
Keddy (South Shore—St. Margaret's)
Khan
Kramp (Prince Edward—Hastings)
Lauzon
Lukiwski
MacKay (Central Nova)
Manning
Menzies
Miller
Moore (Port Moody—Westwood—Port Coquitlam)
Nicholson
O'Connor
Oda
Paradis
Poilievre
Preston
Reid
Ritz
Schellenberger
Skelton
Solberg

Sorenson
Storseth
Sweet
Thompson (Wild Rose)
Toews
Tweed
Van Loan
Verner
Warawa
Watson
Yelich– — 119

Stanton
Strahl
Thompson (New Brunswick Southwest)
Tilson
Trost
Van Kesteren
Vellacott
Wallace
Warkentin
Williams

PAIRED

Nil

The Speaker: I declare the amendment carried.

[*English*]

The next question is on the main motion as amended. Is it the pleasure of the House to adopt the motion?

The hon. chief government whip on a point of order.

Hon. Jay Hill: Mr. Speaker, I think if you would seek it you would find unanimous consent to apply the results of the vote previously taken to the motion now before the House.

The Speaker: Is there unanimous consent to proceed in this fashion?

Some hon. members: Agreed.

[*Translation*]

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

(Division No. 105)

YEAS

Members

Alghabra
Angus
Atamanenko
Bagnell
Barbot
Beaumier
Bell (Vancouver Island North)
Bennett
Bevington
Black
Blais
Bonsant
Bouchard
Brison
Brunelle
Cannis
Carrier
Chow
Coderre
Crête
Cullen (Skeena—Bulkley Valley)
Cuzner
Davies
Demers
Dewar
Dhalla
Dryden
Easter
Faille
Freeman
Gagnon
Gauthier
Godin
Graham
Guarnieri
Guimond
Hubbard

André
Asselin
Bachand
Bains
Barnes
Bélanger
Bellavance
Bevilacqua
Bigras
Blaikie
Bonin
Boshcoff
Bourgeois
Brown (Oakville)
Byrne
Cardin
Charlton
Christopherson
Comartin
Crowder
Cullen (Etobicoke North)
D'Amours
DeBellefeuille
Deschamps
Dhaliwal
Dion
Duceppe
Eyking
Folco
Fry
Gaudet
Godfrey
Goodale
Gravel
Guay
Holland
Ignatieff

Jennings
Kadis
Karygiannis
Laforest
Lalonde
Layton
Lee
Lessard
Loubier
MacAulay
Malo
Marleau
Martin (Esquimalt—Juan de Fuca)
Mathyssen
McCallum
McGuinty
McKay (Scarborough—Guildwood)
Ménard (Hochelaga)
Merasty
Mourani
Murphy (Charlottetown)
Nash
Ouellet
Pacetti
Patry
Perron
Picard
Priddy
Ratansi
Regan
Rodriguez
Roy
Savage
Scarpaleggia
Siksay
Simard
St-Cyr
St. Denis
Stoffer
Telegdi
Thibault (Rimouski-Neigette—Témiscouata—Les Basques)
Thibault (West Nova)
Tonks
Valley
Wappel
Wilfert
Wrzesnewskyj

Julian
Karetak-Lindell
Kotto
Laframboise
Lavallée
LeBlanc
Lemay
Lévesque
Lussier
Malhi
Maloney
Marston
Martin (Sault Ste. Marie)
Matthews
McDonough
McGuire
McTeague
Ménard (Marc-Aurèle-Fortin)
Minna
Murphy (Moncton—Riverview—Dieppe)
Nadeau
Neville
Owen
Paquette
Pearson
Peterson
Plamondon
Proulx
Redman
Robillard
Rota
Russell
Savoie
Scott
Silva
Simms
St-Hilaire
Steckle
Szabo
Temelkovski

Turner
Vincent
Wasylycia-Leis
Wilson
Zed– — 166

NAYS

Members

Abbott
Albrecht
Allison
Anders
Batters
Bernier
Blackburn
Boucher
Brown (Leeds—Grenville)
Bruinooge
Cannan (Kelowna—Lake Country)
Carrie
Casson
Clement
Day
Devolin
Emerson
Fast
Fitzpatrick
Fletcher
Gallant
Goodyear
Grewal
Hanger
Harvey
Hearn
Hill
Jaffer
Kamp (Pitt Meadows—Maple Ridge—Mission)
Kenney (Calgary Southeast)
Komarnicki
Lake

Ablonczy
Allen
Ambrose
Anderson
Benoit
Bezan
Blaney
Breitkreuz
Brown (Barrie)
Calkins
Cannon (Pontiac)
Casey
Chong
Davidson
Del Mastro
Dykstra
Epp
Finley
Flaherty
Galipeau
Goldring
Gourde
Guergis
Harris
Hawn
Hiebert
Hinton
Jean
Keddy (South Shore—St. Margaret's)
Khan
Kramp (Prince Edward—Hastings)
Lauzon

Lemieux
Lunney
MacKenzie
Mayes
Merrifield
Mills
Moore (Fundy Royal)
Norlock
Obhrai
Pallister
Petit
Prentice
Rajotte
Richardson
Scheer
Shipley
Smith
Sorenson
Storseth
Sweet
Thompson (Wild Rose)
Toews
Tweed
Van Loan
Verner
Warawa
Watson
Yelich– — 119

Lukiwski
MacKay (Central Nova)
Manning
Menzies
Miller
Moore (Port Moody—Westwood—Port Coquitlam)
Nicholson
O'Connor
Oda
Paradis
Poilievre
Preston
Reid
Ritz
Schellenberger
Skelton
Solberg
Stanton
Strahl
Thompson (New Brunswick Southwest)
Tilson
Trost
Van Kesteren
Vellacott
Wallace
Warkentin
Williams

PAIRED

Nil

The Speaker: I declare the motion carried.

ROUTINE PROCEEDINGS

[*English*]

COMMITTEES OF THE HOUSE

STATUS OF WOMEN

The House resumed from February 12 consideration of the motion.

The Speaker: The House will now proceed to the taking of the deferred recorded division on the motion to concur in the third report of the Standing Committee on the Status of Women.

The hon. chief government whip.

Hon. Jay Hill: Mr. Speaker, once again, I think if you would seek it you would find unanimous consent to apply the results of the vote previously taken to this motion as well.

The Speaker: Is there unanimous agreement?

Some hon. members: Agreed.

Hon. Karen Redman: Mr. Speaker, I have no problem and do give unanimous consent, but I would note for the table that the member for Scarborough Southwest has left the chamber and he did vote on the previous motion.

The Speaker: So there will be one vote less on the yeas.

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

(Division No. 106)

YEAS

Members

Alghabra
Angus
Atamanenko
Bagnell
Barbot
Beaumier
Bell (Vancouver Island North)
Bennett
Bevington
Black
Blais
Bonsant
Bouchard
Brison
Brunelle
Cannis
Carrier
Chow
Coderre
Crête
Cullen (Skeena—Bulkley Valley)
Cuzner
Davies
Demers
Dewar
Dhalla
Dryden
Easter
Faille
Freeman
Gagnon
Gauthier
Godin
Graham
Guarnieri
Guimond
Hubbard
Jennings
Kadis
Karygiannis
Laforest
Lalonde
Layton
Lee
Lessard
Loubier
MacAulay
Malo
Marleau
Martin (Esquimalt—Juan de Fuca)
Mathyssen
McCallum
McGuinty
McKay (Scarborough—Guildwood)
Ménard (Hochelaga)
Merasty
Mourani
Murphy (Charlottetown)
Nash
Ouellet
Pacetti
Patry
Perron
Picard
Priddy
Ratansi
Regan
Rodriguez
Roy
Savage
Scarpaleggia
Siksay
Simard
St-Cyr
St. Denis
Stoffer
Telegdi

André
Asselin
Bachand
Bains
Barnes
Bélanger
Bellavance
Bevilacqua
Bigras
Blaikie
Bonin
Boshcoff
Bourgeois
Brown (Oakville)
Byrne
Cardin
Charlton
Christopherson
Comartin
Crowder
Cullen (Etobicoke North)
D'Amours
DeBellefeuille
Deschamps
Dhaliwal
Dion
Duceppe
Eyking
Folco
Fry
Gaudet
Godfrey
Goodale
Gravel
Guay
Holland
Ignatieff
Julian
Karetak-Lindell
Kotto
Laframboise
Lavallée
LeBlanc
Lemay
Lévesque
Lussier
Malhi
Maloney
Marston
Martin (Sault Ste. Marie)
Matthews
McDonough
McGuire
McTeague
Ménard (Marc-Aurèle-Fortin)
Minna
Murphy (Moncton—Riverview—Dieppe)
Nadeau
Neville
Owen
Paquette
Pearson
Peterson
Plamondon
Proulx
Redman
Robillard
Rota
Russell
Savoie
Scott
Silva
Simms
St-Hilaire
Steckle
Szabo
Temelkovski

Thibault (Rimouski-Neigette—Témiscouata—Les Basques)
Thibault (West Nova)
Tonks
Valley
Wasylycia-Leis
Wilson
Zed– — 165

Turner
Vincent
Wilfert
Wrzesnewskyj

NAYS

Members

Abbott
Albrecht
Allison
Anders
Batters
Bernier
Blackburn
Boucher
Brown (Leeds—Grenville)
Bruinooge
Cannan (Kelowna—Lake Country)
Carrie
Casson
Clement
Day
Devolin
Emerson
Fast
Fitzpatrick
Fletcher
Gallant
Goodyear
Grewal
Hanger
Harvey
Hearn
Hill
Jaffer
Kamp (Pitt Meadows—Maple Ridge—Mission)
Kenney (Calgary Southeast)
Komarnicki
Lake
Lemieux
Lunney
MacKenzie
Mayes
Merrifield
Mills
Moore (Fundy Royal)
Norlock
Obhrai
Pallister
Petit
Prentice
Rajotte
Richardson
Scheer
Shipley
Smith
Sorenson
Storseth
Sweet
Thompson (Wild Rose)
Toews
Tweed
Van Loan
Verner
Warawa
Watson
Yelich– — 119

Ablonczy
Allen
Ambrose
Anderson
Benoit
Bezan
Blaney
Breitkreuz
Brown (Barrie)
Calkins
Cannon (Pontiac)
Casey
Chong
Davidson
Del Mastro
Dykstra
Epp
Finley
Flaherty
Galipeau
Goldring
Gourde
Guergis
Harris
Hawn
Hiebert
Hinton
Jean
Keddy (South Shore—St. Margaret's)
Khan
Kramp (Prince Edward—Hastings)
Lauzon
Lukiwski
MacKay (Central Nova)
Manning
Menzies
Miller
Moore (Port Moody—Westwood—Port Coquitlam)
Nicholson
O'Connor
Oda
Paradis
Poilievre
Preston
Reid
Ritz
Schellenberger
Skelton
Solberg
Stanton
Strahl
Thompson (New Brunswick Southwest)
Tilson
Trost
Van Kesteren
Vellacott
Wallace
Warkentin
Williams

PAIRED

Nil

The Speaker: I declare the motion carried.

CITIZENSHIP AND IMMIGRATION

The House resumed consideration of the motion.

Routine Proceedings

The Speaker: The House will now proceed to the taking of the deferred recorded division on the motion to concur in the 10th report of the Standing Committee on Citizenship and Immigration.

● (1805)

Hon. Jay Hill: Mr. Speaker, once again, I think if you were to seek it, you would find unanimous consent to apply the results of the vote previously taken to the motion presently before the House.

The Speaker: Is there unanimous consent to proceed in this fashion?

Some hon. members: Agreed.

Some hon. members: No.

The Speaker: There is no consent.

● (1810)

[*Translation*]

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

(Division No. 107)

YEAS

Members

Alghabra
Angus
Atamanenko
Bagnell
Barbot
Beaumier
Bell (Vancouver Island North)
Bennett
Bevington
Black
Blais
Bonsant
Bouchard
Brison
Brunelle
Cannis
Carrier
Chow
Coderre
Crête
Cullen (Skeena—Bulkley Valley)
Cuzner
Davies
Demers
Dewar
Dhalla
Dryden
Easter
Faille
Freeman
Gagnon
Gauthier
Godin
Graham
Guarnieri
Guimond
Hubbard
Jennings
Kadis
Karygiannis
Laforest
Lalonde
Layton
Lee
Lessard
Loubier
MacAulay
Malo
Marleau

André
Asselin
Bachand
Bains
Barnes
Bélanger
Bellavance
Bevilacqua
Bigras
Blaikie
Bonin
Boshcoff
Bourgeois
Brown (Oakville)
Byrne
Cardin
Charlton
Christopherson
Comartin
Crowder
Cullen (Etobicoke North)
D'Amours
DeBellefeuille
Deschamps
Dhaliwal
Dion
Duceppe
Eyking
Folco
Fry
Gaudet
Godfrey
Goodale
Gravel
Guay
Holland
Ignatieff
Julian
Karetak-Lindell
Kotto
Laframboise
Lavallée
LeBlanc
Lemay
Lévesque
Lussier
Malhi
Maloney
Marston

Martin (Esquimalt—Juan de Fuca) Martin (Sault Ste. Marie)
Mathyssen Matthews
McCallum McDonough
McGuinty McGuire
McKay (Scarborough—Guildwood) McTeague
Ménard (Hochelaga) Ménard (Marc-Aurèle-Fortin)
Merasty Minna
Mourani Murphy (Moncton—Riverview—Dieppe)
Murphy (Charlottetown) Nadeau
Nash Neville
Ouellet Owen
Pacetti Paquette
Patry Pearson
Perron Peterson
Picard Plamondon
Priddy Proulx
Ratansi Redman
Regan Robillard
Rodriguez Rota
Roy Russell
Savage Savoie
Scarpaleggia Scott
Siksay Silva
Simard Simms
St-Cyr St-Hilaire
St. Denis Steckle
Stoffer Szabo
Telegdi Temelkovski
Thibault (Rimouski-Neigette—Témiscouata—Les Basques)
Thibault (West Nova)
Tonks Turner
Valley Vincent
Wasylycia-Leis Wilfert
Wilson Wrzesnewskyj
Zed– — 165

NAYS

Members

Abbott Ablonczy
Albrecht Allen
Allison Ambrose
Anders Anderson
Batters Benoit
Bernier Bezan
Blackburn Blaney
Boucher Breitkreuz
Brown (Leeds—Grenville) Brown (Barrie)
Bruinooge Calkins
Cannan (Kelowna—Lake Country) Cannon (Pontiac)
Carrie Casey
Casson Chong
Clement Davidson
Day Del Mastro
Devolin Dykstra
Emerson Epp
Fast Finley
Fitzpatrick Flaherty
Fletcher Galipeau
Gallant Goldring
Goodyear Gourde
Grewal Guergis
Hanger Harris
Harvey Hawn
Hearn Hiebert
Hill Hinton
Jaffer Jean
Kamp (Pitt Meadows—Maple Ridge—Mission) Keddy (South Shore—St. Margaret's)
Kenney (Calgary Southeast) Khan
Komarnicki Kramp (Prince Edward—Hastings)
Lake Lauzon
Lemieux Lukiwski
Lunney MacKay (Central Nova)
MacKenzie Manning
Mayes Menzies
Merrifield Miller
Mills Moore (Port Moody—Westwood—Port Coquitlam)
Moore (Fundy Royal) Nicholson
Norlock O'Connor
Obhrai Oda
Pallister Paradis
Petit Poilievre
Prentice Preston
Rajotte Reid
Richardson Ritz
Scheer Schellenberger
Shipley Skelton
Smith Solberg
Sorenson Stanton
Storseth Strahl
Sweet Thompson (New Brunswick Southwest)
Thompson (Wild Rose) Tilson
Toews Trost
Tweed Van Kesteren
Van Loan Vellacott
Verner Wallace
Warawa Warkentin
Watson Williams
Yelich– — 119

PAIRED

Nil

The Speaker: I declare the motion carried.

[*English*]

It being 6:15 p.m., the House will now proceed to the consideration of private members' business as listed on today's order paper.

The hon. government House leader is rising on a point of order

* * *

● (1815)

POINTS OF ORDER

BILL C-288—KYOTO PROTOCOL IMPLEMENTATION ACT

Hon. Peter Van Loan (Leader of the Government in the House of Commons and Minister for Democratic Reform, CPC): Mr. Speaker, I understand that you have already made two rulings on the issue of the royal recommendation in Bill C-288. Given the possible magnitude of what is proposed in Bill C-288, I would like you to consider the matter further and to consider additional issues with respect to the bill. The main point that I would like to make is that as it purports to create—

The Speaker: Before the hon. the government House leader goes on, I want to indicate that I am prepared to hear his arguments on this, but I have grave doubts that it is now in order to hear further argument, when this matter has come to a vote in the House and the vote has simply been deferred. It is most unusual, it seems to me, to have arguments about the procedural admissibility of the motion when the motion has been put to the House and the House has declared itself on it, but has deferred the actual vote taking.

I will hear the hon. government House leader, but I wish to make sure that caveat is firmly in his mind.

Hon. Peter Van Loan: Mr. Speaker, before I proceed further with the argument perhaps I will address that one short issue. I would refer you to pages 711-2 of Marleau and Montpetit where it states:

> If a royal recommendation were not produced by the time the House was ready to decide on the motion for third reading of the bill, the Speaker would have to stop the proceedings and rule the bill out of order.

At this point in time, we have not reached that stage. Therefore, I would argue that this is in order; however, I will continue with the argument as you, Mr. Speaker, instructed.

The main point I would like to make with the bill is that as it purports to create standards or targets that the government must then try to meet through whatever means it has, then this is, in effect, an attempt to do indirectly what the House cannot do directly, and that is, force the government to spend money as the measures in the bill are trying to achieve and cannot be implemented without the expenditure of funds. As a result, this matter goes to the heart of the principles of responsible government and the financial initiative of the Crown.

Let me turn to some specific aspects of the bill that underscore these points.

First, on this general rubric of attempting to do indirectly what cannot be done directly and the general obligations, subclause 7.(1) of the bill states that:

> —the Governor in Council shall ensure that Canada fully meets its obligations under Article 3, paragraph 1, of the Kyoto Protocol—

This would create an obligation to implement Article 3 of the Kyoto protocol which would require us to reduce our emissions to 6% below 1990 levels by 2012. Our emissions are currently 34.6% above this target.

The government's view is that if Bill C-288 were to create a legal obligation for Canada to meet the emission targets set out in the Kyoto protocol, as the sponsor of the bill has publicly stated, the bill would effectively require the expenditure of funds. Common sense dictates that the expenditure of funds would be necessary to achieve the Kyoto targets without devastating the Canadian economy.

Members of the official opposition have stated as much before the legislative committee studying Bill C-30. In addition, the leader of the official opposition has stated that major spending measures were being contemplated in the last Parliament, although specific legislative measures to fully meet the Kyoto targets were never brought before Parliament for consideration.

We therefore have with Bill C-288 an unprecedented attempt to legislate indirectly what the previous government did not legislate directly, and on a matter which the official opposition itself recognizes would involve spending in the many billions of dollars.

By creating a legislative target, if that is what Bill C-288 seeks to do, it puts the government in the untenable position to spend resources if it is to try to meet what has been set in legislation. It is not the Crown that is initiating all public expenditure. It suffices that targets be set in legislation for the government to have to come to Parliament to appropriate the funds needed.

With the greatest of respect to the Chair, it is not sufficient to say that the government can come forward at a later point in time with its specific measures to comply with Bill C-288 with that royal recommendation attached at a later time, which is what I take to understand as one of the Speaker's previous rulings.

The House would in effect be compelling a royal recommendation as there would be no alternative left to it. The only question is, what exact form of that royal recommendation would it be, not the requirement for that royal recommendation.

In effect, the House would have indirectly required expenditure of funds, which it cannot directly require through the provision of a private member's bill. I think that is a very significant bridge that we would be crossing here and it would have profound consequences for the operation of Parliament for generations to come and would be inconsistent with the history of how these matters have been dealt with in Parliament.

Clause 6 of the bill is one issue that I do not believe has been fully addressed. It authorizes the governor in council to enact a broad range of regulations to implement the Kyoto protocol. A new bureaucracy would be necessary to implement and enforce such regulations. The government is therefore of the view that clause 6 entails the expenditure of funds and requires a royal recommendation.

In addition, clause 6 authorizes regulations "respecting trading in greenhouse gas emission reductions, removals, permits, credits, or other units". However, the Minister of the Environment informed the legislative committee last week that an emissions trading market would cost the government billions of dollars.

Therefore, the bill clearly contemplates not only direct government spending, for example, due to regulations providing for trading in greenhouse gas emission credits, but also considerable indirect government spending on the bureaucratic and administrative support necessary for implementing the regulations.

● (1820)

As you noted in your ruling, Mr. Speaker, if spending is required then a specific request for public monies would need to be brought forward by means of an appropriation bill.

Given this, Bill C-288 creates a legal obligation for the expenditure of funds. That is the only way in which the government would be able to comply with the requirements of Bill C-288 regardless of whether that was in the provisions of the bill specifically as laid out now.

This would be an example of the House doing indirectly what the House cannot do directly forcing the government to spend money that has not been authorized.

I think that the parliamentary traditions of this place are very important and the question of the royal recommendation does indeed go back to the very beginnings of our Parliament. Since the bill purports to indirectly force the government to spend money, allowing this bill to proceed to a third reading vote would be inconsistent with the principles of responsible government and the Westminster tradition of parliamentary democracy. As Marleau and Montpetit note at page 709:

> Under the Canadian system of government, the Crown alone initiates all public expenditure and Parliament may only authorize spending which has been recommended by the Governor General. This prerogative, referred to as the "financial initiative of the Crown" is the basis essential to the system of responsible government and is signified by way of the "royal recommendation".

This principle makes perfect sense in a parliamentary democracy, as the government is responsible and accountable to the House for its budgetary priorities.

Bill C-288 appears to seek to force, and more than appears to, in fact it does, force the government to change those priorities. It takes the initiative away from the Crown.

Through Bill C-288 the opposition is attempting to reverse the principle on its head by attempting to legislate obligations that everyone recognizes will require the expenditure of funds. Passage of this bill would create a dangerous precedent whereby the opposition can direct the future expenditure priorities of the government. The precedent could forever change the nature of our parliamentary system.

Similar analogous arguments can be seen bringing forward legislation requiring that everybody in the country achieve a minimum standard of compensation and guaranteed minimum income without specifying what that would be or how the government would go about achieving it. However, if those goals were there and were seen as enforceable, obviously they could only be achieved with government spending. Again, that is an example of the kind of loophole that would be opened, the kind of path that would be tread should Bill C-288 be regarded as being acceptable and not offending the royal recommendation.

Given the significance of such a precedent I would ask you, Mr. Speaker, to consider these issues carefully.

The government also has significant constitutional concerns with the bill. The regulatory provisions of the bill appear to be ultra vires as they cannot be said to be within the federal government's criminal law powers or the general powers of the federal government for peace, order and good government.

While I recognize that the Speaker cannot rule on matters of law, I wanted to take this opportunity to advise the House of the government's significant legal concerns with the bill.

In conclusion, ultimately, Bill C-288 is an example of a bad law. As the current Standing Orders governing private members' business are relatively new, I believe all parliamentarians should wish to avoid creating a precedent that puts this process into disrepute.

The government believes that the credibility and authority of Parliament to legislate in a clear and open manner is at stake on this matter.

If a royal recommendation is required for Bill C-288, that bill will not proceed further. However, the government will continue to move forward with its legislation on the environment, such as Canada's clean air act and the additional legislation to implement the government's February 12 announcement of a $1.5 billion ecotrust fund.

If a royal recommendation is not required for Bill C-288, the only conclusion that Canadians can draw is that this bill is a political attempt to do indirectly what the previous government was not willing to do directly.

As we look forward to what would be opened, the precedent, if we could simply establish targets, goals and objectives, and say that by so doing we are not creating an obligation for spending, yet a government would be obliged to meet those targets and objectives, we are creating indirectly a requirement for a royal recommendation.

I repeat, as I said before, it is not sufficient, with the greatest of respect, to say that the government can worry later about how it meets those objectives and targets, that the government can worry later about how it achieves the specific details and that the government can later craft a royal recommendation to do so.

The fact is the obligation will have been created now at this stage of the process. That is what the principle of the royal recommendation was always intended to prevent.

If we were to allow this to proceed at this point in time, I put it to you, Mr. Speaker, you would be making a ruling that would be turning on its head over a century of parliamentary practice. With the greatest of respect, I think there is great risk in going down that path.

● (1825)

Hon. Ralph Goodale (Wascana, Lib.): Mr. Speaker, there may well be a number of members on this side, including the member for Honoré-Mercier, the sponsor of Bill C-288, who may wish to add to the discussion, but I will make one or two brief points.

The first one is fairly obvious, Mr. Speaker, and you referred to it yourself a few moments ago. You have already had the occasion to consider this matter with great care, at least twice, and you have made your ruling on this matter already. You have clearly said that there is nothing in Bill C-288 that impinges on the prerogative or the initiatives that have just been referred to by the government House leader. In fact, the bill falls within the rules because it does not impose the obligation to spend.

In meeting the objectives laid out in the legislation and providing for the measures for which the legislation calls, spending is one alternative that the government may at some future date decide to avail itself of and, in those circumstances, it would no doubt provide the royal recommendation at that time. However, as has been made clear in the committee and in the debate previously in the House, spending is not the only way by which the objectives of this legislation can be met.

The other day in the House, in debate on this point, the member for Honoré-Mercier pointed out that there were regulatory measures, reduction incentive measures, domestic trading measures, international trading measures and measures provided under the protocol itself having to do with the clean development mechanism and joint implementation initiatives. There are a wide range of means by which the objectives of this legislation can be met, including but not limited to and not necessarily requiring new spending. I think that is the essence of some of your previous rulings, Mr. Speaker, on this matter.

With the greatest of respect, I would submit that the argument presented by the House leader for the government just now does not amplify, either in terms of factual information or legal argumentation, the point that he and his parliamentary secretary have attempted to make in the House on at least three prior occasions and upon which you have already ruled in the clearest of terms, the latest being just a day or two ago. There is nothing in the legislation that necessarily requires a royal recommendation and, therefore, it is fully within the rules and fully in order and the vote can be taken at the appointed time tomorrow.

It is instructive though, while cloaked in an argument of parliamentary procedure, what the government has revealed is its absolute determination to try to scuttle anything that bears any relationship to Kyoto. That is the clear message. It is a political message; it is not a parliamentary message or a financial message. You have already ruled on that, Mr. Speaker. What it is seeking to do now is amplify a political message and it will find out in due course from Canadians that this message is rejected as well.

● (1830)

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Mr. Speaker, I hope my remarks will be helpful. I agree with the official opposition House leader. I think the government minister has been overly dramatic in describing the impact of the decision that the Speaker has already made.

The bill, as the Speaker has already pointed out, does not require the government to reinvent itself. It requires the government to set standards. All the government has to do is continue to pay its public servants in the generation of standards. Almost all legislation that goes through this place requires governments to cobble together paperwork, staples, paper clips, ink and electronic data. That is routine in governments and it does not require a royal recommendation, in my view.

The minister suggested to the Speaker that the mover of the bill and the Parliament and the House were attempting to force the government to do something indirectly which it could not do directly. I put it to him and to you, Mr. Speaker, that the government, with this Hail Mary pass attempt to overturn your previous ruling on this, is attempting to force Parliament indirectly to do what the government will not do directly, which is to adopt Kyoto greenhouse gas emissions standards.

[*Translation*]

Mr. Pablo Rodriguez (Honoré-Mercier, Lib.): Mr. Speaker, this is the third time in a very short while that we are having this debate. The government is trying to do indirectly what it cannot do directly. It is a crying shame.

You studied the matter once. Then you studied it again. The House counsel also studied it. Every time the committee studied this bill, its members ensured at all times that nothing they discussed would incur any costs or require the reallocation of funds.

This bill proposes a number of options, many of which do not require additional expenditure. It will be up to the government alone to choose. We are not trying to usurp the government. We are not trying to do anything indirectly. Mr. Speaker, you understand. You said so clearly twice. This third attempt leads me to believe that there is a lack respect for you and for this House.

[*English*]

Hon. Peter Van Loan: Mr. Speaker, I wish to very briefly address once again the issue you raised at the beginning of my comments, which is the issue of the time at which this question is raised and whether or not it is appropriate.

The point I was making is that, as is stated by Marleau and Montpetit, "If a royal recommendation were not produced by the time the House was ready to decide...". There is certainly the implication that if I had walked in here right now and provided a royal recommendation and you had ruled previously that one was required, this matter would be able to proceed to a vote, and that would be appropriate.

Obviously, by extension, the converse has to be the case: that if the matter is still open to question, that issue could still be changed. If the matter is not finally crystallized, then we can also make this argument at this time. To decide otherwise would be to say that in no way could we rescue something that you had found to be faulty at this stage before the vote had occurred and once the debate had been completed. I do not believe that is what is concluded by Marleau and Montpetit, nor do I believe that is the particular practice.

The Speaker: I thank the hon. members, the government House leader and the members for Honoré-Mercier, Scarborough—Rouge River and Wascana, for their submissions on this matter. Obviously I will get back to the House in due course, which will be soon, given the events that are to transpire otherwise tomorrow evening. I will take the matter under advisement.

PRIVATE MEMBERS' BUSINESS

● (1835)

[*English*]

INDIAN ACT

The House resumed from November 22, 2006, consideration of the motion that Bill C-289, An Act to amend the Indian Act (matrimonial real property and immovables), be read the second time and referred to a committee.

The Speaker: When this matter was last before the House, the hon. member for Yukon had four minutes remaining in the time allotted for his remarks. I therefore call on him to address the House.

Hon. Larry Bagnell (Yukon, Lib.): Mr. Speaker, before I start my remarks, let me say I am delighted that the House leader confirmed that the government would be bound by the vote tomorrow.

I would like to thank the member for Portage—Lisgar for bringing forward this private member's bill and also thank him for his hospitality to me when I was at the summer games in Manitoba last year. As he knows, I have a number of aboriginal people in my riding and I always try to support aboriginal people, as I have done several times today.

Of course we know that the Liberal Party has always strongly supported women's rights. Over the last few months, we have been fighting to get back the money for the Status of Women to give them back the ability to advocate for the equality they so rightly deserve and, in my case in particular, for a northern office for the Status of Women.

Bill C-289 is a very important bill for my riding and also for Parliament. I am delighted that the member for Portage—Lisgar has brought this bill forward. Our government was working on this bill in great detail and very intensely. I believe this should be dealt with. I congratulate the member.

The problem is that it is a very complex issue. In fairness, I do not think this can be accomplished by a one page bill. That cannot cover all the ramifications. For instance, the bill does cover on reserve, but in virtually my whole constituency there are vast areas without reserves and there is a whole different legal framework related to the land claims and the self-government agreement that we have signed.

A bill of this nature has to cover all aboriginal people, the Métis, the Inuit and the first nations people, and how their aboriginal rights would stand in respect of such a bill. There are various treaties, different land claim agreements, and self-government agreements that are quite different across the country. That results in a very complex task. It should be dealt with comprehensively in a bill in which everyone is treated fairly.

Another example of the complexity is that this issue has already twice been ruled unconstitutional by the Supreme Court, because aboriginal rights cannot be overruled in regard to dealing with family law on reserve, as outlined by the Indian Act.

When we do get a very comprehensive government bill dealing with matrimonial real property and immovables, we realize it is important. We would like to deal with it as quickly as possible. I hope the government proceeds as quickly as possible with the bill.

The decision will be very interesting. It will be a debate between the aboriginal rights in section 35 of the Constitution, which talks about the collective rights of aboriginal people, a whole different society that has lasted for thousands of years and, in some respects, with a life view that is different from ours.

That is then balanced, as the Constitution and the Charter of Rights and Freedoms often do, in regard to different rights, somewhat conflicting rights, and we also have to balance the individual rights under section 15 of the charter. This is a very important debate that we are also going to be debating shortly in another bill related to human rights. People should take the bill seriously and give it a lot of thought.

I congratulate the member for bringing the bill forward, but for the reasons I have given, I do not think it could possibly be supported. I liked what the parliamentary secretary said earlier in this debate when he said that the government had enthusiasm for moving forward. I hope that also includes moving forward far more quickly on land claims and outstanding self-government agreements across the country.

[*Translation*]

Mr. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ): Mr. Speaker, I am pleased to express my opinion on Bill C-289, An Act to amend the Indian Act (matrimonial real property and immovables).

As we debate Bill C-289, we are also debating government bill C-44. The latter proposes to repeal section 67 of the Canadian Human Rights Act. The adoption of these two bills could be prejudicial because they run counter to commitments made by the government in May 2005.

In May 2005, the government promised to renew and strengthen the collaboration of the government and first nations, specifically by consulting the first nations before developing policies that impact them. This principle of collaboration constitutes the cornerstone of the new partnership. The private member's bill of the Conservative member for Portage—Lisgar directly affects this government commitment made to native peoples.

I have the statement made by the Prime Minister on April 19, 2004, and reiterated by the government on May 31, 2005. It states:

> It is now time for us to renew and strengthen the covenant between us...No longer will we in Ottawa develop policies first and discuss them with you later. The principle of collaboration will be the cornerstone of our new partnership.
>
> To strengthen policy development, the minister and the Assembly of First Nations commit to undertake discussions: on processes to enhance the involvement of the Assembly of First Nations, mandated by the Chiefs in Assembly, in the development of federal policies which focus on, or have a significant specific impact on the First Nations, particularly policies in the areas of health, lifelong learning, housing, negotiations, economic opportunities, and accountability; and, on the financial and human resources and accountability mechanisms necessary to sustain the proposed enhanced involvement of the Assembly of First Nations in policy development.

The government did not receive the support of the First Nations for the repeal of section 67 of the Canadian Human Rights Act, nor has it received the support of the native women's association for this bill tabled by the member for Portage—Lisgar, as it was introduced without consultation.

Is it unreasonable to believe, in the modern context, that to consult also implies the consideration of at least some recommendations based on cultural values and specific lifestyles?

Subsection 89(1) of the Indian Act exempts personal or real property of a band member located on-reserve from seizure or attachment by a non-Indian or a non-band member.

The provisions of the Indian Act on the rights of surviving spouses to property may be affected by approaches taken to address the issue of on-reserve matrimonial real property, and this would need to be considered.

Is this not good reason to take a closer look at the difficulties encountered in resolving certain situations that may at first appear very straightforward?

It is important to consider the opinions of the people experiencing the problems that need to be resolved or those who are involved in the conflict, in order to examine the necessary corrective action and, as needed, ensure the creation of legislation or regulations.

It seems to me to be a little early—perhaps even much too early—to present such a bill, given that a joint task force was only formed in February 2006 to carefully examine the issue of on-reserve matrimonial property. To pursue this, we would have needed recommendations from both Houses.

● (1840)

The joint task force was set up when the Bloc Québécois demanded that the government consult the Native Women's Association of Canada and the Assembly of First Nations by acting on the following recommendation made by the Senate Committee on Human Rights in its November 2003 report:

> —the Committee recommends that appropriate funding be given to national, provincial/territorial and regional Aboriginal women's associations so that they can undertake thorough consultations with First Nations women on the issue of division of matrimonial property on reserve. These consultations should be the first step in a larger consultation process with First Nations governments and Band councils with a view to finding permanent solutions which would be culturally sensitive—

The joint task force's mandate included drafting joint consultation documents, touring to consult aboriginal communities in Quebec, Canada and the provinces, and reporting aboriginal recommendations with a view to drafting a bill on the division of matrimonial real property and immovables on reserve.

Unless the hon. member for Portage—Lisgar can announce to us that he is withholding privileged information, more complete than that of the native women's association—which says it has not completed its research—we have to consider this bill as an insult to everyone doing research on this file. Accordingly, we have to recommend that this bill be defeated.

We find that through his bill introduced on May 17, 2006, the Conservative member for Portage—Lisgar has demonstrated political opportunism and lack of knowledge of the process already launched by his government. His persistence to achieve this could hinder the democratic process of the joint committee which, for the first time in 30 years, could have or propose a viable solution to an awkward situation for any democratic country. Furthermore, what are people to think when this involves the "very best country in the world"?

This private member's bill is an affront to the Quebec Native Women Inc., which is a major stakeholder in this working group. This ridiculous, thoughtless and disrespectful initiative undermines the credibility of this association's initiative and its chances for success.

This bill prematurely calls on Parliament to take a position at the very moment when the working group recommended by this House has not concluded its research, the results of which are needed in order to improve the living conditions of aboriginals.

The Minister of Indian Affairs and Northern Development Canada has noble intentions: to undertake consultations to find a solution to the issue of matrimonial real property on reserves in order to improve the rights of aboriginal women and provide them with the same legal protection enjoyed by non-aboriginal women with respect to divorce.

It is critical that aboriginal women be consulted with the utmost respect for their culture. To ensure that the consultations are worthwhile, native women's associations in Quebec, Canada and the provinces must be given the funding and the time they need to meet with all of the communities.

Aboriginal women deserve to have all of the information about the subject of the consultations: the Indian Act (matrimonial real property and immovables). It is even more important that the entire aboriginal population be informed of the impact of a law on the division of matrimonial real property on their everyday lives and in the case of separation.

Quebec Native Women Inc. believes that consultations in aboriginal communities require the expertise of family law and legal rights specialists. The officials conducting the consultations must be accompanied by specialists who can answer all of the people's questions.

Governments change with the tide, yet they stay the same. Whether Liberal or Conservative, their vision and their avoidance tactics are similar.

The member for Portage—Lisgar's Bill C-289, which was drafted without any consultation, is not what we need to make change happen now.

In conclusion, I feel it is premature to debate this bill because of the lack of consultation with the affected population and the lack of essential but currently unavailable information, a lack of information that could cause problems that will be even harder to fix than those these various bills seek to correct.

● (1845)

[*English*]

Mr. Brian Jean (Parliamentary Secretary to the Minister of Transport, Infrastructure and Communities, CPC): Mr. Speaker, I appreciate the opportunity to speak to Bill C-289.

I will begin by giving some of my background. For 11 years I litigated in northern Alberta on issues like this, issues dealing with constitutional rights, charter rights and aboriginal rights under the Constitution. I even have family in aboriginal communities spread out across northern Alberta.

I am disturbed about the issue that brings this forward and I have been for some 15 years. I think it is a travesty of justice that there is a gap in the legislation that has not been filled. However, I intend to vote against Bill C-289 for two important reasons.

The first is that it proposes a solution to the issue of on reserve matrimonial real property that is just simply too simplistic.

I have a community in my riding called Janvier. It is an Indian hamlet that is some 30 or 40 kilometres from the Saskatchewan border. On the other side of the border in Saskatchewan, I have a community, which is not in my constituency, called La Loche. Those two communities are connected by culture and by family. However, because there is a border separating the two, they would be under different laws. I do not think that is appropriate in these circumstances.

More important, a collaborative consultation process is currently underway so that the gap in legislation will soon be filled. The government is taking steps to ensure that happens. I believe that will be a superior alternative to this particular motion and, as a result, I must encourage all my colleagues in the House to oppose Bill C-289 for now.

Despite the noble goal at the heart of the proposed legislation, the intention of the legislation is great but the final outcome may not be, and, as a result, I think it is important to consult with the aboriginal communities that it will touch the most.

I respect the mover as well, the member for Portage—Lisgar. He is wise. I have watched him for many years debate in the House. He is very hard-working and I do admire him.

However, as some of my colleagues have explained, on reserve matrimonial real property rights exist in a legal vacuum. This legal loophole in Canada's body of legislation has caused many people to fall victim to abuse, especially, in my opinion, women and children, including homelessness and poverty. I have seen this firsthand, as approximately 20% of my riding is of aboriginal heritage.

The previous debate on the bill made it clear that every member of the House joins me in wishing for an effective and speedy resolution to the issue. Despite this desire, we must not accept this overly simplistic approach that is provided by the bill. We must have a solution that we can all live with, a long term solution, one that solves the problem and reflects the input of those affected, the first nation women and the communities. They must be consulted.

Bill C-289 is not that solution in my opinion. In fact, two aboriginal organizations, the Assembly of First Nations and the Native Women's Association of Canada, have raised concerns with the bill, as many of my colleagues have.

Additionally, when this option was presented to first nations in recent consultations, it was largely rejected as most groups felt that existing provincial laws were inadequate to address their needs, I would suggest in the realm of culture and family connections.

There is no question that the application of provincial law on reserves also requires consultations with the province. I would suggest that needs to be done as well. The provinces, after all, would find themselves responsible for the provision of legal services to residents of first nation communities under provincial law and under programs such as legal aid in Alberta.

The reality is that without the support of key stakeholders, such as aboriginal groups and the provinces, Bill C-289 is not the solution we seek, nor the solution that aboriginal communities and first nation people deserve. With respect, I believe it would simply not work adequately.

Thankfully, the Conservative government has taken action and has nearly completed a consultation process to develop a shared solution to this problem. We want to produce a broad consensus on an effective legislative remedy, not a one-off, but one that works in the long term.

To lead this process, we are fortunate to have a very talented individual, Wendy Grant John, as ministerial representative. Ms. John is a former chief, a successful entrepreneur and a very skilled negotiator. She has agreed to work with all parties to seek a long term consensus on real property. If a consensus cannot be reached, Ms. John will recommend an appropriate course of action.

● (1850)

At the heart of this process has been a series of consultations, which I believe are important and, in most aboriginal negotiations, are mandated by the Supreme Court of Canada. This has been led by aboriginal groups and by Indian and Northern Affairs Canada. While these consultations took several forms, such as in camera sessions, public meetings and written submissions, they have all been guided by the same consultation paper.

The paper was carefully designed to foster focused debate. It outlines three broad legislative options.

Option one would seek the incorporation of provincial and territorial matrimonial real property laws on reserve.

The second option would seek the incorporation of provincial and territorial matrimonial real property laws, combined with a legislative mechanism granting authority to first nations to exercise jurisdiction over matrimonial real property.

The third option would be to involve substantive federal matrimonial real property law combined with the legislative mechanism granting authority to first nations to exercise jurisdiction over matrimonial real property.

All of those options would involve consultation and would involve the consultation process dealing with the culture and values that the aboriginal people have.

This consultation paper also describes the mechanism that a handful of first nations have used to codify on reserve matrimonial property rights. In the 1990s, for example, a group of 14 first nations successfully lobbied the Government of Canada to acquire greater land management powers. Even the election acts of most aboriginals are cultural election acts based on the culture and the practice of the reserve.

The result for this 14 first nations lobbying effort was the First Nations Land Management Act. It was successful. This legislation enables first nations to develop, ratify and enforce land codes, management regimes and regulations governing on reserve and matrimonial real property rights.

Although communities continued to pursue this option, at the present rate it would simply take too long and it would not address this important issue that needs to be dealt with. The time has come to close the legislative gap and, I would suggest, all parties in this House and all members agree with that.

For the benefit of certain first nations' matrimonial rights, it is important to close this gap and to get this solved. To create this type of solution absolutely requires consultation, actively engaging the key stakeholders, the provinces and all aboriginal groups, which is precisely why this government supports this consultative process.

The Assembly of First Nations and the Native Women's Association of Canada have respectively conducted independent regional dialogue sessions and consultations across the country. Officials with Indian and Northern Affairs Canada have held and continue to hold discussions with the provinces and other stakeholders because the best way to get good legislation is by consulting the grassroots. They have also provided funding to other national and regional groups to hold consultations of their own and ensure that all parties are consulted appropriately.

Now that consultations are complete, the final consensus-building phase has begun. The purpose of this phase will be to build consensus on a solution that takes into consideration what Indian and Northern Affairs Canada, the Assembly of First Nations and the Native Women's Association of Canada have heard through their consultations and dialogue sessions.

The task of fashioning a consensus-based solution to on reserve matrimonial property will be both delicate and demanding. The issues will be sensitive and they will demand a profound familiarity, not only with the issues and the culture but also with the viewpoints of all stakeholders.

The legislation before us today calls for unilateral action. It completely ignores many of the concerns already identified by stakeholders.

We must help first nation women and children, and even men, who, without matrimonial property laws, are sometimes left to the whim of chiefs and council members or band members, but we must do it right the first time. We will not have a second chance and this demands our best attention.

● (1855)

The Deputy Speaker: Seeing no other members rising, the hon. member for Portage—Lisgar has the right of reply.

Mr. Brian Pallister (Portage—Lisgar, CPC): Mr. Speaker, I thank all members who contributed to this discussion. We seem to have a consensus here that everyone wants to help, but not now.

This April will mark the 25th year since the Charter of Rights and Freedoms came into being. We will mark the silver anniversary of our commitment to principles Canadians cherish: rights to security, personal freedom and equality. Subsection 15(1) of the charter states:

> Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race—

Those are genuinely great words, but they do not apply to Canada's aboriginal people who are not equally empowered with the rights that most Canadians take for granted. If we believe the speakers to this bill, then we believe that the aboriginal people should not be empowered now but they should be empowered at some point.

My private member's bill would, on an interim basis, empower them now by putting in place matrimonial property rules that do not exist. That is an important first step to move toward the equality rights that aboriginal women in particular deserve to have and that they have called for in this country for over two decades.

Unfortunately, we need to move forward. The adoption of this bill needs to happen because we have created a jurisdictional ping-pong game for aboriginal people who must endure a marriage breakdown without any prescriptions whatsoever for the division of property. Apart from a very few reserves where there are rules, no one has rules. This bill would fill a legal vacuum that exists which has caused so much suffering, particularly for aboriginal women.

The Indian Act is silent on the issue of matrimonial property rights. This creates a legislative no man's land where no man or woman should have to dwell, a land where the strong and the friends of the strong survive but the weak continue to be oppressed. Certainly I have heard from them, as I believe other members who are concerned with aboriginal issues have as well.

Opposition critics have said in the House that they recognize the problem, just not enough to take action on it. They promote the perpetuation of a process, no doubt followed by further dialogue, followed by focus groups and think tanks and additional consultations, and they frame this as being respectful of aboriginal people. It is not. It is the opposite of that. A failure to take action on such a fundamental issue of human rights under the guise of being respectful of people is actually disrespectful of those very people.

These people have had their rights ignored for a long, long time and they continue to have them ignored by members of the House who should know better. This bill would implement the unanimous recommendations of both the Senate standing committee and the House of Commons committee on native affairs. It provides interim rules until the happy day when the Canadian government or first nations governments take action.

It complements, it does not work in opposition to the government's consultative process. Given the precarious nature of this minority government and of all minority governments, the consultation process the government has under way may or may not lead to legislative action. Every member of the House knows that. In the meantime, we have an opportunity to do something. In the meantime, this bill would demonstrate that the House of Commons is serious about addressing the issue of matrimonial property rights for aboriginal people in a real way.

Let us not be naive. Of course the issue is complex, but our choice here is simple: we either support the status quo or we support change. The status quo has its merits only if we place the never-ending jurisdictional concerns of the Indian affairs department and some chiefs and councils above the needs of aboriginal people, particularly aboriginal women.

I have listened to the opposition members in the House call for immediate emergency action on virtually every aboriginal issue. Water quality, housing, alcohol and drug dependency, education and treaty disputes are all invariably described as emergency situations that require immediate action from the minister and the government. Everything is an emergency, except this, and this can wait.

All of those issues the government has been called upon to act with urgency have one thing in common; they have one great commonality and that is this: they can all be solved by millions or billions of dollars of additional taxpayer funding, and therefore, they are naturally supported by every single chief and council. There is the consensus everybody talks about, but we will not get a consensus on this bill. We will not get a consensus on matrimonial property because some chiefs will always oppose it. Some women will always cry for it and they deserve action from us.

● (1900)

We cannot just throw money at problems. This is an issue that does not require us to throw money. It requires us to give the same rights to aboriginal people that we enjoy and take for granted around this country.

Why is solving the problem of matrimonial property rights so easily put on the back burner? Is it because it is easy to ignore the needs of a minority within a minority? Is it because of the risk of offending the political power brokers on reserves? Is it because on reserve discretionary power will be replaced by the rule of law? Is it because the equality provisions of the Charter of Rights and Freedoms will come into existence on reserves for the very first time?

This bill is a respectful first step to bringing equality to aboriginal people. In April we will mark the 25th anniversary of the Charter of Rights and Freedoms. I think we would really have something to celebrate if we moved forward on matrimonial property rights for aboriginal people—

● (1905)

The Deputy Speaker: Order. I am sorry to interrupt the hon. member, but I did let him go over.

[*Translation*]

The question is on the motion. Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

Some hon. members: No.

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

Some hon. members: Yea.

The Deputy Speaker: All those opposed will please say nay.

Some hon. members: Nay.

The Deputy Speaker: In my opinion the nays have it.

[*English*]

I do not see five people rising. I see three. Given that the nays have it has not been successfully challenged, I declare the motion lost.

(Motion negatived)

The Deputy Speaker: We would now proceed to the adjournment debate, but the hon. member for Davenport not being present to raise the matter for which adjournment notice has been given, the notice is deemed withdrawn.

It being 7:07 p.m., this House stands adjourned until tomorrow at 2 p.m. pursuant to Standing Order 24(1).

(The House adjourned at 7:07 p.m.)

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