The language used at Harrison Hot Springs is being parachuted into the record by the member for Fundy-Royal.

> Studies have indicated that the fact of being in custody at the time of the trial will prejudice the accused person.
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> The Amicus Foundation report noted that almost the same percentage of people who had posted bail failed to appear for trial as those who were released on their own recognizance.
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> The writers suggest that the Criminal Code's section 125 be vigorously implemented thereby prosecuting those who fail to appear for trial.
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> An abuse of the bail system is the usurious rate of interest charged by money lenders to post bail. Possibly a worse abuse is that inability to produce bail imposes punishment before the trial.
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> Crowded dockets require inordinately long periods of incarceration before trial.

I may be transgressing on a field which is basically a provincial responsibility, although sometimes we might profitably indulge in a discussion of this whole area. I do not believe one can slough off his responsibility in a sort of constitutional minuet as has occurred in recent months. There are very few cases where an accused person should have to wait for what in another age was the arrival of an assize judge. This should not be part of the modern day mobility. This aspect might also be investigated by the minister, who has been having very useful meetings with Superior Court judges across the country with regard to the whole aspect of sentencing.

When this bill becomes law it will require a great deal of study by the various police departments in Canada. I hope that the minister will continue to show leadership in this field by initiating discussions and studies that will be essential if the municipal and provincial police forces and the Royal Canadian Mounted Police are to give effect to the philosophy behind this bail reform bill. It must not be left to an ad hoc committee of Attorneys General or Ministers of Justice: I hope the leadership will come from the Minister of Justice in the same way that it has with this bail reform bill. The hon. member for Greenwood (Mr. Brewin) referred to a very interesting study made by Professor Friedland. I shall not lard up the record by repeating what he said. He made his speech ahead of me, so Professor Friedland is now his man. Presumably, Professor Friedland is also the minister's man. A good deal of very useful information contained in Professor Friedland's articles and studies have obviously gone into the drafting of this statute.

We must continue to keep a sharp distinction between our treatment of a man suspected of a crime and a man convicted of one. It is not a useless admonition to keep reminding ourselves of this. The amendment to the Criminal Code, through this bill, requires careful examination by the Standing Committee on Justice and Legal Affairs. I am anxious for it to soon become part of the statute law of Canada. Like other hon. members who have spoken, I think the appearance notice will be an extraordinarily helpful reform to the law. For the life of me, I have never understood why the police have felt compelled to use warrants in so many instances. This bill will give them not only the alternative but a legal obligation to use the appearance notice. It will compel the courts as a general rule to accept a man's word or written undertaking that he will turn up for his trial. These two things are the key to what the minister described as a complicated piece of legislation.

• (4:20 p.m.)

I had occasion once in my career at the Bar to appear on behalf of an 11-year old boy who had been kept in jail for eight days without a charge being laid. We found, when a visiting clergyman drew the case to my attention, that the police had been trying very hard—this is not a general rule, I think, with the police—to "break" him. That is the term they use. When I arrived at the jail I was asked by the police officer to wait because they were just about to "break" the boy. I suggested it would not be the boy who was broken, but the police, if he was not delivered with me to the magistrate within minutes.

I am not usually as upset about things as I was then. This is a terrifying example of what could happen in a small out of the way place if people, particularly the police in this instance, are not sensitive or knowledgeable about their obligations under the law. This is a roundabout way of saying there will have to be help given to the police. Some have suggested the publication of a manual written in straightforward terms and also that an opportunity be given to the various police forces for re-education in connection with the whole thrust of what is a very useful bill.

There is one provision which worries me a little because of its complicated nature. I refer to the criticism which was expressed by the Quebec Association of Judges in a brief dealing with the clause amending section 445 C. The judges suggested it should be amended so as to prohibit not only publicity of a proof made, but also publicity being given to the name of an accused from the time of his first appearance in court. There are recommendations which I am sure the Committee on Justice and Legal Affairs will wish to study. A serious problem also arises from the fact that an accused might be prejudiced by having his case brought before the magistrate who heard his application for bail. It should therefore be possible to arrange for another magistrate to conduct a trial in circumstances in which the magistrate who would normally try the case had disposed of a contested bail application during which evidence not admissible at the trial had been produced. The judges claimed that it would be very difficult to administer the clause because there are so few judges and their workload, already great, would not allow an extra burden to be placed on Superior Court judges. If the situation is bad in the large cities, even more serious inequalities might arise in the smaller centres.

I have just given hon. members an instance of what can happen in a small jail. I do not know whether, had there been a Superior Court judge there, it would have made any difference. Of course, if the matter had been brought to his attention the situation would have been remedied. As the judges say, it may well lead to unfortunate situations in smaller centres which judges of the Superior Court of criminal jurisdiction visit only on occa-