eliminated: for example, the higher incidence of guilty pleas for those kept in custody;—

The minister referred to that.

—the possibility of improper treatment while in custody; the possible delay and inconvenience in attempting to raise bail; the opportunity for the accused to become enmeshed with illegal bondsmen and unscrupulous lawyers; and generally all the personal considerations, such as loss of employment, decreased income and protection for the accused's family, and anxiety of relatives and friends.

The minister referred to these matters when introducing this legislation, and they are extremely important to the individuals concerned. Professor Friedland went on to say:

English law has always maintained that the physical integrity of the body and freedom from confinement are of paramount importance. Summoning an accused saves him from the indignity of being physically taken away by the police. Unless the application of even the most minimal force is reasonably necessary it should not, of course, be applied.

He want on to express what I think is the core of the reason this legislation is required.

Unnecessary arrests weaken the whole fabric of the administration of justice. They further community disorder and create bad will between the public and the police force. Many of the cases involving police violence, resisting arrest, and assault on police officers arise out of situations in which the police are legally but needlessly using the arrest procedure. The administration of the criminal law directly affects a substantial proportion of the community. Not only will the accused react unfavourably to what he feels to be abusive procedures, but his friends and relatives will also tend to lose respect for those who use unduly harsh and primitive techniques for compelling appearance in court. By arbitrarily arresting all accused persons the police cannot hope to enlist public sympathy and support.

I sincerely believe that is entirely true. Most of us in this House come from elements of society that have relatively little contact with the police. We are fortunate that we do not often have to face these things. But I think a great deal of the lack of sympathy from the police, which people have complained about, has been due to the practice of unnecessary, unneeded and unrequired use of the procedure of arrest rather than the procedure of summons. I think the usefulness of the legislation will be tested in practice by whether there will be a substantial reduction in the use of arrest and a substantial increase in the use of summons and the other notification procedures outlined in the legislation.

In addition to dealing with the substitution of less punitive forms of initiation of criminal procedures, the bill also deals with the question of bail. Again, I think the essence of this was set out in the address by Professor Friedland, to which I have referred, when he said:

In the setting of bail there is an undue preoccupation with its monetary aspects. Security in advance is generally required in our courts. At the time of the study release on one's own recognizance was used in less than 20 per cent of the indictable offence cases where bail was set...

The tragedy of this preoccupation with money is that a large percentage of persons are unable to raise the bail that is set. The data showed that 62 per cent of all persons for whom bail was set at their first court appearance were unable to raise it, and in particular, when bail was set at $500, 60 per cent were unable to raise it.

The purpose of this bill, in part, as I understand it is to remove that discrimination which means that a person with property can obtain bail, can obtain liberty and escape from the indignity of prolonged or any imprisonment before conviction has been registered. He can escape that indignity if he has money: he cannot if he does not have money. That is the plain fact that has existed for many years in our criminal procedure. It is grossly unfair. It creates disrespect for the law; the feeling that the law aids one section of the society and not another. This is one of the reasons for dissatisfaction, contempt and eventual lawlessness.

• (4:10 p.m.)

If an accused is to be released, he should be released on his own recognizance. If the recognizance is not appropriate, it should be by surety of a reasonable amount recoverable if an accused fails to appear. There should be an adequate investigation of the background of arrested persons. As any practising lawyer knows, bail is often set without any knowledge of the person concerned. It is set almost entirely on the gravity of the offence. It is necessary to have background information when allowing bail. I hope this bill will promote an investigation of the background of those concerned. Financial security in advance must be eliminated from our release practices before trial. Because the bill does this, I think it deserves favourable consideration by the House.

It has been justly said that the bill is complex. However, it is not unduly complex. If the members of this party who are members of the Standing Committee on Justice and Legal Affairs can assist in removing the complexities of the bill, we will try to do so.

Mr. R. Gordon L. Fairweather (Fundy-Royal): Mr. Speaker, I will not take very long in commenting on this bill. It has had a fairly good run this morning and this afternoon. Many of the points that I might have made have already been underlined. I support the bill, as do my colleagues. Without being unfair, I say that this bill, unlike the young offenders' bill, indicates that the minister has been sensitive to the opinions and expertise of those who have given this subject a good deal of study. I congratulate the minister for this. In doing so, I do not want to be uncomplimentary to the Solicitor General (Mr. Goyer) who was practically handed the bill with his appointment as Solicitor General.

I think there is a lesson to be learned here. The bill shows that care and attention has been paid to this question by those who have knowledge and information. The minister has had the advantage of many inputs, to use the current cliché, one of which is the book entitled "Harrison Liberal Conference, 1969". I have volume 3 in my hand. This book contains a most interesting summary of a paper that was presented. It might be worth while quoting. I will not quote the complete summary of what occurred at Harrison Hot Springs but just that aspect which deals with the bill now before us.

Sixty-two per cent of all people who had a bail with deposit order set during a 6 months' study were unable to post that bail. They could not afford to buy their freedom.