Then, in rather strong terms he says:

In this regard it must be borne in mind that peace officers who fail to comply with the proposed new laws respecting arrest may be open to civil liability.

This was the minister's attitude in June of this year. In other words, the onus was upon the police officer making the arrest to ensure that he is following the proper procedure.

In the meantime he has taken the cold-feet approach, and I now refer to this attitude as expressed on page six of the bill. Let me read very briefly from it. He sets forth in proposed new section 436(2) the powers that a peace officer shall have with regard to arrest when he can issue an appearance notice rather than make an immediate arrest. Then, subsection (3) reads:

Notwithstanding subsection (2), a peace officer acting under subsection (1) is deemed to be acting lawfully and in the execution of his duty for the purposes of

(a) any proceedings under this or any other Act of Parliament, and

(b) any other proceedings—

In other words, what he has now done has been to shift the onus from the police officer to the person himself.

Mr. Diefenbaker: What section is that?

Mr. Gilbert: It is section 436(3). He has shifted the onus from the peace officer to the person who is being arrested. I imagine he did this because of the reaction he received from the police associations across the country. That is why I say that in June he had one approach with regard to making arrests, and then in February of this year he adopts another approach. It seems to me that he is really adopting the attitude of law and order, and this is not in keeping with the previous thoughts I had of him as the great reformer of criminal law.

If I have to stress this more forcibly, let me recall a speech he made in May of 1970 at the Bessborough Hotel in Saskatoon to the Law Society of Saskatchewan. He started out by saying:

Canada needs a more contemporary criminal law—credible, enforceable, flexible and compassionate.

He could not get a better opening sentence than that in any speech. A few sentences later he goes on to state:

For it is here that the most fundamental values of life, liberty, property and dignity are to be protected and sanctioned. Here, our commitment to these values will be tested.

I suggest he attempted to test those values of life, liberty, property and dignity in his bill in June, but then he received a little pressure from police associations and other organizations so he adopted the cold-feet approach.

Mr. Turner (Ottawa-Carleton): May I ask the hon. member a question?

Mr. Gilbert: I will answer questions later.

In his eloquent and persuasive address today the minister set forth the four objectives he had set forth in his press release back in June. He said the objectives are fourfold:

(1) To avoid unnecessary pre-trial arrest and detention;...

(2) To ensure that, in cases where arrest with or without warrant has taken place, the person accused whatever his means is not unnecessarily held in custody until his trial.

(3) To ensure an early trial for those who have been detained in custody pending trial.

(4) To provide statutory guidelines for decision-making in this part of the criminal law process and thereby mitigate against the possibilities for "discretionary injustice" in the decision to arrest, hold for custody, admit to bail, etc.

• (2:30 p.m.)

He said that the bill would continue to humanize the administration of criminal law in Canada, and that the right to bail should not be the prerogative of the rich while detention is the plight of the poor. There cannot be more laudable objectives than these. It is 85 years since we have seen any substantial changes in the powers of arrest, bail and detention, so it was high time for the Minister of Justice to take action in this particular field. He mentioned the methods used in arresting people. Under those methods, an officer could make an arrest without a warrant, take that person into custody, lay a charge before a justice of the peace and then bring a person before a justice. He also mentioned the second method, under which an officer could lay an information before a justice of the peace, who would then decide whether to issue a warrant or a summons.

The minister's illustrations were rather striking. He pointed out that 90 per cent of all arrests in Canada are made without warrant and that in only 10 per cent of cases are they made by way of summons. He quoted Martin Friedland, who said that 85 per cent of persons are under detention before being brought before a justice. That is a striking figure, because that situation is actually the reverse of what was originally intended when the Criminal Code was first enacted. The original intention was that a warrant should be issued before the arrest was made. Now, we find that 90 per cent of all arrests are made without a warrant.

The minister, in this bill, has brought forward a third method which could be used, the method involving the issuance of an appearance notice by the peace officer. This has been likened to giving a person a ticket. That ticket will indicate to the person that he must attend at court at a certain time and that he must attend for purposes of finger printing and photographing. The requirements for these matters will be set out in the notice of appearance.

I am sure some hon. members know what happened in the past with regard to bail. The primary consideration was ensuring the attendance of the accused at trial. Many courts have thought that the attendance of the accused could be better secured if cash or property were put up by the accused or by sureties. From that practice developed what is known as the professional bondsman. Professional bondsmen are not allowed in Canada, although they are to be found in the United States and