

# Liberal MP's bill would make citizen's arrests more flexible

July 24, 2010  
Terrine Friday



Dozens of crates filled with fruits and vegetables, ranging from ivory mango to string beans, line the sidewalk outside Lucky Moose Food Mart in Chinatown. Prospective buyers squeeze fruit, smell plants and make their way into the shop to scour several aisles of produce, a deli and a fish market.

A security camera set up inside the shop is the only way merchants can keep an eye on outdoor goods. Local storeowners say this is why shoplifters are drawn to their shops and there is little they can do to prevent it.

It was the invisible eye of the camera that helped David Chen, who owns the Lucky Moose, spot a thief he detained until police could arrive. Mr. Chen, who thought it lawful to perform a citizen's arrest, was charged with assault and forcible confinement in the May 2009, incident.

Joe Volpe, the Liberal MP for Eglinton-Lawrence, who has championed Mr. Chen's cause in a private member's bill, walked around Chinatown and Kensington Market yesterday to chat with shopowners.

"I came down here because I wanted to meet some of the storeowners who have had some of these difficulties that are associated with the way the law applies to them," he said.

Mr. Volpe's bill, tabled in the House of Commons last month, calls for a less strict definition of what is reasonable force in pursuit of a citizen's arrest.

“I wanted to build a little bit of flexibility in the Criminal Code under section 494,” because its current definition is “too narrow,” he said.

During the incident at Lucky Moose on May 23, 2009, a man was caught on camera stealing plants from Mr. Chen’s store. When the thief returned to the market an hour later, Mr. Chen and his co-workers confronted him, tied the thief up and locked him in a van until police arrived.

Mr. Chen was charged with assault, forcible confinement, kidnapping and carrying a concealed weapon (Mr. Chen had a box cutter attached to his belt while he worked). The latter two charges were subsequently dropped.

A trial on the remaining charges will be held in October.

The Criminal Code allows individuals to use reasonable force to protect their property and to make an arrest if someone is found to be “committing a criminal offence on or in relation to that property.”

The proposed amendment includes a wider window of time to make an arrest — currently citizen arrests can only be made during the act — and more leniency to allow for use of reasonable force.

Mr. Volpe says his proposed bill is not solely a response to Mr. Chen’s case.

“There are several cases that underscore the need for a reflection on the way that the Criminal Code was applied,” he said.

Ricky Chan, a member of Mr. Chen’s victim action committee, said the proposed legislation “would make it easier for them (shopowners) to conduct their business.”

“Most of the businesses in the downtown core area support [it].... We’re pushing very hard for it,” he said.