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Speaker: The Honourable Gilbert Parent

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HOUSE OF COMMONS

Monday, June 8, 1998

The House met at 11 a.m.

Prayers

PRIVATE MEMBERS' BUSINESS

● (1105)

[*English*]

COMMISSIONER FOR THE RIGHTS OF VICTIMS OF CRIME

Mr. Peter MacKay (Pictou—Antigonish—Guysborough, PC) moved:

That, in the opinion of this House, the government should create the position of commissioner for the rights of victims of crime, with a role similar to that of the correctional investigator.

He said: Madam Speaker, I am very pleased to speak to this motion seconded by the member for Surrey North. I appreciate his seconding this motion.

Motion No. 386 calls on the federal government to establish a commissioner for the rights of victims of crime. The motion further specifies that the role of such office would be similar to that of the correctional investigator. I introduced this motion last month to highlight the strong need of victims of crime to have a voice, a voice within our criminal justice system.

Since the election last June it has become increasingly clear that victims in the justice system are in need of such an office. As the justice critic for the Progressive Conservative Party I have had the opportunity to speak with many victims of crime, and those courageous individuals are not only against crime itself but want to further involve themselves in the cause of victims generally. These victims are also spouses, children, parents and siblings, those who have lost loved ones as a result of criminal activity.

Unfortunately victims often have no one to turn to at the federal level for assistance when their concerns have not been properly addressed by those who are charged with the task of administering justice. I mention the federal level because all provinces and territories have legislation in place for victims of crime, unlike the federal government which appears reluctant to adopt a victims bill of rights.

In my home province of Nova Scotia we have a victims services division within our department of justice. In Quebec, le Bureau d'aide aux victimes d'actes criminels, BAVAC, provides information and assistance to victims of crime. Progressive Conservative governments in Alberta, Manitoba and Ontario have also increased the level of services and information available to victims and their families.

The problem has less to do with the offices and more to do with the lack of information and government programs that provide for victims. Specifically it has more to do with the lack of an independent advocate for victims when the justice system breaks down.

Who is there to provide answers for these individuals, for their loved ones, those who have died or who have been seriously injured as a result of crime? When this happens there needs to be a federal agency that can address these problems. Let us ask someone like Carolyn Solomon of Garson, Ontario. In 1997 Ms. Solomon lost her son Kevin who was murdered by Michael Hector. Hector was a federal parolee who was not properly supervised. Moreover, Hector's parole supervisor was not provided with enough information about this individual.

Hector breached his conditions of parole and should not have been permitted to walk the streets. Consequently he was free to kill. Three young individuals lost their lives as a result, including Carolyn Solomon's son Kevin.

Mrs. Solomon wanted to know why Michael Hector was permitted to breach these conditions of his parole without accountability. She wanted to know why Correctional Service Canada did not provide Michael Hector's full criminal and psychological records to his parole supervisor. She wanted to know why Hector's parole supervisor took everything Hector told him at face value, a sense of self-reporting. There was no in-depth investigation on these bits of information provided by the parolee.

● (1110)

To their credit, Correctional Service Canada and the National Parole Board have a mechanism in place to promptly undertake a review when cases are botched the way they were with Michael Hector. Mrs. Solomon was a victim of Michael Hector's crime which resulted from mistakes made by Correctional Service Cana-

da and the National Parole Board and yet they are in essence charged with investigating themselves in the wake of this tragedy.

Mrs. Solomon certainly asked for information in the months that followed her son's death and certainly asked to see the final report of the CSC and the National Parole Board investigation. However, what was the response of the agencies to her inquiries? Dead silence or perhaps mild indifference. Only when Mrs. Solomon hired a lawyer and raised the spectre of legal action did the CSC and the National Parole Board finally provide her with a copy of the board of investigation report into the death of her son. Only when Mrs. Solomon spent over a year facing a wall of apathy within the federal agencies which are paid for in part by her taxes did she receive a meaningful response.

A few months ago Mrs. Solomon sat in my office in Ottawa. She looked me straight in the eye and said: ''I feel more anger toward our justice system than I do for Michael Hector''. This is a very telling statement given the fact that Michael Hector killed her son. It is an extremely sad commentary on the current state of our justice system when a mother whose son was murdered feels this way about our justice system.

Mrs. Solomon is not alone. Helen Leadley of Calgary, Alberta lost her 23-year old daughter in 1983 to Robert Paul Thompson while he was out on a day pass. Two weeks ago Thompson was granted a 19 hour escorted temporary absence, an ETA, to attend a religious ceremony. Who was Thompson's escort? Was it a security guard? No, it was not a guard. Thompson's escort was the Springhill inmate chaplain because, as it was related to Mrs. Leadley, it was part of Thompson's personal development program.

Although a personal development program for a convicted killer may be laudable, releasing him into the general public without proper supervision is a slap in the face for victims and family members like Mrs. Leadley.

What does Mrs. Leadley have to do? Where does she turn when this happens? Does the federal government provide her with an opportunity to contact an independent advocate or an ombudsman to investigate these questionable decisions made by Correctional Service Canada or other related agencies? No. Sadly there is not such an office. Another victim is feeling revictimized.

Someone has ended the life of a loved one and then the criminal justice system appears to focus solely on the needs of the criminal to the detriment to the needs of the victim at times.

The lack of concern within the justice system for the rights of victims only underlines the fact that there is increasingly low confidence in our justice system, low confidence by the victims and by the general public. The problem of low confidence within our justice system has been highlighted. We see it time and time again in terms of the expression of the frustration on the part of victims and people at large. Our justice system does not exactly inspire public confidence, and that needs to change.

That is not to say the public must always agree with the decisions made by police, the judiciary, crown prosecutors, the parole board or even the prison system, but Canadians must be assured that victims have the same access as criminals to ensuring their rights are respected by our justice system.

Unfortunately most Canadians feel little assurance in the ability of our justice system to include the views of the victims of crime in the decision making process.

Last week I hosted a town hall meeting in my riding in Nova Scotia and the topic was victims rights. There were not too many people present at the meeting who expressed a great deal of faith in our justice system. There were a great deal more who expressed a feeling of frustration about our political system and its ability to make significant change.

Victims like Carolyn Solomon should not have to spend their own dollars hiring lawyers to get answers within our justice system. They should have a commissioner for the rights of victims of crime, an independent ombudsman, their own voice at the federal level, involved in the administration of our country's justice system. This commissioner would be modelled after the office of the correctional investigator established in 1973 as part II of the Inquiries Act.

Since 1992 the office of the correctional investigator has fallen under part III of the Corrections and Conditional Release Act. The correctional investigator acts as an ombudsman independent of Correctional Service Canada for offenders serving prison sentences within our federal penitentiaries. The correctional investigator may investigate on his own initiative, on request from the solicitor general, on a complaint or on behalf of an inmate.

● (1115)

The office also reviews all CSC reports of investigations into death or serious injury within our federal inmate system. Each year the correctional investigator submits an annual report regarding problems investigated and actions taken to the Department of the Solicitor General and the solicitor general is in turn required to table the report in parliament.

In the past these reports have outlined general issues of concern to federal inmates such as overcrowding, double bunking and the use of force by guards. I can only use those as examples because it would appear to me to be a very positive step the government would take to establish a victims rights commissioner who would have the ability to investigate similar problems on behalf of victims and similarly table a report in the House.

Would it not be a more positive climate for parliament to have an independent annual report coming forward that outlines the problems facing victims within our federal system and allowing us in the House to take a look at those problems with a mind to improving them?

A commissioner for the rights of victims would be more than just a sympathetic ear or a clearing house for government information. The commissioner would be an ombudsman, an advocate and an independent voice within the criminal justice system, a system that all believe does not properly reflect victims rights.

The Minister of Justice told the media earlier this year of her intention to create a national victims rights office. Unfortunately the victims of crime with whom I have spoken and met recently are worried that this initiative would be little more than a duplication of the information services provided for victims already within the provincial and territorial governments. The minister and the government could show good faith in creating a meaningful government mechanism to support victims rights by supporting in principle Motion No. 386.

For those who would express reservations in supporting the motion on the basis that it would infringe on provincial or territorial jurisdiction, I would ask that they simply consider what provincial organization is able to properly hold federal agencies accountable for their decisions within the federal component of the criminal justice system.

Beyond the office of a correctional investigator let us remember the many independent federal organizations that operate to scrutinize decisions made by important national institutions. The RCMP is subjected to independent review from both the RCMP public complaints commission and the RCMP external review committee. CSIS is subject to the Security Intelligence Review Committee and a CSIS inspector general.

When there is a transportation related accident the transportation safety board is mandated to investigate. Air Canada does not investigate its own plane crashes without examination by a board. VIA Rail similarly is not left to its own devices to review passenger train accidents. The operation of the Government of Canada as a whole is subjected to the scrutiny of offices such as the auditor general, the information commissioner, the privacy commission and the official languages commissioner.

A society and a government that are prepared to provide for independent scrutiny for many of these policy objectives should similarly be prepared to provide an independent advocate on behalf of victims of crime.

Victims are not seeking the right to be judge and jury, but they are simply demanding they be listened to and respected by a system that often centres too much on the relationship between the state and the community. Victims need to be added to the criminal justice equation.

As an illustration previously provided, in the case of Carolyn Solomon, her son and others the sentence of the offender is often less important to victims than the experience of the judicial process itself. Victims are demanding a voice and Motion No. 386 would help provide them with that voice.

I urge hon. colleagues from all sides of the House to put aside partisanship that often enters into the question of law and order and let us make a lasting and positive contribution for those who have been excluded from the justice system for far too long. Let us give victims a stronger voice within our justice system.

During my time as an attorney in Nova Scotia I heard many people state that the measure of a true democracy is demonstrated by the treatment of its prisoners. Certainly the time has come for Canada to show that we want an equally important measure of democracy in how we treat our victims.

Mr. Stan Keyes (Parliamentary Secretary to Minister of Transport, Lib.): Madam Speaker, I consider it a privilege to speak to an issue of top priority to the Minister of Justice and the government, that is the role of victims within the justice system. I am encouraged that so many members in this place agree that much more needs to be done to improve the situation of the victim.

● (1120)

In addressing whether we should establish a federal commissioner for the rights of victims of crime, which is proposed by the hon. member's motion, we must consider a whole range of issues not least of which is the interaction of provincial and federal jurisdictions in this area.

In light of the commitment of the Standing Committee on Justice and Human Rights to deal fully with the issue of the role of victims in the justice system, I find it passing strange that we are debating this issue in the House today. Next week we are holding the victims forum in Ottawa to hear from those who have firsthand knowledge of what needs to be done and what role the federal government can play in ensuring these needs are met.

Much work has already been done in this field. I believe the experience of those who have undertaken pioneering work will benefit the members of the committee as they prepare their recommendations.

The hon. member for Pictou—Antigonish—Guysborough spoke to the issue last week during debate on the Reform Party's allotted day motion regarding the criminal justice system. As I recall, the hon. member noted that pursuant to the Corrections and Conditional Release Act the office of the correctional investigator had been established to ensure that incarcerated offenders within the federal corrections system had a mechanism to address their complaints and concerns. The hon. member is suggesting that there should be

a parallel office or a commissioner—I also heard him use the term ombudsman—to look out for the interests of victims of crime.

Hon. members are aware that the Standing Committee on Justice and Human Rights is currently examining the role of the victim in the criminal justice system. This review is under way due in part to a motion made by the hon. member for Langley—Abbotsford in April 1996 calling on the government to ask the standing committee to explore a federal bill of rights for victims. The standing committee heard from several witnesses in April 1997 and concluded that a more detailed examination of this and other related issues was indeed necessary.

The standing committee will address a host of issues including the need for additional services for victims, the information needs of victims, how such services can be funded and whether additional Criminal Code amendments are necessary.

The Minister of Justice has already discussed several options with provincial attorneys general but has also noted that further information would be gathered by the standing committee. That consultation process would assist the minister in refining many of the options under consideration.

It would be appropriate that this motion to establish a commissioner be referred to the standing committee. The committee has an opportunity to hear from the real experts regarding what victims need and expect from the criminal justice system and what is currently being provided.

The committee has already received information about the range of services and legislation already in existence in the provinces and territories. With this background and context the committee is in the best position to assess the benefits and feasibility of establishing the position of commissioner.

The hon. member's proposal is not novel. The Minister of Justice has already indicated her interest in establishing a federal office for victims of crime. The minister has discussed the establishment of such an office with her provincial colleagues who have indicated their support for a complementary federal role and co-ordination mechanism to among other goals bring about improvements to the criminal justice system to benefit victims of crime and to ensure they receive the information they need. This option of the establishment of an office for victims may achieve many of the same objectives as the hon. member suggests regarding a commissioner.

Hon. members should also be aware that the Minister of Justice wrote to the chair of the standing committee expressing her interest in the review of the role of the victim in the criminal justice system and seeking its input on several specific options including the establishment of an office. I will quote from that letter:

> In addition to Criminal Code amendments, I have been considering several non-legislative options including the establishment of an ''Office'' for Victims of Crime within the Department of Justice. I have discussed the establishment of such an Office with my provincial and territorial colleagues and have received their support for this initiative. An Office for Victims of Crime would be mandated to, among other things, ensure the victim's perspective is considered in the development of all criminal law policy and legislation. The Office would co-ordinate all federal victim initiatives and facilitate federal-provincial-territorial initiatives. In general, it would be a centre of expertise domestically and internationally and a point of contact for information about the role of victims of crime in the criminal justice system. The Standing Committee may wish to explore the benefits of such an Office for Victims of Crime.

● (1125)

The Minister of Justice has recognized that the standing committee's review provides an opportunity to canvass a wide range of views regarding a wide range of victims issues. I would submit that consideration of the motion should also await that review process or even become part of it.

The minister's letter to the standing committee also acknowledged the work done by a joint federal-provincial-territorial committee that includes all the provincial and territorial directors of victims services. That group has gathered information about existing programs, services and legislation in Canada and meets regularly to address issues of concern and to propose necessary solutions.

That type of federal-provincial-territorial initiative and co-operation is essential when addressing the needs and concerns of victims within the criminal justice system because governments have to work together. This co-operation must be encouraged and formalized. The office proposed by the Minister of Justice would be a means to ensure ongoing federal-provincial-territorial collaboration, consultation and co-operation.

In the discussions of the Minister of Justice to date with victim advocates, service providers and many experts in their field a common theme emerges. Crime victims and witnesses need information and do not know where to turn for information when they get caught up in the criminal justice system.

They do not want to be told that their problem is somebody else's job or in some other jurisdiction. In addition, most believe it is the government's responsibility to assist them. There are already many valuable programs and services but there continue to be some gaps in making Canadians aware of those services.

Therefore there is a need to focus on how we as a government can develop a centre point of contact for victims and a network of information providers. The Minister of Justice has already launched a process to work closely with the provinces on this issue and does not intent to set up an expensive, cumbersome bureaucracy.

With respect to the issue of victims rights I have some reservations about the federal government role. We should not suggest to Canadians that a special charter and special legislation are needed depending on the situation they find themselves in. The Canadian Charter of Rights and Freedoms provides us all with equal benefit and protection under the law. Moreover, criminal law and criminal procedure are properly set out in the Criminal Code.

Another concern relates to the jurisdictional responsibilities of the provinces, territories and federal government. The provinces and territories have enacted legislation to address a variety of so-called victims rights relating to the fair treatment of victims, the provision of information and services, and related issues.

Federal legislation can address only matters of federal jurisdiction. Another major consideration in developing rights legislation is how breach or violation of these rights can be effectively enforced. Most victims rights legislation provides no remedy. Real improvements require the willing participation of all players in the criminal justice system. Let us hear their views on what an effective role for the federal government might be.

Earlier I referred to the federal government's role in enacting criminal law. I do not need to remind the House of many of the Canadian Criminal Code amendments passed by the government which respond directly to the concerns of crime victims.

For example, there is the gun control legislation, Bill C-68; the crime prevention strategy; the national information system on child sex offenders; sentencing legislation; amendments to the Criminal Code to permit collection of bodily samples for DNA analysis, Bill C-104; the restriction of the defence of extreme intoxication; and Bill C-55 amendments regarding high risk offenders.

I could go on and on with the examples. The Minister of Justice also indicated that further Criminal Code amendments will be proposed following receipt and review of the standing committee's report to respond to recommendations made by victims advocates and by the federal-provincial-territorial working group on victims and crime.

Mr. Chuck Cadman (Surrey North, Ref.): Mr. Speaker, I am pleased to rise today in support of Motion No. 386 proposed by the hon. member for Pictou—Antigonish—Guysborough.

While I am in support of the concept of creating a position of commissioner for the rights of victims of crime with a role similar to that of the correctional investigator, I have some reservations and some concerns.

The official objective of the office of the correctional investigator is to act as an ombudsman for the federal corrections service.

• (1130)

It is to ensure an independent review and investigation of problems of federal offenders related to the decisions, recommendations, acts or omissions of the commissioner of corrections, his servants or agents, in relation to the administration of the Corrections and Conditional Release Act. In simple terms, his office is the complaint department for federal inmates.

We may from time to time question the validity of some of these complaints, but that is another issue.

As has been said by many, there seems to be a definite inequity in our justice system when for years we have had an advocate for offenders but not for victims of crime. This inequity only adds to public scepticism that we appear to be far more interested in the rights of criminals than we are in the rights of the law abiding and the innocent.

Mr. Ron Stewart has occupied the correctional investigator position for a number of years and Canadians have indeed been fortunate to have his independent management. He has never been hesitant to publicly criticize the government for its failures and deficiencies. Obviously, he has not been a political patronage appointment who merely goes through the motions on behalf of the interests of government.

I am concerned that Canadians feel confident that any such commissioner for the rights of victims of crime retain similar independence. The position must go to an individual who will do the job for Canadians and not merely for the government.

As I have said, Mr. Stewart has shown an independence. For years now he has been boldly reporting correctional failures. However, there is one glaring shortcoming and that has to do with the power or, more precisely, the lack of power of his position.

Each year he reports many of the same faults and inadequacies and each year the government fails to properly remedy the problems. It will do us little good to have an independent commissioner for the rights of victims of crime unless we also have a mechanism in place to ensure that investigations and reports are acted upon.

It does little good to continually have recommendations being made without some legislative requirement to act upon those recommendations and some form of accountability.

Assuming we provide the proposed commissioner for the rights of victims of crime with the full independence to do a proper job and assuming we appoint someone who will have the intestinal fortitude to take on the government as necessary, we would then have to consider the mandate of that position.

What responsibilities would be assigned? Would they include the ability to investigate national parole board or correctional service decisions whereby individuals are released from our institutions only to violently reoffend within days?

There have been a number of recent incidents. The parole board decided that armed robbery with a gun was not a violent offence because no shots were fired. It granted parole and the offender promptly went out and killed three people.

Another killer was paroled, but nobody bothered to tell the woman he moved in with about his past, and he killed her.

A man is given statutory release, despite warnings that he is a high risk to commit violence, and 50 days later he participates in the torture and the murder of a young man right here in Ottawa.

At present the departments of corrections and parole investigate themselves when their decisions are called into question. I do not know whom this government thinks it is fooling, but this conflict of interest certainly does not add to the credibility and trust of our citizens in the process. Obviously, we need an independent review. Perhaps this office could undertake that responsibility.

The motion suggests a role similar to that of the correctional investigator. It is noted that the budget for the correctional investigator is in excess of $1 million per year. In 1996 he had 17 people on staff. I would hope that something similar to this might be allocated to a victim's advocate, especially if the office gets involved in investigating the actions of other departments.

I am concerned that the justice minister, who has stated that she is open to this development, may be just making a token gesture toward victims to make it appear that the government is interested in their issues. If an office is to be created, it must be set up correctly and it must have a meaningful role within our justice system. A token effort, another bureaucracy or another opportunity to reward the faithful with patronage plums will certainly not satisfy our citizens. It will only add to their angst and disenchantment with the criminal justice system in general.

The Standing Committee on Justice and Human Rights is presently reviewing the victim's role in the criminal justice system. We have already heard that victims have different rights depending on which province or territory they come from. We need universal standards so that all Canadians obtain the same rights.

Perhaps the proposed commissioner's office could be assigned the responsibility to lobby and co-ordinate toward common benefits right across the country. It could also be utilized to provide national education programs to our citizens so that everyone is advised of what assistance and resources are available to victims of crime.

• (1135)

It could also be used to advise and assist the government to make appropriate amendments to our laws to provide improved rights to victims. It could become the resource centre for our various victims groups. There would appear to be a multitude of opportunities for such an office.

As I have stated, the standing committee is studying the issue. There will also be a forum on victims' rights next week and I am sure we will obtain input on what is desired by Canadians.

The motion of the member for Pictou—Antigonish—Guysborough only proposes the creation of the position. Should the government see fit to accept the proposal, the nuts and bolts will of course have to be hammered out as to what the commissioner will be set up to do.

I support this motion even though I have some reservations and concerns. The idea certainly has merit, but it must be set up properly. The motion suggests a role similar to that of the correctional investigator and, while the correctional investigator's independence is valued, I am sure we can propose an even better operation.

There must be some teeth provided to the office of the commissioner of the rights of victims of crime. It will do little to set up an office, proceed with annual reporting to parliament as to its activities and recommendations, and forget to include some form of accountability toward acting on those recommendations.

I thank everyone for the opportunity to speak to this worthwhile endeavour. I also thank the hon. member for Pictou—Antigonish—Guysborough for proposing this motion. It is unfortunate that this motion has not been deemed a votable item. Therefore, I propose a motion to this House for unanimous consent to make Motion M-386 votable.

The Acting Speaker (Ms. Thibeault): Does the hon. member have unanimous consent of the House to make this a votable item?

Some hon. members: Agreed.

Some hon. members: No.

[*Translation*]

Mr. Michel Bellehumeur (Berthier—Montcalm, BQ): Madam Speaker, Motion M-386 reads as follows:

> That, in the opinion of this House, the government of Canada should create the position of Commissioner for the Rights of Victims of Crime, with a role similar to that of the Correctional Investigator.

Just reading the motion immediately indicates the seriousness of this matter. In light of what the victims of crime go through, I feel this is a subject that merits our attention, and that we must look at what is done in other Canadian provinces, Quebec among others, since I am a Quebec MP.

As we know, the victims of crime are affected in a number of ways: physically, psychologically, materially and socially. They and their families therefore have specific needs. Victims must be treated fairly and humanely by the criminal justice system. It is important for them to be informed of their rights and of how to ensure they are recognized, of developments in their case, and of their obligations.

Victims do need help in dealing with their situation, but where I am not in agreement with the hon. member tabling this motion, and with the Reform Party, is on the demand for national standards for these matters.

Since the Bloc Quebecois and Quebeckers have been calling for certain things for years, and since we have invested considerably in the social field for the past 25 or 30 years, you will understand that, in a matter such as the one being addressed today, we cannot start at the same point as western Canada or the Maritimes.

This is not because we have any particular pretensions, or feel we are better than anyone else. It is because this matter has already been addressed in Quebec by the National Assembly, and I believe most sincerely that the results indicate that the provinces are better placed to deal with the creation of such bodies or the appointment of such commissioners.

In fact, at this very moment, the matter of victims' rights is being addressed in a parliamentary commission. There, a representative of the government of British Columbia said more or less what Quebec has been saying for years. British Columbia has, perhaps, a little less experience than Quebec in this particular area, but I must say that B.C. impressed me with everything it is doing to help victims. There are no doubt other provinces, too, but I have not heard of them to date. However, British Columbia like Quebec says the provinces are in the best position to deal with this problem.

• (1140)

Quebec has a law on this issue. It is the act respecting assistance for victims of crime. It may be found in c. A-13.2 of Quebec's revised statutes. I will not read it to you because it is fairly long, but I will point out what it concerns.

Naturally it contains a definition of a victim and a criminal act. Dependent persons are also defined. It sets out treatment for victims and their rights. It provides that victims must be informed of their rights, of the application of the law and, where public interest requires and permits it, be informed of the police investigation, and of the charges laid. They are entitled to medical assistance, naturally. They are entitled, and this is mandatory, to co-operation from the authorities.

In addition, Quebec has an office for the assistance of victims of crime. This office is funded in large part from surplus fines and fines the legislator allows to be charged to attackers found guilty.

In Quebec, we have an approach the Conservative member would like to have applied to the country as a whole. As the Reform members were saying earlier as well, national standards must be established to ensure that everyone is treated equally.

We must not get involved in this. I say things must be left alone because this is a matter of provincial jurisdiction. The Canadian Constitution establishes the administration of justice as a provincial matter. I do not believe the government should interfere in this area of jurisdiction.

As far as Quebec is concerned, I have never yet heard anyone calling for this sort of intervention there, because we have the act respecting assistance for victims of crime and more importantly the office to assist them.

I am not saying there is not room for improvement. Everything can be improved, including the office for the assistance of victims of crimes. However, any improvement is the province's responsibility. Conversely, if the federal government has money it does not know what to do with, as the member from British Columbia mentioned, and wants to invest in this area of jurisdiction, I see no problem. It would simply be a matter of transferring this money, which comes from the taxes paid by Canadians and Quebeckers, to the provincial legislatures, so that they could invest it where necessary to improve victims' rights. In the case of Quebec, the money could be used to help the Bureau d'aide aux victimes d'actes criminels.

In conclusion, we oppose the motion as drafted. The Bloc Quebecois cannot support such a motion. In Quebec, we already have the Bureau d'aide aux victimes d'actes criminels, and the province adequately fulfils its responsibilities regarding victims' aid.

If the federal government wants to invest—as seems to be the case—in this area of provincial jurisdiction, it should do so through the Quebec National Assembly and the other provincial legislatures, so that the government of each province, including Quebec, can invest where it wants, to help victims of crime directly.

[*English*]

Mr. Dick Proctor (Palliser, NDP): Madam Speaker, I have a few very brief remarks to make on behalf of members of the New Democratic Party to indicate that we support the motion put forward by the hon. member for Pictou—Antigonish—Guysborough. It states:

That, in the opinion of this House, the government should create the position of Commissioner for the Rights of Victims of Crime, with a role similar to that of the Correctional Investigator.

● (1145)

We support such an initiative. We believe it recognizes the need for greater services for victims of crime and recognizes their rights and role in the judicial system.

The correctional investigator has a mandate to investigate independently complaints from inmates and to report upon the problems of inmates that come within the responsibility of the solicitor general. The function of the correctional investigator, as was noted by the member from the Reform Party who spoke a few minutes ago, is that of an ombudsman for federal corrections and to clarify the authority and responsibility of the office within a well-defined legislative framework.

The specific function of the office is to ''conduct investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the commissioner of corrections or any person under the control and management of or performing services for or on behalf of the commissioner that affect offenders either individually or as a group''.

A central element of any ombudsman's function in addition to independence and unfettered access to information in conducting its mandatory investigations is that they act by way of recommendation and public reporting as opposed to decisions which are enforced.

The authority of the office within this legislative framework lies in its ability to investigate thoroughly and objectively a wide spectrum of administrative actions and present its findings and recommendations initially to Correctional Service Canada. In those instances where the CSC has failed to address the office's findings and recommendations, the issue is referred to the minister and eventually to parliament and the public through the vehicle of an annual or a special report.

We in this caucus believe that creating a position of commissioner for victims' rights based on the similar role outlined for the correctional investigator will be an important first step in addressing the needs and concerns of victims in our court system. A victims' rights commissioner will help to ensure that victims of crime receive the fair, dignified treatment they deserve in the system and will prevent them from being revictimized by the system.

In conclusion, we support the motion and trust that the government will give it serious consideration.

The Acting Speaker (Ms. Thibeault): The hon. member for Pictou—Antigonish—Guysborough will have five minutes to conclude the debate. It is understood that at that time after the member speaks the debate will have terminated.

Mr. Peter MacKay (Pictou—Antigonish—Guysborough, PC): Madam Speaker, I am encouraged by the remarks of my colleagues on both sides of the House. I have some concern for the comments expressed by the parliamentary secretary. We do certainly bring this motion forward in good faith.

There is certainly a spirit of co-operation that is existing now within the Standing Committee on Justice and Human Rights. Although the issue of victims generally is before the committee, this motion was brought forward at a time when there was not a certain date. Certainly there was no attempt by anyone to do work that would be duplicitous. This motion is simply an opportunity to express on behalf of the House that this is an intention this House has, that we want to see brought forward within our justice system an office that would officially recognize and be designated with the task of improving the participation of victims within our current justice system.

The issue is going to be discussed on a national forum level in the coming week. As has been suggested, this will be an opportunity for those major stakeholders, those players within our justice system, to speak at this forum. They will have the opportunity to speak to the minister herself, to speak to members of the department who hopefully will be charged with the task of drafting a victims bill of rights or tasked with the setting up of an office similar to that which is proposed in this motion.

● (1150)

I do take the hon. member's comments to heart that there has been an expression by the minister. I am very encouraged by that and I think all members of the House should be encouraged by that expression. The only comment or reservation I have about hearing that is that time is running. There has been an opportunity placed before the House to express that we want to see this happen. We want to see it done, to use the minister's own words, in a timely fashion. We hope that this is going to occur.

Victims across the country are going to be encouraged. They will look at this as an initiative that will allow them fuller participation, a greater voice. Through this forum they will be given an opportunity to communicate directly with the minister and those in her department who will hopefully bring these types of legislative changes to the forefront in the very near future.

I appreciate the opportunity I have been given this morning to discuss this issue. I take to heart the comments of members on both sides of the House. I am very rejuvenated by the expression of the non-partisan approach that will be taken in the very near future on the issue of victims' rights.

I look forward to seeing this issue brought to fruition in the very near future. There can be no greater good come from this debate this morning than to see these types of changes brought about. Those who find themselves in the unfortunate position of being victims will be given a greater ability to participate and hopefully see that justice is done in this country.

Mr. Peter Adams: Madam Speaker, I rise on a point of order. I would be grateful if you would seek unanimous consent to suspend the House until noon and then we would proceed to Government Orders.

The Acting Speaker (Ms. Thibeault): Is there consent to proceed in this fashion?

Some hon. members: Agreed.

The Acting Speaker (Ms. Thibeault): Before doing that, there being no further members rising for debate and the motion not being designated as a votable item, the time provided for the consideration of Private Members' Business has now expired. The order is dropped from the order paper.

[*Translation*]

SITTING SUSPENDED

The Acting Speaker (Mrs. Thibeault): As agreed to, the sitting is suspended until noon.

(The sitting of the House was suspended at 11.52 a.m.)

[*English*]

SITTING RESUMED

The House resumed at 12 p.m.

GOVERNMENT ORDERS

● (1200)

[*English*]

SUPPLY

ALLOTTED DAY—JUDICIAL RULINGS

Mr. Eric Lowther (Calgary Centre, Ref.) moved:

That, in the opinion of this House, federal legislation should not be altered by judicial rulings, as happened in the redefinition of the term ''spouse'' in the Rosenberg decision, and that, accordingly, the government should immediately appeal the Rosenberg decision.

He said: Mr. Speaker, the first part of this motion is to call all who believe in a representative democracy in our country to come to its defence. The case referred to in the motion is just one more example of a court ruling that is undermining the voice of Canadians in the democratic parliamentary process.

The Rosenberg decision is a good example for today because it is current and, as we will detail, it is clearly contrary to the statements

and positions taken by the leaders of this House and the members collectively. It is also a timely example because if the federal government would act it can protect the legislative process and ensure the voice of the people is not ignored.

Am I being too strong or melodramatic when I say that increasingly judicial rulings are undermining democracy in this country? On the contrary, I know there are many who believe I am not stating the situation strongly enough.

My colleagues and I are confident that members will join with others in the House who are calling for specific steps to be taken not only in the Rosenberg case but in defence of the democratic process in general.

During the course of today's debate members may hear the term judicial activism. This recently coined term refers to rulings by judges which go well beyond the intent of the law and in fact substantively change the law to the point where judges have taken on the role of legislators or law makers as opposed to simply interpreting and applying the law.

To my knowledge this type of activity by some judges is relatively new but an increasingly prevalent phenomenon in Canada. Prior to 1982 there was an understanding that under the Canadian bill of rights we all had inherent rights unless they were limited by a particular legislation. In addition, certain rights would receive protection from government interference or intervention in the lives of our citizens.

With the constitutionalization of the charter of rights and freedoms in 1982 some judiciary have taken greater power than warranted or authorized.

Today as in the Rosenberg case which I will examine more closely in a moment and in many cases like it, laws constructed and reviewed by the people's elected legislators in the House have been struck down or changed based on the courts' inconsistently applied charter rights arguments.

In the Schachter case in 1992 the supreme court decided that judges could rewrite statutes by reading into the legislation. Effectively in this case the supreme court read into the Constitution its ability to read in words into specific legislation. This right was not and has never been explicitly given to the courts in either the charter or the Constitution.

When an increasing number of unaccountable, unelected judges read in new wording into legislation that has been debated and passed by duly elected parliamentarians, a warning bell of a free and democratic society must ring loudly. Today we are sounding that alarm. There are a number of cases I could quote from to illustrate the point I am making. I have a list of them here but for the sake of time I trust that my peers will refer to many of these examples. I will move on to a specific example. If up until now anyone has not clearly grasped the concern we have, an examination of the Rosenberg case will bring some clarity to the issue. It will serve as an illustrative example.

● (1205)

The Rosenberg case concerns the federal Income Tax Act which specifically stated ''words referring to a spouse at any time of a taxpayer including the person of the opposite sex who cohabits at that time with the taxpayer in a conjugal relationship''. The Ontario Court of Appeal which heard the Rosenberg case decided to add words or read words into the law made by parliament. The law will now read ''words referring to a spouse at any time of a taxpayer including the person of the opposite sex or same sex who cohabits at that time with the taxpayer in a conjugal relationship''.

As in some of the other examples I referred to, this case with the court's redefinition of spouse to include same sex relationships is a significant change to the law. If this undemocratic, unaccountable change to the law is allowed to stand, at least 40 other federal statutes which utilize the term spouse will be affected. With the reading in of the definition of spouse marriage itself is automatically redefined to include same sex conjugal relationships because the definition of marriage in the law is dependent on the definition of spouse.

Did the people of Canada have a say in this? No. Did parliament? It is interesting that parliament has clearly expressed itself on this issue which is why this example is so illustrative. In the 35th parliament Motion No. 264 was proposed. It proposed the legal recognition of same sex spouses. Parliament spoke clearly by defeating the motion with 52 in favour and 124 against legal recognition of same sex spouses. This is the collective voice of the Canadian people defending the validity of the current Canadian law which Canadians have shaped through the democratic process. The judges in this court have ignored that and have independently done exactly what parliament by almost a three to one margin said not to do.

What can be done? In the short term the federal government can defend Canadian law in the court and appeal the Ontario court ruling. This would protect the democratic process and our fundamental freedoms from a court that is making its own law. The ruling came down in the Rosenberg case on April 23, 1998. The federal government has 60 days to appeal before the law is effectively locked in. This means the federal government has two weeks left to launch an appeal. Time is running out. Will it appeal? What is its position? Doing nothing, as it has, would suggest that it supports how and what the court is doing.

Perhaps we can get some insight into what the government will do from responses given to constituents by the justice ministers of the Liberal government. I will quote from two letters that were sent to constituents by the justice ministers in the 35th and 36th parliaments. The first is dated April 24. The current justice minister told a constituent the following: ''Thus the definition of marriage is already clear in law in Canada as the union of two persons of the opposite sex. Counsel from my department have successfully defended and will continue to defend this concept of marriage in the court''.

● (1210)

The justice minister went on: ''The issues of benefits for same sex partners have been before the courts and tribunals for some time now. I continue to believe that it is not necessary to change well understood concepts of spouse and marriage to deal with any fairness considerations the courts and tribunals may find''.

I have a similar letter that quotes almost verbatim the same things from the justice minister in the 35th parliament.

From the sound of these letters one might be hopeful that this Liberal government will actually defend Canadian law and the process. But allow me to now quote from *Hansard* a question asked of the same justice minister a few days ago in the House. The question put to the justice minister at that time was: ''Does the justice minister believe it is right for unelected judges to make changes like this, or should those changes be made by this parliament, by the elected representatives of the people of Canada?''. I should point out this question was referring to the Rosenberg case.

I will not read the whole answer of the justice minister, but the key part is the last sentence: ''In the Rosenberg case the judiciary was doing what it was constitutionally obligated to do, interpret and apply the law''.

What I point out here is that this issue needs some clear leadership. What this illustrates is one message to a concerned constituent but when it comes forward in the House of Commons we hear a very different response from the one she sent to that concerned constituent. Two opposite positions in a five week period. What is the government's position on this?

I hope, as do many of my colleagues, that this government might start with this case and follow through on its own commitment to Canadians and demonstrate to those judges who are changing the law, who are acting outside of their job description, that it must stop.

In spite of the conflicting messages from the justice minister we are hopeful and we are asking for the Liberal government to wake up, stand up, grab hold of the reins of government and defend the democratic freedoms and the integrity of the legislation process in this land.

We have some excellent, dedicated men and women in our court system in Canada, people of high integrity who give a great deal of energy to the cause of justice in these difficult times. I have quotes from many of them here today and many of them are concerned about the very crux of the motion we are debating here today. But perhaps in honour of his recent passing it would be best to quote from the very succinct Mr. Justice Sopinka who wisely stated what

every judge should know and what every Canadian expects: ''The court must be conscious of its proper role in the constitutional make-up of our form of democratic government and not seek to make fundamental changes to the longstanding policy on the basis of general constitutional principles in its own view of the wisdom of the legislation''.

The problem of some judges and courts becoming unaccountable, unauthorized legislators, or what some call judicial activism, is a growing one in Canada. But Reformers believe it is a problem that can be addressed if there is the political will to do so. Reform has addressed this issue. In Reform's new Canada act which was recently published and is being made available across Canada, a specific section is included on how the supreme court can be made more accountable and it details a process to ensure that those appointed have the correct judicial philosophy and qualifications to maintain order within Canadians institutions.

● (1215)

Finally allow me to return to the motion on the floor. This most critical motion simply calls for the federal government to take steps to protect Canadian law and the role of parliament. There is a two week window on this particular case within which it can act.

We encourage and call upon the government on behalf of all Canadians to give a clear signal that law and order will be maintained in the land and our democratic institutions will be secure. For the health of our democracy I urge every member of this House, in fact I think every member of this House is obligated to support this motion and require that the government finally take a correct firm position to maintain our freedoms and the integrity of the democratic process.

Mr. Philip Mayfield (Cariboo—Chilcotin, Ref.): Mr. Speaker, it seems to me that what we are talking about here is based upon tradition and history.

I am reminded that our system did not just get thought about and invented by a handful of people as they came together. The history of our parliamentary and judicial systems goes back to a time when there were kings who had absolute authority. It is a very interesting history. The English people began to push and encroach upon the authority and the power of the crown and out of that the process of parliamentary democracy evolved to the point where we have it today.

I find it paradoxical. We are talking about parliament in Canada beginning to lose its power to the supreme court and at the same time I read in the papers that the English system is working toward eliminating or reducing the power of those who sit in the House of Lords by virtue of their birthright. I find it interesting that we are in a position now where we have a government that is very critical of following the American example yet the American example is one in which the supreme court has the authority to change, amend and erase laws. We have followed this.

Has my hon. colleague given any thought to the long term consequences of this erosion of parliamentary authority at the hands of the supreme court?

Mr. Eric Lowther: Mr. Speaker, I thank the hon. member for the question. Yes, I have given thought to it, as have many members of this House and many Canadians right across the country.

This type of writing into the legislation is already affecting many aspects of the Canadian legal system and the laws we are governed by. I have before me a number of other rulings that have been made by the courts that are inconsistent with the intent of the legislators. There is no check on this process. I can refer to one or two of these. I could go through many of them but let me pick one.

Many people in B.C. are aware of the 1997 Delgamuukw decision. The court ruled that native land title to 23,000 square miles of northwestern B.C. was never extinguished. This decision dismantles provincial and federal sovereignty. It invalidates common law in place since 1846. It undermines jurisdiction over territories subject to land claims, including 80% of B.C.'s land base.

There are other cases. At the other end of the country, let us go to P.E.I., a beautiful place I recently had the opportunity to visit. In the 1994 Prosper decision the court overthrew a drunk driving conviction because the Prince Edward Island government had not provided a 24-hour legal aid hotline for a person such as the driver in this case. Chief Justice Lamer said provincial governments must suffer and endure the consequences, that is his quote, if they fail to respect the rights of the accused.

● (1220)

I could go on with a number of these cases. These kinds of rulings are totally destructive outside the democratic process that we have enshrined here in Canada and which men and women 50 years ago died on the battlefields to protect.

I am very concerned as are many of the members of our party. It is long overdue that we bring some check back into the courts to make sure they are consistent with legislation. It is the very reason why in Reform's new Canada act we have addressed this specific issue, that in supreme court and other court decisions there is some review process to make sure that the intent of legislation has not been violated by certain courts that have taken on a proactive or what some call a judicially active approach to writing in laws, of writing in intent into the legislation.

Mr. Werner Schmidt (Kelowna, Ref.): Mr. Speaker, I think I understood what the member was talking about when he talked

about the supremacy of parliament and the judiciary. Can he explain a little more clearly exactly what the relationship would be between parliament and the judiciary? The demarcation seems to be becoming a little greyer. It seems as though the judiciary is moving into the role of parliament and parliament is moving somewhere on this issue but nobody knows exactly where.

Traditionally it seems to me that the judiciary was to be independent of parliament. It was somehow to stand alone and be able to take an arm's length view and say ''This is what the legislators thought. This is what they enacted. This is what they wanted the government to be and this is how the people ought to be governed''.

Can the member clearly differentiate between the role of parliament on the one hand and the independence of the judiciary on the other?

Mr. Eric Lowther: Mr. Speaker, I appreciate the opportunity to respond to that question.

The hon. member is correct in pointing out that parliament, the democratically elected representatives of the people, has a primary obligation to debate and shape the laws which will govern the people. The voices of all Canadians are reflected in this House. One of the things I have always been appreciative of is the debate that goes on both here and in committee. The laws that come out of here are the compilation of what is the expressed will of Canadians. That is the role of this House.

As far as the judiciary is concerned, it has the role of interpreting and applying the law. What we are seeing in Canada is an extra component added to that under the charter of rights banner. Judges have actually taken it upon themselves to change legislation or read into legislation. They have given themselves the power to do this. Not all judges agree with this. In fact in my talk I quoted Justice Sopinka, recently deceased, and there are number of other justices whom I could quote as saying that this is not right.

Let us look at the words of the previous justice minister in the 35th parliament. He himself said in this House that the courts should not make policy or rewrite statutes. That is the role of parliament.

What amazes me today is that two consecutive justice ministers in this Liberal government have made these strong statements. Yet when we have a case before us, and many of the others I have referred to, that clearly violates what they are saying publicly and in letters to their constituents, they take no action. It is almost as if they endorse what the courts are doing. This is something that confuses me personally. I am hoping that in the course of today's debate when positions are put forward they will be moved to defend the role of parliament and also the role of the courts.

Mr. Philip Mayfield: Mr. Speaker, there is one other element I would like to ask my colleague about.

• (1225)

It occurs to me that since I have become a member of parliament, the people I represent have a very definite view about the laws and that those laws are to represent them in a whole variety of ways.

What I am concerned about and what I would like to ask my hon. colleague is what does he see as the consequence of what I would consider the illegitimate degradation of the law by those who do not represent the people but who have been appointed by someone and they see their responsibility to something besides the Canadian people? What does he see are the consequences of the supreme court changing these laws?

Mr. Eric Lowther: Mr. Speaker, the key consequence is that people begin to see that the laws of the land and the rulings of the courts are out of step with where they are at and where they are at as a Canadian people. This is a cause for concern for Canadians right across the country. They are feeling more and more that there is confusion within the courts and that the court rulings are not consistent with their priorities, values and culture. That is a grievous concern for us.

Ms. Carolyn Bennett (St. Paul's, Lib.): Madam Speaker, it is with great honour that I rise to speak against the Reform motion today.

As a family physician I do not pretend to be an expert on where the law and the state divide. I only know that we have to make sure that our parliament does not impinge on the way in which the law is interpreted and applied.

In the Rosenberg case Judge Abella decided that the sexual orientation of surviving partners can in no way be seen as any more relevant to whether they should be entitled to income protection their partners have paid for than would be their race, their colour or their ethnicity. She went on to say that discrimination against homosexuals in pension arrangements serves no ''pressing and substantial government objective'' and permits ''intolerance of the constitutionally protected rights of gays and lesbians. As such it is discriminatory and cannot be viewed as justification for a constitutional violation''.

It is interesting that the ruling says ''aging and retirement are not unique to heterosexuals'' and that ''courts do not operate by poll''.

The Acting Speaker (Ms. Thibeault): I apologize for interrupting the hon. member. I remind her that in this discussion it is not permitted to name judges.

Ms. Carolyn Bennett: ''They are required to make a principled decision about whether a constitutional violation is demonstrably justifiable in a free and democratic society''. The judges noted that it took 60 years of fighting to achieve racial desegregation in the

United States and that waiting for attitudes to change can be a glacial process.

As a family physician it is my experience when looking at the definition of spouse, there is no question that the relationships I saw in my practice actually worked until death did they part. These were indeed some of the most difficult relationships with the most serious illnesses.

The AIDS epidemic has taught us a great deal about what it means for an individual to have been abandoned by his family, then become a prominent artist, then be nursed to his death by his partner, or as the language has changed, his significant other, his long time companion, his partner, his spouse. Then at his deathbed the so-called family come and decide that all of the assets now belong to the family who once abandoned the young man.

In the families I looked after, there was knowledge of relationships between two women. A woman has left her abusive spouse and two women together have raised the child. The woman then dies of breast cancer. There is no question in that child's mind who is the parent.

● (1230)

I think it is imperative that we actually get with the program and understand that our old fashioned, prejudicial views of heterosexual relationships being the only valid ones are truly out of keeping with our society.

I think Canadians understand, when those two stories are told, what the just and right thing is for us to be doing. It may be that I was raised in a flower shop and I understood that the significant other of many of the members of my parents' staff happened to be of the same sex. However, it does not take that to actually understand that the kind of discrimination and the kind of fiddling with detail in terms of definition of spouse is just a very thin layer of homophobia.

I am very disappointed that we, in 1998, are still discussing this. How long ago was it that Mr. Trudeau told us the state had no business in the bedrooms of the nation? Why are we still fiddling with this definition of spouse? It is a value judgment. It is a value judgment that is actually wrong.

I think it is imperative as we move on that we actually start to redefine what it takes to make these units of our society. Our country will only be as strong as its individual units. Whether we redefine those units as families or as a social network, they are linked together to form what is the strength of our country.

It is very important that we look after one another and that we choose the people who will make decisions for us.

When I worked in the emergency department and asked somebody who their next of kin was, it was very rarely relevant whether they were married. It was the person they saw as being their spouse, their significant other, their long time companion.

We have seen so-called family members who fly in from across the country and upset everything that has been agreed upon in terms of a patient care plan. That is truly destructive to the fabric of our society.

I am more and more assured that sometimes parliament leads and sometimes the courts lead. When the courts show us where the gaps in the law are we have to follow that path. Minority rights will never ever show up in a poll. We have to ensure, as the stewards of this government, that we will not be led by a popular fear of some evangelical movement of homosexuality. That is just not the case.

People have told me that if it was not so easy to choose a homosexual lifestyle people would not choose it. I believe it is the most difficult choice that anyone ever has to make. I do not think anybody willingly chooses it. It is what they are. We have to respect that. We have to make sure that the relationships these people have are secure. When they die they should be entitled to their partner's pension. They should be entitled to the assets of the person whom they feel is their significant other, their lifetime companion, and they should be able to reap the benefits because they both contributed toward those benefits.

Mr. Myron Thompson (Wild Rose, Ref.): Mr. Speaker, the former justice minister, now the health minister, while defending the need for Bill C-33 made the following quote: ''We shouldn't rely upon the courts to make public policy in matters of this kind. That is up to the legislators and we should have the courage to do it''.

Do you agree or disagree with this statement from your minister?

Ms. Carolyn Bennett: Madam Speaker, I think what the former justice minister was saying is that when there is leadership we should not have to rely on the courts to make the more difficult decisions.

If we, in parliament, only do the easy things and leave the more difficult decisions to the courts, then we have not done the job we were elected to do.

● (1235)

I do not think that the former justice minister meant that we should not do it or that the courts should not be making principled decisions in interpreting the law, but once they have interpreted the law in a certain way it is our responsibility to then take the next step to see whether the law should be changed.

Mr. Paul Forseth (New Westminster—Coquitlam—Burnaby, Ref.): Madam Speaker, the comments, although they may be commendable, are perhaps off the topic of what we are debating today. Mainly we are talking about judicial activism and the basic concern, now that we have a charter, of who does the deciding is as important as what is being decided.

We have in our party a specific position about the constitution of the supreme court and the appointments to the higher courts of the provinces which states:

> A. The Reform Party supports more stringent and more public ratification procedures for Supreme Court Justices in light of the powers our legislators are handing the courts. We believe that an elected Senate should ratify all appointments to the Supreme Court of Canada and all Courts where the judges are appointed by the federal government.
>
> B. The Reform Party supports efforts to secure adequate regional representation on the Supreme Court, and that nominations should be made by provincial legislatures, not provincial governments.
>
> C. The Reform Party supports the appointment of judges at the Supreme Court of Canada level for fixed, non-renewable terms of ten years.

It is a concern about the appropriate role of the court that ultimately parliament must be supreme. If we are to get into those kinds of policy debates which the member opposite seemingly wanted to get into today, that is fine and well, but those issues must be decided by parliament and not by the courts.

Now that we have a charter court, we must look very carefully at who is doing the deciding as well as what is being decided. Hopefully the court will stay appropriately within its bounds and allow parliament to do its work.

Ms. Carolyn Bennett: Madam Speaker, it is interesting that the member referred to the relevance of my remarks but that he could not refrain from getting the Senate into his remarks.

I think it is imperative that we look at how we are governed. It is interesting that in the Reform Party's new Canada act it says that it will ask the legislator to review supreme court decisions and modify the law if necessary.

This is indeed already happening. That is what we were referring to with respect to the remarks of the former justice minister. It is very important that the judiciary be independent. It must be free of political intervention. It must be there to do the principled thing. We have to keep partisan politics out of it.

[*Translation*]

Mr. Réal Ménard (Hochelaga—Maisonneuve, BQ): Madam Speaker, I am pleased to take part in the debate.

With this motion, the Reform Party is trying to emphasize two points. The first one is the need for Parliament to give directions concerning the legislation, since it is appropriate, before the laws are interpreted by the judiciary, to first have them debated in this House. We agree with this principle.

The second point in the Reformers' motion more accurately reflects their tradition as a homophobic group, since it is asking the government to appeal the Rosenberg decision. The Rosenberg decision was handed down by the Ontario Court of Appeal in April of this year. It struck down a specific provision of the Income Tax Act because it did not include same sex spouses.

Those who were in the House in the last Parliament are very familiar with the Reform Party's closed-mindedness verging on dogmatism. They know that Reformers have a problem admitting that two men or two women could calmly and of their own free will decide to live together and enjoy the mutual benefits. In a context such as this, it is obviously discriminatory to deny homosexuals the benefits accorded heterosexuals.

● (1240)

It is true that we would like the members of this House to make known their views on recognition of same sex spouses. They will have an opportunity to do so, because I intend to introduce a bill in the House in September. I hope that the Reform Party, the Liberal Party, the Progressive Conservative Party and the New Democratic Party will agree to make this bill votable and that all members may express their views on this important topic.

It is a question of ending the discrimination to which homosexuals are subjected and recognize that two men or two women can constitute a couple and that the government must pay them the same benefits and allow them the same rights and obligations as heterosexual partners.

What is the essence of the Rosenberg ruling? Ms. Rosenberg and Ms. Evans were members of the Canadian Union of Public Employees and were living in a homosexual relationship. They took their case to court. The union asked Revenue Canada, which administers the Income Tax Act, to recognize their pension plan. The reason we are discussing the Rosenberg decision today is that the Canadian Union of Public Employees felt that Revenue Canada had acted in a discriminatory manner by not agreeing to recognize a pension plan which should be, because the Income Tax Act does not recognize same sex spouses.

What did the Ontario Court of Appeal say? It said that it was indeed discriminatory and that paragraph 252(4) of the Income Tax Act should be read as explicitly referring to same sex spouses.

What is still more interesting where the Charter of Rights and Freedoms is concerned, is that there is a possibility for the legislator, as for the courts, to restrict certain freedoms. This possibility open to the legislator and to the courts to restrict certain freedoms is covered under article 1.

I would like to share with you the Ontario Appeal Court's conclusion on article 1 as it applied to the Income Tax Act in the Rosenberg case. It is most eloquent, and to my mind the most interesting part of the decision.

It states ''Aging and retirement are not unique to heterosexuals''. Who could deny that homosexuals also age and that this is a law of

nature, something that is inevitable, and not connected in any way with fortune, with religion, or with race. It says ''Aging and retirement are not unique to heterosexuals—and there is nothing about being heterosexual that warrants the government's preferential attention to the possibility of economic insecurity. It cannot therefore be a pressing and substantial objective to single out for exclusive recognition, the income protection of those older Canadians with sexual preferences that are heterosexual.''

This is where the Reform Party will have to provide an explanation some day. When two men or two women work, make contributions, are consumers and taxpayers, where is the logic in a member rising in this House and not acknowledging, with the minimum of honesty one is entitled to expect of parliamentarians, that there is something discriminatory in this?

We must be clear about this. The matter of recognizing same sex spouses is not a question of being on the left or on the right politically.

• (1245)

I should point out that, in 1992, then Minister of Justice Kim Campbell decided, following another decision by an Ontario court, to recognize that discrimination on the basis of sexual orientation was not acceptable. I am referring to the famous Haig case, which led to an amendment of the Canadian Human Rights Act. This in turn enabled us, as parliamentarians, to pass Bill C-33, two years ago.

It must be recognized that two men, or two women, can have a satisfying, consensual relationship and still be consumers, active citizens involved in their community, and also pay union dues and fulfil all their obligations as members of the workforce. This is first and foremost a matter of non-discrimination.

Some day, the Reform Party will have to say whether it agrees that it is not acceptable for a state and a government to discriminate on the basis of sexual orientation. It is well known that one does not choose to become a homosexual. It is not a matter of choice. I did not wake up some day asking to be a homosexual, and a heterosexual the next day. Homosexuality is based on desire, on what one is attracted to.

As long as the Reform Party continues to table homophobic motions that are unworthy of parliamentarians, what message does it send to the public? It sends the message that it does not recognize the reality of people who are engaged in homosexual common law relationships.

This is not to the Reformers' credit. To be sure, a debate must take place. Reformers are right when they say it is unacceptable in a democracy to leave it to judges to make the decisions. However, once a decision has been made, we cannot decide that it will not be binding, or that we will not comply with it. Because this is the first part of the Reform motion.

Could the Reform Party not give thought to what the various tribunals have said in the past ten years or so? Tribunals dealing with labour and health matters, administration and general law have found it to be discriminatory to deny same sex spouses the benefits accorded heterosexual spouses. This is discriminatory, because these people are taxpayers. They contribute through their taxes.

What I would really like is for the Reform Party to acknowledge once and for all that discrimination exists. Homosexuals are consumers and taxpayers too. When people have lived together for five, ten or fifteen years and one spouse dies and the other is not entitled to survivor benefits, nothing—no law, no moral precept, no principle of fairness—can justify the government, the legislator's denying these benefits to those who are entitled to them because they paid for them. The legislator should amend all the laws, not just the Income Tax Act.

When I introduced my bill in 1994, I looked at all the laws containing a definition of spouse. There were some 70 of them. This debate is inevitable, and I say to the Reformers that recognition of same sex spouses is inevitable.

[*English*]

Mr. Peter Goldring (Edmonton East, Ref.): Madam Speaker, while I believe the member is sincere I believe he is off topic. What is being discussed today is very clearly judicial activism and its usurpation of parliamentary purpose.

The judiciary propensity to reinterpret laws beyond simple declaration and clear imminent wording is of great concern. The definition of a spouse is very clearly a man and a woman. A change to this basic of all definitions should not come from the courts but by parliament decree as the elected voice of all Canadians.

Does the member not support that this be decided by parliamentary decree?

[*Translation*]

Mr. Réal Ménard: Madam Speaker, I agree with my colleague that it is important that there be a fair debate in the House and that the necessary time be taken to discuss recognition of same sex spouses.

• (1250)

I caution my colleague, however, not to evade the issue. During this debate, I call on my colleagues to rise and state whether or not they believe that two men or two women living together in a homosexual relationship should have the same benefits and the same obligations as partners in a heterosexual relationship, because that is what this is really all about.

Some members may have preferred that Parliament lead off the debate, but the judges have not erred in ruling, both in the Supreme Court and in lesser administrative tribunals, that there was discrimination.

I hope that our Reform Party colleagues will agree with us that there has been discrimination and send a clear signal to lawmakers. Legislation must be amended, and we should show how enlightened this Parliament is by voting unanimously in favour of recognizing same sex spouses.

[*English*]

Mr. Peter Goldring: Madam Speaker, the question being debate here is the definition of a spouse. If that definition is to be changed or to be altered I think the place to make that change and to alter that wording is to fairly debate it in the House where we can all participate in the debate.

[*Translation*]

Mr. Réal Ménard: Madam Speaker, I will be introducing a bill in the House in September that will give parliamentarians an opportunity to debate recognition of same sex spouses.

I hope that the Board of Internal Economy, the Reform Party, the government and all parties represented in the House will make this bill votable, because I will accept the result.

My colleague is right in saying that this debate should be held in the House. We must vote on an important matter such as this. I will exercise all the democratic latitude that there must be between parliamentarians in trying to persuade my Reform Party colleague that it is discriminatory not to recognize same sex spouses, and I remain optimistic that they will vote in favour of my bill.

[*English*]

Ms. Judy Wasylycia-Leis (Winnipeg North Centre, NDP): Madam Speaker, it is with a great deal of sadness and disappointment that I rise today on behalf of my colleagues in the New Democratic Party caucus to debate this Reform motion which can only be described as a thinly veiled attempt to promote and endorse discrimination on the basis of sexual orientation.

If the motion were truly an attempt to open parliamentary debate and discussions on making our judicial and court system more responsive, more effective and more democratic, we would have before us today a motion dealing with those very issues, a motion that would have talked about the question of the length of appointments of judges to the bench. It would have talked about balance in terms of gender, people of colour and aboriginal people on the bench. It would have talked about proper training and education for judges to make better decisions. However, the motion does not touch on any of those issues. It does not address the question of democratization of the supreme court or our judicial system.

We are dealing today with a motion which seeks to end the ability of judges to apply the Canadian Charter of Rights and Freedoms. We would have a charter but the rights and freedoms of Canadians would not be protected by it. Those rights include as we all know freedom of speech; freedom of association; and the right to equality without discrimination on the basis of race, national or ethnic origin, colour, religion, sex, age or disability. These rights and freedoms are very dear to Canadians. They will not give them up. They will not give them away easily because the Reform Party tells them to do so.

In the Rosenberg case the court found that lesbians and gay men contributed equally to pension plans and should be equally entitled to the benefits. Before the ruling the federal government penalized employers that provided the same pension benefits to gay and lesbian employees as they did to all their other employees. The federal government would deregister the pension plan for tax purposes and make it unviable. The federal government was in essence forcing employers to discriminate against certain employees and deprive them of benefits the employees were paying for.

● (1255)

In the Rosenberg case there was an employer, the Canadian Union of Public Employees which wanted to offer equal pension benefits to all its employees and was prohibited by the federal government from doing so. As a result of Rosenberg, the spouses of people who pay into employer pension plans will now be able to benefit equally from the pension plan regardless of sex.

The Rosenberg decision is supported by a wide variety of Canadians, by many equality seeking groups. I include in that list the Chinese Canadian National Council, the Disabled Women's Network and anti-poverty groups.

The New Democratic Party applauds the Rosenberg decision and would not want to see the clock turned back to the 19th century as the Reform Party would have it. We are almost in the next millennium and the Reform Party still has not caught up with this one. Unfortunately neither have the Liberals. The Liberals wait for the courts to make these decisions because they do not have the courage to do the right thing. They do not want to be associated with lesbian and gay equality rights.

The Liberal government through its inaction on equality rights has given the Reform Party a platform today to pursue its anti-gay and anti-lesbian policies. If the Liberal government would stop penalizing employers that want to treat all their employers equally, we would not be having this discussion today.

The New Democratic Party of British Columbia has recognized same sex partnerships. It has recognized that the lack of recogni-

tion of same sex partnerships has contributed to child poverty as same sex partners were not liable for child support. Lesbians, gay men and bisexuals are not only asking for the same rights as heterosexuals but for the same responsibilities too. The Nova Scotia government just ruled on this issue and extended pension benefits to surviving partners of same sex relationships.

Today's motion shows the Reform Party's true colours. It is not a pretty picture. The leader of the Reform Party was quoted in the Vancouver *Sun* as saying ''homosexuality is destructive to the individual and in the long run to society''. Another member said that he would fire a lesbian or a gay man or send them to the back of the shop. One of his colleagues chimed in that employment discrimination against gays and lesbians is in the best interest of society. The deputy justice critic for the Reform Party said that gay bashing was not a human rights issue.

The Liberals have also had their fair share of anti-equality MPs, Roseanne Skoke to name one. She said: ''Homosexuality is the scourge of mankind''. The leader of the Conservative Party was quoted in 1994 as saying that protecting gay men and lesbians from discrimination is too costly for taxpayers.

In the early 1990s my colleague, the NDP member for Burnaby, moved an amendment that would have allowed same sex benefits for members of parliament. At the time the Mulroney Tories axed it. Today the Reform Party is following in the Mulroney tradition. Let us make no mistake. The Reform Party did not choose the Rosenberg decision by accident for this ill advised motion. The Reform Party is asking the government in this motion to appeal the Rosenberg decision. I call on the government to stop taking the lead from the Reform Party in these matters and to end this unfair and unequal treatment of employees now.

The Reform Party likes to stick its nose into people's bedrooms and kitchens and tell them whom they can sleep with, whom they can fall in love with and whom they may choose as a life partner. The Reform Party wants to decide who is a family and who is not a family. It wants to dictate that one widow who was with her partner for 20 years can receive a survivor's pension because her partner was male while another widow who was with her partner for 20 years cannot because her partner was female.

Lesbians and gay men pay the same taxes and they pay into the same benefit schemes as everyone else. Yet, if it were up to the Reform Party, they would pay into those schemes but their families would never benefit from them. That is discrimination. That is just plain wrong.

Canadians are watching this debate with great interest today. They will be hearing the silly comments and twisted rationalizations of the Reform Party trying to put a respectable veneer on plain and simple bigotry. The New Democratic Party wholeheartedly opposes the motion and everything it represents.

New Democrats believe the government and the Reform Party have no business deciding whom one can love, dictating who is a family and telling employers to discriminate against their employees.

• (1300)

Mr. Grant McNally (Dewdney—Alouette, Ref.): Madam Speaker, I listened with interest to the end of my colleague's speech and I was quite shocked by the amount of rhetoric and the amount of comments that did not really having anything to do with the motion she presented.

I would like to ask her a simple question because the heart of this issue, the heart that we are debating here today, is whether members and Canadians believe that the judiciary should make law in this country. Should their decisions take precedence over what we the elected representatives of this country decide?

I ask the member whether she believes that the judiciary should lead and set the precedents or whether those topics should come to the floor of the House for open debate so people can have input and legislators elected by the people of Canada can discuss these matters in an open way.

Ms. Judy Wasylycia-Leis: Madam Speaker, for the member's benefit, what he heard this morning from our side of the House was not rhetoric. It was an unveiling of Reform's true intentions with this motion and a deserved reaction of anger, disappointment and hurt that the Reform Party would be attempting to promote discrimination on the basis of sexual orientation and on the basis of pretending to make our judiciary more accountable and more democratic.

The judiciary, the supreme court and our court system interpret law and apply longstanding statutes. In this case we are dealing with the Canadian Charter of Rights and Freedoms and with the Canadian Human Rights Act. Both of these are very clear regarding equality rights and both are very clear about not discriminating on the basis of sexual orientation.

We have with the Rosenberg case a clear application of longstanding statutes that reflects the sentiment and feelings of Canadians right across the country.

Let me remind members of the Reform Party that judicial rulings are used to overturn or redefine the law when that law is judged to be unfair. There was a time when battered women were sent to hospitals with broken bones. They were raped repeatedly. Their children's lives and their lives were threatened and they were jailed for defending themselves.

There was a time when the police could not or would not help these women. If the women killed their abusive husbands in self-defence they were jailed for life. The courts expanded our views of self-defence to include battered women syndrome so that

women who were beaten, abused and in fear for their lives were not further punished by the judicial system.

Mr. Myron Thompson (Wild Rose, Ref.): Madam Speaker, I recall a 1997 murder case in British Columbia where in hot pursuit police officers entered the premises where a prime suspect was located and made an arrest. This individual was the person who had committed the murder.

The ruling the court made was that a warrant was required which was in conflict with our definition of hot pursuit and all these things. Consequently that ruling required a new warrant issuing process to be created and today a killer walks free.

I think these are the types of things that should be looked at by committee and in this place. We need to fix these problems. It is up to us to do so. It is not up to the courts to fix these problems.

Does the member agree with that Feeney solution?

● (1305)

Ms. Judy Wasylycia-Leis: Madam Speaker, as I said in my opening remarks, if the intention of the Reform motion was truly to look at ways to improve our judiciary and bring more democratic principles to the supreme court, Reformers would have done so in an open, honest way. But they have singled out in this motion the Rosenberg decision, which is specifically about applying the law in terms of same sex benefits and recognizing same sex couples.

We are dealing with a very serious situation. That party is trying to roll back the clock instead of dealing with the issues at hand. I suggest to Reformers that if they are serious about improving our legal system, our court system, they will stand up for equality in every sense of the word and work to change our systems accordingly.

Mr. Peter MacKay (Pictou—Antigonish—Guysborough, PC): Madam Speaker, it is with some reluctance that I rise to speak to this motion brought forward by the Reform Party.

It appears we are debating issues that have been with us for time immemorial. We are talking about basics here, of how the judiciary and the legislative body operate independent of one another.

The hon. member for Calgary Centre in his motion appears to have overlooked some of the very basics that we learned in politics 101. What we are talking about is a demonstration of a profound understanding of the basic principles of democracy. Today we are spending valuable time discussing and perhaps reinforming the Reform Party about the basic principles of democracy. I would have preferred spending precious time in the House debating more constructive issues.

Our democracy, I think we can all agree, is not perfect by any means but is one of the best democracies in the world. One of the reasons why our democracy is so well respected and so envied by the world is that it lays upon some of the very strong rules of law, that the executive, the judiciary and the legislative powers are separate and independent of one another.

If politicians were to have significantly more power than the judiciary and be in a position to at their whim and at the drop of a hat reverse legal decisions, we would live in potential chaos. There are checks and balances intrinsic to the system if the system is to work.

If Reformers were in power, if they had their way, politicians would live by the stories of the day. We would be twisting in the wind. Every time a certain issue arose we would stampede to correct that and we would try to do exactly what the media told us.

We cannot live by polls. There has to be a measured, tempered response when the need arises. We cannot be reactionary. The word rhetoric is used constantly in this place. We do not hear any more rhetoric than from the Reform Party. That does not further the national agenda.

If legislative power is there to legislate, then the judiciary is surely there to make sure the laws are going to be respected. Judges are also there to make sure laws passed by parliamentarians are respected. This is part of the highest court in the land, certainly, but the Constitution and the charter of rights also have to be respected. Sometimes it comes to being, perhaps wittingly, perhaps unwittingly, that these are infringed by legislation that has been passed at some time in the past or perhaps something that comes out as recently as today.

All this may appear quite dry to those who are at home listening, but there is a need to revisit some of these fundamental issues. Revisiting them will sometimes help to redefine the positions and tell us the reality of the present system. If we are to embark on changing the course of moral values we should do so in a very circumspect way.

Before going any further I want to make sure we are going to be discussing this issue in a serious way. The Reform motion has been brought to the floor without this understanding that needs to be in place. The member for Calgary Centre has, for all intents and purposes, told the House of Commons that we should automatically appeal this decisions from the Ontario Court of Appeal. We cannot mandate a court to do that. That is not our place. That is completely outside the bounds of what we should be doing. What is the Rosenberg case about? It is simply about the definition of a spouse. It relates to the Income Tax Act and pension registration, a rather specific, on the point scenario. Once again we have seen the Reform Party take a specific factual scenario and try to impose broad sweeping implications from it. That is simply improper.

• (1310)

This litigation arose from the result of Revenue Canada's inability to accept and register amendments that would extend survivor benefit entitlement to same sex spouses.

Let us not read too much into that. Let us not react too harshly. Let us not go over the top at the first instance. The Attorney General of Canada concedes that the extension of benefits was discriminatory on the grounds of sexual orientation but pleaded that the inequality was reasonable and demonstrably justified in section 1 of the charter, the saved by one provision, that the infringing limitation, the exclusion of cohabitating gay and lesbian partners of contributing employees of the Income Tax Act, has a pressing and substantive objective. That was what was being discussed by the court.

The Ontario Court of Appeal was unanimous in its decision:

> Differences in cohabitation and gender preferences are a reality to be equitably acknowledged, not an indulgence to be economically penalized.

These are telling, straightforward words. People have to be treated equally based on their choices, human understanding, treating people equally under the law. This is what Canadian law is all about.

Basically there is no rational reason to deprive a gay or lesbian employee of the same choice that a heterosexual employee would have, both as to beneficiary and as to relationship. I quote again from the judgment:

> Aging and retirement are not unique to heterosexuals and there is nothing about being heterosexual that warrants the government's preferential attention to the possibility of economic insecurity. It cannot therefore be a pressing and substantial objective to single out for exclusive recognition, the income protection of those older Canadians whose sexual preferences are heterosexual.

It is talking about not distinguishing one sexual preference from another in the legislation. That is all.

A final quote:

> It is difficult to see a rational connection between protecting heterosexual spouses from income security on the death of their partner and denying cohabitating gay and lesbian partners the same protection. The sexual orientation of surviving partners can in no way be seen as any more relevant to whether they should be entitled to income protection their partners have paid for, than would be their race, colour, or ethnicity.

Those appear to me to be very straightforward principles with which everyone in this House should agree and should embrace.

Contrary to what the Reform Party has tried to read into this decision, it is quite clear that it has nothing to do with the definition of family. This case is specific. It deals only with the exclusion of same sex benefits and it is a question of discrimination based on sexual orientation for economic purposes.

This is not a broad sweeping decision that is made to undercut the definition of family. Whoever says it speaks to the question of family or the definition of family is wrong.

Like everyone in this House, I strongly agree that the family is something that must be preserved in society. It is a value that must be recognized and respected and I do not believe that this decision goes in any way toward changing that. Again, there is no link between sexual orientation on a prohibited ground of discrimination and an attempt to undermine this concept of family.

Members of the Reform Party believe that the change in the definition of spouse would automatically lead to some recognition of same sex marriages. That is simply not the case here. I personally do not wish that to happen. However, the best proof that this is not even being contemplated is that we have seven provinces and one territory that have human rights codes prohibiting discrimination based on sexual orientation. Not a single one has recognized same sex marriages.

I do not believe this decision will lead to a legal recognition of same sex marriages. This decision is not talking about in any way redefining family or marriages. They are totally separate issues.

What is important in our society is not whether one is heterosexual or homosexual, whether one is polygamous or abstinent. It is whether one is able to lead a quality of life and the law is there to protect people and ensure that they do have the same entitlement to that quality of life. It does not matter what one's choice is on this issue. It has to be one of personal choice and there has to be respect and tolerance for that.

• (1315)

Some legislative conditions have to be put in place and some legislative conditions may have to be changed as a result of changing mores. However this does not mean that anyone of us is obliged to promote homosexuality. That is not what the debate is about, but there is a difference between promoting and respecting human rights.

The Rosenberg case is about human rights and making sure that there is not discrimination in our existing laws. Discrimination is treating people differently or giving them different benefits or not entitling them to benefits because of some choice.

Section 252(4) of the Income Tax Act was discriminatory. I believe it was a good decision of the Ontario Court of Appeal which corrected that. We are not here to perpetrate discrimination. That is not the purpose of this place and therefore the choice is not ours to make. The choice has been made.

[*Translation*]

Mr. Réal Ménard (Hochelaga—Maisonneuve, BQ): Madam Speaker, I congratulate my colleague on his opening remarks.

I would however like to ask him whether he does not feel it is appropriate to act somewhat the same way his party did when it was in government in 1992. As members will recall, a very important judgment was brought down, also by an Ontario court, in the Haig case. It declared the Canadian Human Rights Act unconstitutional because it did not include sexual orientation among its prohibited grounds of discrimination.

The Minister of Justice of the day decided that the act would not only be binding, but would be binding across Canada. It is thanks to Kim Campbell, Prime Minister of Canada in 1992, that we have finally had to review the Canadian Human Rights Act and to provide additional protection relating to non-discrimination on the basis of sexual orientation to all employees under federal jurisdiction.

Does our colleague not believe that the government should follow Kim Campbell's example and decide not to appeal the decision, and to make this binding across Canada, immediately?

[*English*]

Mr. Peter MacKay: Madam Speaker, I thank my hon. colleague from the Bloc for recognizing the contributions to the cause of justice the Conservative Party has made in the past.

We certainly have a great deal to be proud of in that regard. We continue to strive to make positive contributions to changes in the law that will further the cause of justice and ensure the underpinnings of our justice system do not discriminate.

The Haig decision the hon. member mentioned was an important one. The minister of justice at the time, Kim Campbell, did further the cause of justice as did other members of that government.

I am certainly encouraged by the remarks I have heard on the floor with respect to the Rosenberg decision. I do not feel in any way the government will be mandating that its agents appeal this decision. That choice will be made independent of the remarks and the discussion taking place here. This is certainly not to say that this is not a place for this type of discussion. However we have to maintain judicial independence from the judiciary. The legislative arm must do its job to legislate.

I encourage the remarks and acknowledge the hon. member's interest in this issue. I thank him for that question.

Ms. Shaughnessy Cohen (Windsor—St. Clair, Lib.): Madam Speaker, I commend the Conservative House leader on his excellent speech.

If the government decides not to undertake an appeal of the Rosenberg decision, is the House leader for the Conservative Party saying that he personally would support that decision and that his party would as well?

Mr. Peter MacKay: Madam Speaker, I will be quite clear and unequivocal. We have taken the position that we are not encouraging the government to appeal this decision.

I have read the decision. I totally agree with the commentary and the remarks of the deciding judges. We feel this issue has been settled for all intents and purposes. Therefore we are not urging the government to appeal and we are not supporting this motion.

● (1320)

Mr. Grant McNally (Dewdney—Alouette, Ref.): Madam Speaker, it is an honour to take part in this very important debate today in the House.

Over the past several years our court system, the judiciary, has gone far beyond its mandate of interpreting the law reflected through the intent of parliament to reading in meanings never intended by the elected representatives of the nation. This process which has slowly evolved has put the creation of law through precedent setting opinions into the hands of our judiciary.

Canadians are saying that they do not want a few unelected individuals to make these decisions. There is no counterbalance in the current system to rectify the problem when the government, which is intended to reflect the will of the majority, refuses to take responsibility.

I would argue that the Liberal government has abrogated its responsibility in this case and in many others concerning the idea of judicial activism, whether it be the Feeney case in 1997, the Delgamuukw decision of 1997, the Eldridge decision, the Halm decision, the Singh decision, the Prosper decision or the Heywood decision. We could go on and on.

The motion being presented today is about the idea of judicial activism and that the courts determine the law of the nation through the precedent setting decisions they make. That is what we are debating today. We are asking whether this is something that should be happening.

If this is something that we clearly endorse, we have to ask ourselves why in the world we are here as elected representatives of the nation. If the courts are simply to determine what law is in the nation, why in the world are we here?

We are here, I would argue, to debate openly and freely the merits of arguments and decisions that are made. We as elected representatives of the nation have been sent here to debate issues just like this one to speak our minds, to speak the wills of our constituents in this place and not to be afraid to do so.

I turn my attention to a very important court decision mentioned in the motion. I have no fear in referring to the Rosenberg decision. That decision or the government's lack of action in response to the decision illustrates that the government has once again failed to demonstrate leadership. It is simply allowing the courts to go ahead and read words into a decision which could have a profound impact on many other pieces of federal legislation, without lifting a finger, without even mentioning it, hoping that this case and others like it will just go away as well as all kinds of different areas and different topics.

The justice minister as our attorney general has until June 22 to appeal the decision. To date she has offered no indication that she is willing to do so. In fact she stated to my colleague in the House, the hon. member for Yorkton—Melville, on May 27:

> In the Rosenberg case the judiciary was doing what it was constitutionally obligated to do, interpret and apply the Law.

I would argue that the justice minister is sorely missing the point in the fact that she cannot see that words read into that decision will have a profound impact on federal legislation. We are burying our heads in the sand if we say in this place that the decisions founded by a court do not have any precedent in later decisions. That is simply not what history has taught us in this place. History has taught us that decisions made in our courts set a precedent for future decisions and affect the law.

I would also like to state I am sharing my time with my colleague, which I neglected to say at the beginning of my speech.

The judiciary is making the law, reinterpreting it based on its philosophical framework. There is no timely action from the justice minister which we heard in relation to the Young Offenders Act.

Members of the opposition ask if the minister will continue to do nothing, to sleepwalk and to demonstrate her weakness on serious issues. It is quite telling that the predecessor to the Minister of Justice, the current Minister of Health, tried to reassure parliamentarians that the Canadian Human Rights Tribunal was not ''going to get into the business of redefining spouse or family or any of that''. In referring to Commissioner Max Yalden he stated:

> He has spoken about benefits, but he has said he's not going to get into redefining these terms legally.

• (1325)

All should be fine then. In fact we should not have any concerns at all.

In 1996 in Canada *v.* Moore, again a case centring on same sex benefits, the government tried to solve the problem by using the term partner which would have rectified the situation. That would have been a solution to the situation. In June 1997 the commission instructed Treasury Board that the term partner was not good enough and ordered Treasury Board to refer to same sex partners as spouses.

The commission that the former justice minister said had no intention of redefining the term spouse completely contradicted him. In fact we have to look back at his words to see them for what they were, just empty words with no action from the Minister of Justice. Talk, debate or words can be empty if no action follows. In debate on Bill C-33 the former justice minister stated:

> We should not rely upon the courts to make public policy in matters of this kind. That is up to the legislators, and we should have the courage to do it.

I ask the former justice minister if he might nudge his seatmate and get her to take some action on this case and many others.

Parliament has a responsibility to make the nation's laws as citizens give legislators that right when they vote them into office. Parliament has the unique role of debating the balance between rights and responsibilities in a democratic society and the courts should give them the opportunity to do so. The legislatures are subject to public scrutiny and the best place to have a debate matters of critical social importance is in the House of Commons.

Why the concern with regard to this case and to others? What impact does this decision have for the future? If the attorney general fails to act then the Rosenberg decision will likely set a precedent which will have a domino effect on over 40 pieces of legislation, all of which will strike at the heart of the definition of spouse and the definition of marriage in Canadian law.

Marriage is the fundamental cornerstone of any society. A supreme court justice in the Egan decision in 1995 stated:

> Marriage has from time immemorial been firmly grounded in our legal tradition, one that is itself a reflection of longstanding philosophical and religious traditions. But its ultimate raison d'être transcends all of these and is firmly anchored in the biological and social realities that heterosexual couples have the unique ability to procreate, that most children are the product of these relationships, and that they are generally cared for and nurtured by those who live in that relationship.

I would continue by saying that Canadians have to wonder what are the motivation and intent of the government. I remember no mention of redefining marriage in the Liberals' red book platform in last year's election or in the Speech from the Throne.

We are wondering what it is that the government is doing. Will it simply allow this decision to go ahead without taking any action, in fact allowing a precedent to be set upon which further decisions of the courts will be founded?

Failing to appeal the Rosenberg case simply restates this weak government's lack of direction, lack of responsibility and disregard for marriage and family as cornerstones of Canadian society.

The Minister of Justice and the Prime Minister have a window of opportunity to act.

The Prime Minister has scoffed at a recent resolution raised by over 1,200 Reform Party members at an assembly to conduct a family impact analysis to federal legislation. Again I state that actions speak louder than words.

Official opposition members urge the government to act and to put the creation of law back into the hands of elected representatives. To do any less is a signal to Canadians that the government is failing once again.

[*Translation*]

Mr. Réal Ménard (Hochelaga—Maisonneuve, BQ): Madam Speaker, I believe that our colleague from the Reform Party has, without meaning to, misled the House and taken some rather excessive liberties with the facts, when he calls upon us to understand that the decision, as drafted, raises the question of redefining the family.

• (1330)

I would ask him to show me where in the Rosenberg decision, brought down last April, as you know, he can see the definition of family being questioned. I believe that making such a statement here in the House of Commons, is not very responsible, and indicates a rather superficial understanding of what the decision is all about.

What the decision states is that it is discriminatory not to give survivors benefits to workers who have contributed and who should receive them under article 15 of the Canadian Charter of Rights and Freedoms.

I would like my hon. colleague to indicate where in this decision, which I have before me, there is any cause for concern about a redefinition of family.

[*English*]

Mr. Grant McNally: Madam Speaker, I thank my colleague for his question.

The matter we are debating today goes to the court ruling where four words were read into the decision in the Ontario Court of Appeal and that is redefining the term spouse. That is what we are debating. We are debating the courts' and the judiciary's acts of doing that in their decisions, where they read into a decision something that is not there and something that is not in the context of that particular decision. That is what we are talking about today. That is the point.

We are talking about the judiciary, their role and what has happened in this case. It is quite clear as with many other cases that the Ontario Court of Appeal in this case has gone ahead and read something into law that was not previously there. It has set a precedent. We all know in this place and we are being very naive if we do not admit that decisions made and rendered by justices have an impact on further decisions down the road.

What we are looking at here is a view to the future. In this decision and others like it in all different areas of legislation, if we in this place say that it is fine for the courts to go ahead and to redefine what elected parliamentarians in this place were sent to do, then what is the reason for us to be here?

The reason for us to be here is to debate issues like this one and many other important issues. These debates should take place on the floor of the House of Commons so that we who have been elected by our constituents to represent their views are able to argue strongly in many ways the points we believe reflect the will of our constituents.

If the government abrogates its responsibility and allows the courts to go ahead and redefine law, then it is not showing leadership. The point of the motion today is that we need in this place to have open debates about very important topics. If we fail to do that, then we miss the point of why we are here.

We must openly debate issues of great importance without any fear of being labelled as others have done in the House today. We must openly and honestly debate these issues and bring them to the forefront.

Mr. Jason Kenney (Calgary Southeast, Ref.): Madam Speaker, I am pleased to rise in debate on the supply day motion before us, that in the opinion of the House federal legislation should not be amended or redrafted by judicial rulings as has happened in the redefinition of the term spouse in the Rosenberg decision and that accordingly the government should immediately appeal the Rosenberg decision.

At the outset I would like to make something clear which seems not to have been completely understood in this debate to this point. We are essentially debating two propositions in this motion.

• (1335)

First is the general proposition that federal legislation should not be amended or redrafted by judicial rulings, in other words, the proposition of the principle of parliamentary supremacy. That is a centrally important subject which ought to seize all members of this place. All Canadians ought to be engaged in the dynamic and centrally important debate about the appropriate role of the courts vis-à-vis the supremacy of parliament. This essentially is a debate not between parliamentary supremacy and judicial review, but between parliamentary supremacy or judicial supremacy.

Ultimately in any system of government where checks and balances are divided and authority is separated between different branches of government, one must be supreme. We cannot avoid that ultimate question. The answer which the tradition of parlia-

ment and our common law has provided to us over the last several hundred years is that parliament is supreme. This is the highest court of the land. The buck stops here with respect to the law that is made for all Canadians.

That is the first general premise of the motion to which I will speak.

I want to emphasize the second element of the motion which is that the government should immediately appeal the Rosenberg decision.

I cannot understand for the life of me why any member would oppose at least the second proposition in this motion, that the government ought immediately to appeal the Rosenberg decision. As it appears from the debate this morning, there are members among us who believe that the courts ought to have the power to rewrite federal legislation regardless of what we or our constituents believe. That is a respectable position to hold, but we have not yet allowed the courts to have the final word on this.

The Rosenberg decision, which we are discussing, was a decision of the appeals court of the province of Ontario. The last I checked my constitutional law, the appeals court of a province is not the highest judicial tribunal of the land, but rather the Supreme Court of Canada is.

All we are asking in the second element of this motion is for the Attorney General of Canada to have her officials file an order to appeal before the Supreme Court of Canada the judgment of the Ontario appeals court. I say to my colleagues here who support the notion of judicial supremacy over parliamentary supremacy to allow their allies in the judiciary, allow the marvellous judges of the supreme court to have their say which they have not yet had.

I find a certain irony in all of this. The learned judge who wrote the majority decision at the Ontario appeals court, Madam Justice Rosalie Abella, we understand was very much in the running for appointment to the most recent opening to the Supreme Court of Canada. Is it not interesting that the very same justice minister who has been prevaricating now for six weeks on whether or not to appeal Madam Justice Abella's decision to the Supreme Court of Canada is the very same attorney general who would not appoint that justice to the Supreme Court of Canada.

Ms. Shaughnessy Cohen: Madam Speaker, I rise on a point of order. There have been several rulings in this House by Speakers of which the member is well aware to the effect that it is inappropriate to name a specific judge. It is absolutely inappropriate. If members want to speak generally about the judiciary that is fine, but to name a specific judge who cannot defend herself is an abuse of the privileges of this House and it is cowardly.

Mr. Jason Kenney: Madam Speaker, I am not aware of any standing order or convention of this place which prohibits members from referring to specific judgments made by specific justices. I do not know how I can quote from particular judgments, as I intend to do in my remarks, made by certain justices without referring to their names.

● (1340)

The Acting Speaker (Ms. Thibeault): I refer members to Beauchesne's citation 493 which states:

> All references to judges and courts of justice of the nature of personal attack and censure have always been considered unparliamentary, and the Speaker has always treated them as breaches of order.

Mr. Jason Kenney: Thank you, Madam Speaker, for that clarification. It was not my intention and I will not be attacking justices here.

It is worth mentioning that those who believe that judges ought to be in power with the authority to rewrite the laws of this parliament do not believe that they should be subject to public criticism. I think there is a double standard there. If we have judges who believe that they ought to be essentially glorified politicians, they ought to be prepared to allow their judgments to undergo full public debate and scrutiny, which is what we are seeking to do here.

I was speaking about the justice who wrote the majority decision in Rosenberg and who is the very same justice who the justice minister decided not to appoint to the Supreme Court of Canada. One could logically infer from the most recent appointment to the supreme court that the justice minister lacked sufficient confidence in Madam Justice Rosalie Abella to appoint her to the Supreme Court of Canada. At the same time, she has not yet decided to let the supreme court decide the issue. In other words, the same justice who made the decision is being allowed to have the final say when the justice minister did not have sufficient confidence in that justice to put her on the highest court of tribunal. I find a certain inconsistency here.

Let me address some of the remarks made by the learned and hon. House leader of the fifth party. I found his remarks disappointing and somewhat incoherent logically. The first point is that he argued the Rosenberg decision was extremely—

Ms. Shaughnessy Cohen: Madam Speaker, I rise on a point of order. The opposition cannot split hairs here. Not to mention the judge's name is fine but then one cannot, having referred to her already, say scurrilous things like a particular judge was not chosen to go to the Supreme Court of Canada.

The hon. member does not have a clue, nor do I or anyone else in the House except for the Prime Minister, as to who the justice minister considered for that appointment to the Supreme Court of Canada. He has no clue. For him to besmirch—

The Acting Speaker (Ms. Thibeault): This is a point of debate.

Mr. Jason Kenney: Madam Speaker, that was an interesting little rant from the member opposite.

As I said, I want to address some of the remarks made by the House leader of the fifth party. He said that this judgment was a very narrow one, merely a technical application and that members of my party were trying for some malicious reason to argue unreasonably that this affects the law more broadly than it actually does.

I find it entirely inconsistent when he argues that it is unreasonable for this parliament to define spouse as including members of the opposite sex but that it is reasonable for this House to define marriage as including members of the opposite sex alone. In other words, he is in favour of discrimination, in his words, when it comes to marriage, but he is against it when it comes to spouse. I find this kind of legalistic pettifogging, quite frankly, to be incoherent.

● (1345)

I will read the relevant section of the Income Tax Act which was affected by the Rosenberg judgment into the record so we can all see exactly what this judgment did:

> In this Act,
>
> (a) words referring to a spouse at any time of a taxpayer include the person of the opposite sex who cohabits at that time with the taxpayer in a conjugal relationship. . .
>
> (b) references to marriage shall be read as if a conjugal relationship between 2 individuals who are, because of paragraph (a), spouses of each other were a marriage;
>
> (c) provisions that apply to a person who is married apply to a person who is, because of paragraph (a), a spouse of a taxpayer; and
>
> (d) provisions that apply to a person who is unmarried do not apply to a person who is, because of paragraph (a), a spouse of a taxpayer.

In the arcane language of the Income Tax Act, that is essentially saying that the definition of spouse and marriage for the purposes of this section of the Income Tax Act, as affected by the Rosenberg decision, are synonymous. I can only assume that the House leader of the fifth party did not read the relevant section of the statute because it makes it absolutely clear that by redefining spouse the court has also indirectly redefined marriage.

The hon. leader of the fifth party said that it is reasonable for this parliament to discriminate in terms of the definition of marriage; to discriminate positively and justifiably in favour of marriage conceived as it has been throughout the millennia as an institution consisting of members of opposite sexes.

We are debating a very serious thing. The House leader of the fifth party also said that he would rather have us discuss more important issues. I cannot conceive of a more important issue for members of this place to deliberate than whether or not this parliament is maintaining the supremacy which properly belongs to it by our constitutional history.

In this respect I will quote from Mr. Justice John McClung of the Alberta appeals court. In the Vriend decision he said: ''When unelected judges choose to legislate, parliamentary checks, balances and conventions are simply shelved. Yet those cornerstones took centuries to assemble. They came at great cost. Our constitutional heritage is but a calendar of their acquisition, sometimes bloody, for both royal and commoner. All of these formative resources stand suspended when rights restless judges pitchfork their courts into the uncertain waters of political debate''. I could not say it more eloquently.

I appeal to all members to think deeply about the implications not just of this decision, but of courts that have begun to regard themselves as legislators. We represent the people, the judges do not.

Mr. Peter MacKay (Pictou—Antigonish—Guysborough, PC): Madam Speaker, I listened with great interest to the remarks of the previous speaker and to the to and fro that went on between himself and the hon. government member. I cannot help but hearken back to the debate we had a short time ago on Bill C-37, the Judges Act. Again we saw quite a vitriolic and sometimes personal attack on judges themselves. So I worry that we digress in this debate.

Once again we have a motion before the House which has a very narrow topic, and yet Reform has chosen to broaden this issue. It has taken a great, sweeping, alarmist approach to this issue.

Instead of taking the wrecking ball, attacking the judiciary and telling Canadians that somehow this decision will cause democracy to fall, what would the Reform Party put in place? What would it suggest we do when it comes to limiting judges in their task? Rather than suggesting we should tear that down, I wonder what the Reform Party would put in its place.

Mr. Jason Kenney: Madam Speaker, I reject the spurious premise of the hon. member's comment.

● (1350)

This motion speaks very clearly to two issues. First, the broad issue of judicial activism; generally, that federal legislation should not be amended or redrafted by judicial rulings. That is a subject which is very worthy of debate. Second, it speaks to the specific issue with respect to appealing the Rosenberg decision. There are two issues at question in this motion. We are not trying to do more than debate those two issues.

What would we do to restrain a hyperactive judiciary? To begin with, we could adopt mechanisms of parliamentary review for the nomination of justices so that we as parliamentarians, on behalf of the Canadian people, can be assured, in a fully transparent and

public process, that the people who are taking positions on the bench believe in the constitutional framework of our founders and the parliamentary system.

We would like to have the ability as parliamentarians to question proposed nominees to the bench. We also believe that the courts should have the power to invalidate acts of parliament, but not to rewrite them. This parliament should maintain, as it has for hundreds of years, the ultimate power to re-enact legislation which it believes is consistent with our constitutional framework.

That is why the framers of the 1982 Constitution Act included section 33, the notwithstanding clause, as the ultimate guarantor of parliamentary supremacy and we ought not be afraid to use it at the appropriate time.

Mr. Grant McNally (Dewdney—Alouette, Ref.): Madam Speaker, as I think about the Rosenberg decision I am reminded of a personal situation. My mother was widowed just over two years ago and her sister was just recently widowed. My mother and my aunt could be living together in the very near future. I am wondering if the government would extend the same reading to that situation as it would to the definition of same sex benefits.

Mr. Jason Kenney: Madam Speaker, obviously I cannot speak for the government. That is the purpose of the motion.

This is a very important case and we would like clarification and answers to questions such as that. We will not get them until this judgment has run its course, which is why it must be appealed to the Supreme Court of Canada. Then this parliament can revisit the issue.

There are far more questions than there are answers. This government has said in the past that its position is to maintain the current traditional definition of spouse and spousal benefits. Will it or will it not do that? That is the question before this House today. I hope that we soon get an answer from the justice minister.

Hon. Hedy Fry (Secretary of State (Multiculturalism)(Status of Women), Lib.): Madam Speaker, I rise to speak against this motion for two reasons. The first is that it offends the fundamental principles of democracy. Second, it is in fact a very discriminatory motion because it completely goes against all Canadian principles of equality.

I want to speak first to the issue of how it offends the principles of democracy. The balance in a democracy between an elected body like the House of Commons and the supreme court of the land or the courts of the land is to find a way in which justice can be served through the law and the interpretation of the law. That is especially true in our country right now.

We have to look at the charter, the Canadian Human Rights Act and all of the legislation that has come about which talks to the equality of persons and recognizes the fundamental distinction that people are not all the same. Equality is not about treating people the same. Equality is the fundamental bedrock on which Canadian society has been built. It is one of the common values which we all believe in as Canadians, regardless of where we live, where we come from or what colour we are.

It is really important to recognize in the Canadian Human Rights Act and in our charter that when we speak of equality we speak of equality as recognizing the diversity of people. That is what this motion is trying to undo.

If in this democracy parliament undermined the decisions of the supreme court of our country, decisions that are based on our Constitution and fundamental justice, then we would have removed democracy from Canada and replaced it with dictatorships.

● (1355)

It is in countries where the governments of the land and the parliaments of the land seek to override fundamental justice and the law that dictatorships occur. Is this what the hon. members, when they bring this motion forward, are trying to suggest?

Let us look to the past when governments have sought to muzzle the courts of their land. Let us look at the more recent example of South Africa where governments set about making laws that were fundamentally discriminatory to the people of that country. They gave rights only to certain people and took them away from others. These rights included: the right to walk down the street; the right to be out after dark in any of the cities of South Africa; the right to work; the right to education; and the right to interracial marriage. In South Africa the government of the day, through its parliament, decided that if there was an interracial marriage in South Africa it was not legal in the eyes of the law.

Is that what we are trying to do? Are we saying that governments are always right, that houses of parliament are always right and that they alone have the right to decide how our people will live and what is essential to fundamental justice and equality in our country? Is that what we are trying to do? Are we trying to undo democracy? Do we want Canada to become a dictatorship? That is exactly what the fundamental principle of this motion is about. It is about dictatorship. It is about what we call the tyranny of the majority.

The members of that party have always talked about how they represent the people. Do they represent only one type of people, or do they represent all Canadians, including gay Canadians, lesbian Canadians, black Canadians, Canadians of different religions, Canadians who live in isolated areas of this country, Canadians who cannot find work in the maritimes, and Canadians who are aboriginal? Are Reform members suggesting that they represent all

of these people? Because members of the Reform Party have stood up in the House day after day and have slam dunked Canadians who do not belong to the group which they say they represent, the grassroots.

It offends me, Madam Speaker, to have to stand here to debate a motion that is so fundamentally retrogressive and so distasteful.

I am sorry, Mr. Speaker, I did not mean to call you Madam Speaker, but I did not notice that you had come into the Chamber.

The Speaker: These robes sometimes fool people when they look at me, but I am still Mr. Speaker.

At this point I think we are at just the right spot to let you have a little rest. You can come back full steam after question period and we look forward to hearing from you again. But it is almost 2 p.m., so we will proceed to Statements by Members.

STATEMENTS BY MEMBERS

[*English*]

AYDEN BYLE DIABETES RESEARCH FOUNDATION

Mr. Paul Steckle (Huron—Bruce, Lib.): Mr. Speaker, I rise today to pay tribute to the devoted community spirit of one of my constituents.

Mr. Ayden Byle, an individual from the north end of Huron—Bruce, has undertaken to establish the Ayden Byle Diabetes Research Foundation.

This organization, under the direction of Ayden's father, Marshall Byle, will collect public and corporate donations for diabetes research.

In addition to the creation of this foundation and in an effort to drum up awareness for the cause, Ayden has recently devised the Canada challenge.

The Canada challenge is a simple concept. Ayden challenges Canadians from coast to coast to coast to contribute financially to the eradication of this terrible disease.

To assist in achieving this goal, starting June 1 Ayden is running across Canada in an effort to raise money and awareness for diabetes research. His journey began on the west coast and is expected to end later this summer.

I would encourage all of my hon. colleagues to take note of this effort and to join with me in wishing Ayden Byle our best wishes for every success.

HEPATITIS C

Mr. Grant Hill (Macleod, Ref.): Mr. Speaker, the hepatitis C issue has been kind of tough on the Liberal government.

We went through, with Krever, shredded documents. We went through fighting in court. We went through a withholding of cabinet proceedings.

Finally, when we got the Krever presentation, I thought the battle was over. But the government decided to compensate only a small proportion of the victims. It says it is because the ALT test was not available, available to me in 1970 in my practice for hepatitis. It was not available because federal regulators chose not to use it for that purpose. The decision was a decision made by regulators.

● (1400)

For the victims, all they want is fairness and those victims are going to go to every single event this summer of Liberal politicians, to the parades, to the ribbon cuttings, to the speeches, everything that they do. They are going to wave a little flag that says ''hepatitis C, don't forget us''.

I would not want to be in that position. I would not want to go through the long hot summer of the Liberals on hepatitis—

The Speaker: The hon. member for Abitibi.

* * *

[*Translation*]

VAL D'OR KIWANIS CLUB

Mr. Guy St-Julien (Abitibi, Lib.): Mr. Speaker, the Val d'Or Kiwanis club came into being on September 17, 1947. Since its inception, this club has had but one goal: to help young people.

The Kiwanis club is involved primarily in the Atom and Pee Wee levels of minor hockey. Through the exceptional devotion of its members, the club has helped in other community ventures in Val d'Or and piloted the project to erect the statue of the miner in carré Lapointe.

In 1976, Kiwanis members joined with volunteers to establish the committee to fund a second rink. The city of Val d'Or is now calling the building the Kiwanis arena.

The hundreds of volunteers and donors who tirelessly support the members of the Kiwanis club and their work deserve our recognition. Today more than ever the commitment, camaraderie and pride of our members mean successful projects for young people.

[*English*]

MUNICIPALITIES

Mr. Inky Mark (Dauphin—Swan River, Ref.): Mr. Speaker, at the 1996 Federation of Canadian Municipalities convention we heard the Prime Minister acknowledging that it was time to recognize the municipal governments in their own right.

At the FCM meeting in Regina today the Prime Minister said nothing about the role of municipalities. If he really wants to connect with Canadians let him listen to municipal concerns brought on by federal funding cuts and downloading of services.

The Prime Minister talks about the information highway. Municipalities are stuck figuring out ways to pay for streets and roads. Municipalities already have the smarts. What they need is a voice and a seat at the table.

Let the government heed section 5 of Reform's new Canada act: ''The Government of Canada hereby recognizes municipal governments as the first level of government in Canada, and agrees to ensure municipal government representation at federal-provincial conferences dealing with the provision and financing of essential services.

* * *

CANCER

Ms. Carolyn Bennett (St. Paul's, Lib.): Mr. Speaker, yesterday was the 11th annual national cancer survivors day in North America. Events were held across the country to raise awareness of this day, this disease and to celebrate the courage of the survivors.

I think what is most important to remember is that since 1969 cancer mortality rates have been steadily declining for Canadian men and women in all age groups under 60. Even though one in three people will get cancer, 50% of those will survive.

National cancer survivors day is about recognizing those who have survived as well as their families, friends and care givers. We must also remember the volunteers and researchers who have helped make their survival possible.

Through organizations like the Canadian Cancer Society cancer patients have learned to articulate their concerns and through communication with their physicians and other health care workers they have helped us identify the gaps in the health care system and have helped medical professionals reorganize our priorities so that we can move toward a more patient centred approach.

I welcome this opportunity to thank and congratulate everyone on their outstanding achievements and effort.

S. O. 31

AJAX HOME WEEK

Mrs. Judi Longfield (Whitby—Ajax, Lib.): Mr. Speaker, the town of Ajax in my riding has a special asset, the volunteers. Where once there were hundreds, today there are thousands.

After starting in 1971, Ajax now celebrates its 28th annual home week through the efforts of volunteers and service and community minded organizations. The theme of this year's home week is ''celebrate being a kid''. Events include athletes in action, beach volleyball, lakeside kiddy carnival, the optimists family picnic and fun fair, culminating in a giant fireworks display.

The original goals of Ajax home week are still very much in place. They are to say thank you to the wonderful people Ajax, to provide activities for everyone regardless of gender, religion, race, age or personal means, to promote the town of Ajax which so many call home and to encourage former Ajax residents to return to Ajax for a visit.

* * *

CANPASS

Mr. Gary Pillitteri (Niagara Falls, Lib.): Mr. Speaker, last Friday my riding of Niagara Falls saw the launching of CANPASS, the whirlpool bridge dedicated commuter crossing.

The new smart border, on which Revenue Canada has been working for some time, will benefit the residents of Canada, all the travellers using the Niagara border crossings and Niagara Falls as a whole.

• (1405)

The CANPASS program expedites the clearance of preapproved low risk travellers into Canada and has been made possible by a fruitful partnership between the federal government and the public sector.

I thank the local customs officers who have played such a major role in the development of the operating procedure specific to the CANPASS whirpool initiative. Canada Customs has a long history of providing an effective and professional customs service, another example of how the Liberal government is helping to ensure that Canada has safe streets and safe communities.

* * *

[*Translation*]

OLIVAR ASSELIN

Mr. Maurice Dumas (Argenteuil—Papineau, BQ): Mr. Speaker, today I would like to pay tribute to one of Quebec's finest journalists, Olivar Asselin.

A strong nationalist, a brilliant and sarcastic satirist, he had, throughout his career, a profound impact on French Canadians in the 19th and 20th centuries.

Mr. Asselin ardently defended the rights of Franco-Ontarians. He was one of the pillars of the movement by Ontario francophones to fight the ignoble Regulation 17, along with Marie Gérin-Lajoie—mother and daughter.

Even today, many Quebec journalists claim with pride to belong to the Asselin school, and it is not just by chance that the grand prize for journalism offered by the Saint-Jean-Baptiste society of Montreal bears the name Olivar Asselin.

In closing, I would like to pay tribute to the work of Hélène Pelletier-Baillergeon, who with great talent paid homage in her biography of him to a legend of Quebec journalism, and I look forward to reading the second volume of this biography in the near future.

* * *

[*English*]

AUTO PACT

Ms. Bonnie Brown (Oakville, Lib.): Mr. Speaker, the auto pact is the most successful trade deal Canada has ever signed and the most beneficial for Canadians.

Member companies employ in well paying full time jobs more than 65,000 workers. The suppliers of auto parts employ another 90,000 Canadians.

In 1996 auto pact companies exported vehicles totalling $45 billion. Last year Canada enjoyed a trade surplus of $13.5 billion with the United States. The automotive sector is Canada's number one export industry.

In my riding of Oakville the Ford Motor Company of Canada has its head office. Since 1990 Ford has invested almost $6 billion in production facilities in Canada. This large investment is concrete evidence of Ford's commitment to Canada

With worldwide overcapacity in the automotive industry looming and with mergers already announced, now is not the time to change our finished vehicle tariff regime and threaten the auto pact.

* * *

THE SENATE

Mr. Grant McNally (Dewdney—Alouette, Ref.): Mr. Speaker, there are seven vacancies in the upper house, one in Nova Scotia, one in Newfoundland, one in Manitoba and four in Ontario. The Prime Minister's phone must be ringing off the wall with Liberal hacks trying to collect political on IOUs.

There must be plethora of good Liberals who have organized a dinner, delivered a brochure or, most important, cut a cheque to the party who have not received a supreme court seat or an appointment to the IRB or the parole board.

The Prime Minister has surpassed Brian Mulroney's levels of patronage, travel and of course closure. But there is one that Mr. Mulroney did that the Prime Minister has not done and that is appoint Canada's first and only elected senator, Reformer Stan Waters.

The Prime Minister is renowned for ignoring the will of Canadians. He has the opportunity to follow through on his promise to reform the Senate or he can continue to appoint Liberal hacks. Whatever the Prime Minister decides there is one thing for certain. His announcement will take place after the House rises because the Prime Minister cannot take the heat because he will not elect those seats.

* * *

REFORM PARTY

Mrs. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Mr. Speaker, last week the member for Edmonton—Strathcona journeyed to Quebec City along with his close and personal Blocquistes friends. Once there he waxed eloquently in French about how the Reform had a new plan, une troisième voie, that will attract all sorts of Quebeckers to the Reform Party.

Just how interested would Quebeckers be in Reform's way of thinking if they knew that just two days after visit to Quebec that same member proposed a motion to eliminate the budget of the office of the commissioner of official languages?

The answer is that Quebeckers have no interest in Reform's plan to dismantle French language services within the federal government. That is why Reform will continue to fail miserably in all its attempts to win favour in Quebec no matter how many separatists it befriends.

* * *

● (1410)

OCEANS

Mr. Peter Stoffer (Sackville—Eastern Shore, NDP): Mr. Speaker, June 8 marks the international day of the oceans. Coming from Nova Scotia, this day is very special indeed.

The ocean represents 75% of the earth's surface and unfortunately the human race and our government are systematically trying to destroy this very precious resource. By pollution, dumping of nuclear waste, overfishing and sloppy oil and gas explorations their track record is not very good.

Even today many of our fish stocks are in peril and the livelihoods of hundreds of millions of people who live along coastal communities are in jeopardy. I urge this government and all nations to take action now to protect our oceans so that future generations may benefit from what our seas have to offer.

OCEANS

Mr. Wayne Easter (Malpeque, Lib.): Mr. Speaker, I am most pleased to remind my colleagues and all Canadians that today is oceans day. Since 1992 countries from around the world have observed this date as oceans day in order to celebrate one of our world's finest resources.

This year oceans day has a special significance because the United Nations has declared 1998 the international year of the ocean. Canada is celebrating with activities to bring awareness of the importance of our oceans and the need to protect them.

To emphasize this importance the Department of Fisheries and Oceans has undertaken a number of initiatives. One, start at the Youth for the Oceans Foundation to promote youth leadership and education concerning the oceans. Two, a national public consultation process to develop a national oceans strategy for Canada. Three, a public review of draft marine protected area policy. Four, a national framework for establishing and managing these areas under the Canada Oceans Act.

* * *

GOVERNMENT OF ONTARIO

Mr. Jim Jones (Markham, PC): Mr. Speaker, it is with great pleasure that I rise today to mark the third anniversary of the election of the Ontario Progressive Conservative government.

The accomplishments of this government are numerous: a 30% tax cut to be fully implemented on July 1, a full six months ahead of schedule; the largest 12 month job creation initiative in the province's history with 265,000 net new jobs between February 1997 and February 1998; a balanced approach to the deficit will see it eliminated by fiscal year 2000-2001; an economy which is growing faster than any of the G-7 industrial countries.

Lately Mike Harris has been the victim of savage attacks by the Prime Minister and his finance minister. The reality is they just cannot accept that it is possible to cut taxes, reduce the deficit and create jobs when your government is both progressive and conservative.

* * *

[*Translation*]

MULTILATERAL AGREEMENT ON INVESTMENT

Mr. Benoît Sauvageau (Repentigny, BQ): Mr. Speaker, the Forum jeunesse of the Bloc Quebecois yesterday organized a day of reflection on globalization, which included an examination of the multilateral agreement on investment.

The Bloc Quebecois, in agreement with the governments of Quebec and a number of provinces, has already expressed serious reservations over some aspects of the agreement.

All these young people from Quebec and others from elsewhere in Canada are wondering and concerned about the effects of the MAI on economic and cultural development for example. In their opinion, the social responsibility of the multinationals in the community is important too and was regrettably put to one side in the MAI negotiations.

The Bloc Quebecois calls on the federal government to listen and respond to the concerns of these young people, since they will be taking over and building tomorrow's society.

* * *

[*English*]

YWCA

Mr. Peter Adams (Peterborough, Lib.): Mr. Speaker, 15 years ago the YWCA of Peterborough, Victoria and Haliburton established two crossroads centres for abused women and their children. Since that time these shelters have given literally thousands of women the courage to deal with violence, poverty and oppression in their lives.

Our thanks to all those across Canada who work with shelters like these. Our congratulations to all those women and children who have used the shelters as a stepping stone to a better life.

Special congratulations to the YWCA of Peterborough, Victoria and Haliburton. Happy anniversary, crossroads.

* * *

UKRAINIAN CANADIANS

Mr. Rick Borotsik (Brandon—Souris, PC): Mr. Speaker, this week the Ukrainian Canadian community is commemorating the 65th anniversary of the 1932-33 manmade famine genocide in Ukraine, engineered by soviet leader Joseph Stalin, in which some 7 million Ukrainians perished.

Soviet party leaders with the aid of military troops and secret police units seized every last scrap of food. Whole villages became a mass of corpses. Large parts of Ukraine were blockaded, no food was allowed in, no people were allowed out. While guarded warehouses were filled with grain, Ukrainian peasants were beaten, arrested and even shot for trying to take the few remaining kernels lying on the fields. Their extermination was a matter of state policy.

• (1415)

Food is still a favourite weapon with many authoritarian regimes in the world today. It has been said that those who cannot remember the past are condemned to repeat it.

We join today with members of the Ukrainian community and other Canadians in remembering the atrocities of this crime against humanity.

ORAL QUESTION PERIOD

[*English*]

BRITISH COLUMBIA

Mr. Preston Manning (Leader of the Opposition, Ref.): Mr. Speaker, on December 11 last year the supreme court brought down its ruling on Delgamuukw, the B.C. aboriginal land claims case.

In its decision the court vastly expanded the concept of aboriginal title to the point where the B.C. first nations summit has now claimed aboriginal title to all land and resources in British Columbia.

My question is for the minister of Indian affairs. Who owns British Columbia?

Hon. Jane Stewart (Minister of Indian Affairs and Northern Development, Lib.): Mr. Speaker, as the Leader of the Opposition points out, it was December 11 of last year when the supreme court made this important ruling.

The day after that I was in British Columbia meeting with first nations, meeting with the province and meeting with the business community to ensure that we were taking appropriate action so that the decision of the supreme court was part and parcel of our treaty making process.

I am glad to welcome the hon. member to the debate finally.

Mr. Preston Manning (Leader of the Opposition, Ref.): Mr. Speaker, the Delgamuukw decision has created economic uncertainty in every sector of the British Columbia economy that requires land or resources: mining, the fishery, ranching, agriculture and tourism, all of them.

The decision has created a potential taxpayer liability of literally tens of billions of dollars. These impacts alone are big enough to cripple the British Columbia economy.

Why has the federal government done nothing concrete to address or correct these impacts?

Hon. Jane Stewart (Minister of Indian Affairs and Northern Development, Lib.): Mr. Speaker, clearly the most important thing that we can do to achieve certainty in British Columbia is to negotiate treaties. That is what we are doing.

I would point out that the Laurier Institute has identified that the economy of B.C. will increase by 1% with the settling of these treaties.

Mr. Preston Manning (Leader of the Opposition, Ref.): Mr. Speaker, the federal government has had a treaty negotiating process going in British Columbia for seven years and has not produced one concrete treaty as a result.

Everything the Liberal government has done in British Columbia on the land claims issue has made things worse rather than better. Now Delgamuukw puts a legal caveat on every piece of land in B.C. and the minister's excuses and inaction just make things worse rather than better.

Will the minister of Indian affairs put an end to this uncertainty by legislating a definition of aboriginal title which addresses the interest of all British Columbians?

Hon. Jane Stewart (Minister of Indian Affairs and Northern Development, Lib.): Mr. Speaker, in six months the best they can come up with is a suggestion to legislate away aboriginal rights. That is the approach of two centuries ago and it has not found solutions.

The supreme court directs us to negotiate resolutions. That is the approach we are taking and that is the best way to create certainty in the province of British Columbia.

Mr. Mike Scott (Skeena, Ref.): Mr. Speaker, six months and the best the minister can say is that we are to continue to follow a failed policy that has produced no results whatsoever.

British Columbia jobs are in jeopardy because of the government's inaction following the Delgamuukw decision. The province is in recession and agriculture, forestry and mining investment are in decline. The citizens of B.C. need and want jobs now and not another study.

What will the minister of Indian affairs do to guarantee B.C. companies that their investments are secure?

Hon. Jane Stewart (Minister of Indian Affairs and Northern Development, Lib.): Mr. Speaker, one of the most important parties in the discussions that we are having in the province of British Columbia is the B.C. business community.

The solution to the issue of longstanding treaties and negotiations is being undertaken now.

When the hon. member opposite talked about negotiation he was down in my part of Ontario. What did he say we could do with the likes of Ipperwash? Call in the army was the solution of that party for the most important arrangements we must make with aboriginal people in Canada.

Mr. Mike Scott (Skeena, Ref.): Mr. Speaker, the minister ignores the facts.

Seven years and they have not produced one agreement in British Columbia. At that rate it will take decades, even centuries, to resolve all of them.

● (1420)

In the meantime land claims past, present and future are all affected by the Delgamuukw decision: logging in New Brunswick, land claims in Ontario, mining in Labrador, ranching in Alberta, forestry in British Columbia and power plants in Quebec.

Why does the minister not legislate a workable and fair definition of the term aboriginal title?

Hon. Jane Stewart (Minister of Indian Affairs and Northern Development, Lib.): Mr. Speaker, let us be fair. The fact that the federal government can unilaterally legislate a solution here is absolutely preposterous. There are parties that have to be at the negotiating table which all have a view on how we make progress. We are there.

On May 12 an editorial in the *Financial Post* stated:

> Minister Stewart and her provincial counterparts are on the right track in seeking a fresh start to making deals.

* * *

[*Translation*]

HEALTH CARE SYSTEM

Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ): Mr. Speaker, the Canadian Healthcare Association strongly condemned the federal government for its drastic cuts to the funding of health services in Canada.

The association even said that Ottawa's cuts have led to the current crisis in the health care sector.

Given the requests made from all sides, how can the Deputy Prime Minister justify the federal government's continuous refusal to reallocate money to health, considering that health care services all over Canada have a great need for such funds?

Hon. Allan Rock (Minister of Health, Lib.): Mr. Speaker, we recently increased transfers to the provinces. We increased them to $12.5 billion annually, as recommended by the national forum on health, two years ago.

In so doing, we acted responsibly to ensure the future of our public health care system.

Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ): Mr. Speaker, it just so happens that the national forum on health is condemning this government, which would have us believe that it increased transfers by $6 billion, when it in fact cut $42 billion instead of $48 billion. This is the reality.

I ask the minister: Given the anticipated surplus of $6 billion, is it not time to invest money in health care, considering that the $2 billion that was cut in Quebec alone is equivalent to shutting down all the hospitals in Montreal?

Hon. Allan Rock (Minister of Health, Lib.): Mr. Speaker, as I said, we have already increased transfers.

However, let us not forget that health is a shared jurisdiction between the federal government and the provinces. The provinces must do their part. Minister Rochon and the Bouchard government acted in such a way as to produce unfortunate results in Quebec. It is the province's responsibility.

We intend to assume our responsibilities as regards transfers, and we have already increased these transfers.

Mrs. Pauline Picard (Drummond, BQ): Mr. Speaker, my question is for the Deputy Prime Minister.

In an open letter to the Prime Minister, the Canadian Healthcare Association says that the Canadian public has lost confidence in the health system because of the federal government's huge cuts to provincial transfer payments.

With a surplus of $6 billion, should the federal government not be making it a priority to reduce the cuts it has imposed on the provinces in order to alleviate the terrible pressure it has created on the health system throughout Canada?

Hon. Jim Peterson (Secretary of State (International Financial Institutions), Lib.): Mr. Speaker, the provinces have benefited greatly from lower interest rates, equalization payments and so on, despite the cuts.

Bernard Landry had the following to say, and I quote ''We must admit that we feel we must do our share so that the Canada we have helped to put in debt can eliminate that debt''. So said Mr. Landry in the National Assembly.

Mrs. Pauline Picard (Drummond, BQ): Mr. Speaker, despite everything he has just said, will the minister admit that he has cut payments to Quebec by an amount equivalent to the salaries of all nurses for one year?

Hon. Allan Rock (Minister of Health, Lib.): Mr. Speaker, the hon. member is apparently unaware of the fact that the federal government transfers almost $28 billion annually to the provinces for such things as health care.

This is a responsibility that is shared by the two levels of government, both federal and provincial. As I said, we intend to fulfil our responsibilities as the federal government, and we have already taken action to ensure the future of our health care system.

* * *

● (1425)

[*English*]

FOREIGN AFFAIRS

Mr. Bill Blaikie (Winnipeg—Transcona, NDP): Mr. Speaker, my question is for the Deputy Prime Minister.

When it comes to nuclear proliferation Canada is beginning to look like a nuclear typhoid Mary or Johnny H-Bomb seed as we send our Candu reactors over the planet to aid and abet the nuclear arms race.

Why did the government allow the Minister of Finance to sign the financial arrangements with China and Turkey without proper departmental review? When will the government reconsider its almost maniacal commitment to the export of Candu reactors?

Hon. Sergio Marchi (Minister for International Trade, Lib.): Mr. Speaker, to say that there was not any financial review is simply inaccurate.

The Government of Canada through cabinet obviously gave broad mandate to the negotiations, but when it comes to specifically looking at the financing proposal that is handled by the Export Development Corporation, a crown corporation. When the specifics of the contract are looked at that is also done by AECL.

The Government of Canada gave broad directions and guidelines. The specifics both on financing and contracting have been handled by the two crown corporations, which is how they were acted upon from the start of the AECL program.

Mr. Bill Blaikie (Winnipeg—Transcona, NDP): Mr. Speaker, it is assuming that the minister would defend this lack of due diligence on the part of the government in this matter. The other problem is the growing appearance of Canada as a hypocrite when it comes to the whole question.

The Speaker: I encourage the hon. member not to use that word.

Mr. Bill Blaikie: Mr. Speaker, the fact is that we have this group called the Candu owners groups which is now doing in India, Pakistan and other countries what the government self-righteously claims it is no longer doing.

When will the government recall this Candu owners group that is aiding and abetting the nuclear arms race and not just recall our ambassadors? When will we get these people out of these nuclear arms programs in those countries?

Hon. Herb Gray (Deputy Prime Minister, Lib.): Mr. Speaker, the premise of the hon. member's question is totally wrong. Canada is not aiding and abetting in any way the military use of atomic power.

After the Chernobyl disaster it was agreed that it would be wise, in the interest of safety of the civilian populations in the countries involved, to make available non-proprietary publicly known information with respect to nuclear safety to help ensure that the reactors originally supplied for peaceful purposes would be safe. The lessons from the Chernobyl situation would be applied in these circumstances.

We are not supporting military uses or expansion of nuclear power in these countries or—

The Speaker: The hon. member for Compton—Stanstead.

[*Translation*]

Mr. David Price (Compton—Stanstead, PC): Mr. Speaker, last week my party asked the government whether Canadian foreign policy was for sale.

According to media reports, Canadian nuclear technicians were still at work in India and Pakistan. This is clear proof that Canadian foreign policy is indeed up for sale.

When will these technicians be called back home to lessen the tensions?

Hon. Herb Gray (Deputy Prime Minister, Lib.): Mr. Speaker, as I have just said, we made the decision, after the Chernobyl disaster in the Ukraine, to make available to countries such as India and Pakistan public information to help them maintain these reactors and other equipment in a safe manner.

The exchange of such information is in the best interests of the population of these countries, but we do not have any program of co-operation to assist in the expansion of use of these powers in any way—

The Speaker: I am sorry to have to interrupt the hon. Deputy Prime Minister. The hon. member for Compton—Stanstead.

[*English*]

Mr. David Price (Compton—Stanstead, PC): Mr. Speaker, the government deludes itself that Canada did not help India and Pakistan make nuclear bombs. The facts clearly indicate that Canadian technology did and continues to help make nuclear bombs for India, Pakistan and China.

Will the government continue to pretend that Canada played no part in last month's nuclear tests or will it haul our technicians out of that region immediately?

● (1430)

Hon. Herb Gray (Deputy Prime Minister, Lib.): Mr. Speaker, the hon. member has made insinuations that are not supported by any facts so far available.

Canada has not played any role in assisting India and Pakistan in carrying out their recent nuclear tests. We have not had a program with respect to nuclear co-operation with India and Pakistan since 1976.

The only thing that has happened is that to help maintain the safety of the power reactors for peaceful purposes, we have made available publicly known non-proprietary information. It is to help ensure the maintenance from a safety point of view of the reactors we supplied. I do not know why the hon. member would want to oppose that and put at risk—

The Speaker: The hon. member for Cariboo—Chilcotin.

ABORIGINAL AFFAIRS

Mr. Philip Mayfield (Cariboo—Chilcotin, Ref.): Mr. Speaker, the Delgamuukw decision is wreaking economic havoc in Cariboo—Chilcotin. In Williams Lake an approved development is being shut down in mid-construction. In the Seton Valley provincially approved logging sites are being told to close. In Lillooet a veneer plant employing nearly 200 people is seriously threatened with closure. Ranchers are being told by aboriginal people that they do not own the lands they have deeds to.

What is the Minister of Indian Affairs and Northern Development doing now to defuse this powder keg?

Hon. Jane Stewart (Minister of Indian Affairs and Northern Development, Lib.): Mr. Speaker, let us be clear that there is nothing being recommended by the opposition that will bring certainty to the issues in British Columbia. Rather, its suggestion that there is some unilateral legislation that will solve issues of aboriginal rights is preposterous. It is a recipe for confrontation which is not what we need in British Columbia.

Mr. Philip Mayfield (Cariboo—Chilcotin, Ref.): Mr. Speaker, the minister does not get it. The supreme court makes decisions in Ottawa but the effects are felt back home. Some First Nations have told ranchers that they no longer own their ranches and that they had better turn over the property without a fight. Investors are being told not to invest a nickel in British Columbia. The situation is getting tense.

My constituents demand a straight answer. What is she going to do to stop the uncertainty before B.C. faces the long summer of unrest?

Hon. Jane Stewart (Minister of Indian Affairs and Northern Development, Lib.): Mr. Speaker, on the contrary it is the opposition members that just do not get it. Perhaps they should read the supreme court decision which said that the solution to reconciling aboriginal rights in modern times is found at the negotiation table. What Reformers do is focus on fearmongering, on scaremongering, on looking for a scapegoat.

The answer is found at the table where all the parties, the First Nations, the province, the federal government, business and the people of British Columbia, support peaceful negotiated resolutions.

* * *

[*Translation*]

HEALTH

Mr. Michel Gauthier (Roberval, BQ): Mr. Speaker, the Minister of Health has just told two giant whoppers.

The first is that health was a shared jurisdiction. As far as I know, it has always come exclusively under provincial jurisdiction. The second is that the federal government never cut transfer payments. He has just said it increased them.

How does the Minister of Health expect to maintain any credibility with such nonsense, when transfer payments, which were $678 per person—

The Speaker: I am sorry to interrupt the hon. member. The Minister of Health has the floor.

Hon. Allan Rock (Minister of Health, Lib.): Mr. Speaker, first, the federal government is responsible for interpreting and strengthening the Canada Health Act. That is the first thing. We intend to honour federal jurisdiction and federal responsibility.

Second, the national forum on health, a body independent of the government, suggested the government increase transfers, and we did.

Mr. Gilles Duceppe: It is cutting less.

Some hon. members: Oh, oh.

The Speaker: The hon. member for Roberval.

Mr. Michel Gauthier (Roberval, BQ): Mr. Speaker, this Minister of Health has no compassion.

Does he realize that the cuts the government imposes every year on Quebec in the area of health represent double the budget of all the CLSCs in Quebec combined?

• (1435)

Hon. Allan Rock (Minister of Health, Lib.): Mr. Speaker, the fact is we increased the transfers, but the Government of Quebec must face the consequences of its own health policies. It is the policies of the Bouchard government that have had this effect on Quebec hospitals.

Some hon. members: Oh, oh.

Hon. Allan Rock: We did our part. We fulfilled our responsibilities, as always, with regard to transfers.

* * *

[*English*]

FOREIGN AFFAIRS

Mr. Bob Mills (Red Deer, Ref.): Mr. Speaker, the Liberals continually deny their involvement in Pakistan's and India's nuclear programs, yet today there are Canadian technologists over there working in both countries. These Canadians are building the nuclear program in both countries and they have been there for years. Experts say that this technology is interchangeable between domestic and military uses.

The facts speak for themselves. Why will this government not start telling Canadians the truth?

Hon. Herb Gray (Deputy Prime Minister, Lib.): Mr. Speaker, I could ask the hon. member the same question. Why is he not using the truth in his questions?

As far as I am aware, there is no evidence whatsoever that the technicians in question are helping either India or Pakistan with their military programs. They are providing safety information to maintain the civilian power reactors.

Why does the member oppose civilian safety in those countries?

Mr. Bob Mills (Red Deer, Ref.): Mr. Speaker, the minister totally misses the point. We have listened to AECL and it has told us about the safeguards. None of us in our committee are convinced that those will work. This kind of rhetoric might work in a Liberal caucus but it will not work for Canadians. Why does the government not come clean and tell Canadians where this nuclear program is going?

Hon. Herb Gray (Deputy Prime Minister, Lib.): Mr. Speaker, we are not carrying out a nuclear program with India and Pakistan, but with respect to nuclear reactors that were supplied before the program ended in 1976, we are in the light of the views of the International Atomic Energy Association helping provide information to make sure that these reactors are maintained safely in the interests of civilian populations.

We are not having anything to do with the current military programs of India and Pakistan. If the hon. member wants the truth, why does he not put that truth in his questions?

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[*Translation*]

STATUS OF WOMEN

Mrs. Christiane Gagnon (Québec, BQ): Mr. Speaker, my question is for the Deputy Prime Minister.

This morning, members of the National Action Committee on the Status of Women told parliamentarians of the difficulties encountered by women's community organizations since the federal government made substantial cuts to funding.

If the Deputy Prime Minister admits that the work being done by women's groups is essential to the cause of equality in Canadian society, what is he waiting for to come up with the $2 per woman being requested?

[*English*]

Hon. Hedy Fry (Secretary of State (Multiculturalism)(Status of Women), Lib.): Mr. Speaker, in fact this government has done more to advance the equality of women in this country than any other government.

While equality is important to fund NGOs to bring about women's equality, there are other things that we are also working on to bring about women's equality. There are issues such as gender based analysis which ensures that every single department considers the impact on gender of all its policies and all its legislation.

The fact is that in the last budget more was done to assist women.

The Speaker: The hon. member for Québec.

[*Translation*]

Mrs. Christiane Gagnon (Québec, BQ): Mr. Speaker, if the government is doing so much for women, why is it maintaining provisions that penalize pregnant women by limiting their access to EI benefits, when it supported the objective of economic equality for women in a unanimous vote on this issue in the House of Commons on March 8, 1994?

[*English*]

Hon. Hedy Fry (Secretary of State (Multiculturalism)(Status of Women), Lib.): Mr. Speaker, I fail to understand the hon. member's question because what this government has done with regard to pregnancy benefits is that now, when women have time off for pregnancy, we have increased that for up to five years. A woman who takes pregnancy leave to look after her children can have up to five years to access EI benefits, to get retraining to go back into the labour force.

* * *

● (1440)

FOREIGN AFFAIRS

Mr. Dick Harris (Prince George—Bulkley Valley, Ref.): Mr. Speaker, the Minister for International Trade has just told the House that AECL and EDC have all the responsibility for putting together this nuclear reactor deal with China. He even went so far as to say they did all the contract and all the financing. He knows very well that the AECL and the EDC do not have the authority to authorize a $1.5 billion loan guarantee to finance those.

How on earth could this government give that loan guarantee? How could the finance minister give a loan guarantee without even looking at the contracts or the details of the sale? How could he do that?

Hon. Sergio Marchi (Minister for International Trade, Lib.): Mr. Speaker, in the earlier question the implication was left that there was no financial due diligence. What I said to the member and to the House was that there was precisely that, a financial due diligence and it was carried out by the exporting arm of the Export Development Corporation.

Months before the contract the Government of Canada through cabinet gave the wide parameters of directions to both EDC and AECL. This was followed in the Candu sales to China and the previous Candu sales as well.

Also it should be noted that in China since 1979 there have been over 250 transactions worth $5 billion and there have been no liabilities thus far.

Mr. Dick Harris (Prince George—Bulkley Valley, Ref.): Mr. Speaker, let us stay with the point of the issue. The fact is that the Minister of Finance and the former minister of defence signed off and agreed to a $1.5 billion loan guarantee for the sale of these nuclear reactors when their own department officials gave sworn affidavits that the details of those contracts never reached the minister's department.

I ask the minister, why did the finance minister and this cabinet approve a $1.5 billion loan guarantee to China for the reactors without first reviewing the arrangements?

Hon. Sergio Marchi (Minister for International Trade, Lib.): Mr. Speaker, it was the Government of Canada that gave those wide parameter views and directives. What the officials also said and tabled to the court is that the financial review specifically has always been conducted by both AECL and EDC. They have worked in concert with the Government of Canada.

With respect to the specific financial due diligence, it is not the task of the departments of finance, trade or foreign affairs. It is that of the exporting arm which is the Export Development Corporation.

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[*Translation*]

AIR TRANSPORTATION

Mr. Michel Guimond (Beauport—Montmorency—Orléans, BQ): Mr. Speaker, my question is for the Deputy Prime Minister.

The Minister of Transport admitted that the purpose of the government's air route decisions was to favour Canadian so that it could develop and be competitive with Air Canada.

Given that it took 25 years for the Liberal government to admit that the decisions of the 1970s were harmful to the development of the Montreal airport, must we now wait for the irreparable to happen before the government understands that, by blocking the development of Air Canada, it is blocking the economic development of Montreal generally?

[*English*]

Mr. Stan Keyes (Parliamentary Secretary to Minister of Transport, Lib.): Mr. Speaker, the Minister of Transport made it abundantly clear to the hon. member opposite when he said this government relies on a two airline policy in this country because a two airline policy fosters competition and competition is healthy for the air travelling public in this country.

[*Translation*]

THE ENVIRONMENT

Mr. Robert Bertrand (Pontiac—Gatineau—Labelle, Lib.): Mr. Speaker, my question is for the Minister of the Environment.

This morning, the Canadian government announced its participation in phase III of the St. Lawrence River Action Plan. This important project involves major investments in Quebec.

Could the minister tell us more about the nature and purpose of the investments to be made under the plan?

[*English*]

Hon. Christine Stewart (Minister of the Environment, Lib.): Mr. Speaker, it was my great pleasure this morning in Montreal to announce the third phase of the St. Lawrence action plan. This is one of five regional environmental programs across the country that encourage improved health of our ecological systems and human health but which also are very important because they engage Canadians at the grassroots level.

In the last two phases a $150 million investment of Canada brought in more than $1 billion of activity to serve the St. Lawrence River. The phase that we introduced today will address agricultural activities, industrial activities, navigation and shipping. We expect to have many, many environmental benefits, including greater protection for species at risk, like the beluga.

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● (1445)

HEPATITIS C

Mr. Grant Hill (Macleod, Ref.): Mr. Speaker, we finally have admitted in writing what federal bureaucrats say about the hepatitis C compensation package, and I quote: ''The federal package does not meet recommendations set out by Krever''.

Will the health minister admit finally what all Canadians know, that his recommendations just simply ignored Krever completely?

Hon. Allan Rock (Minister of Health, Lib.): Mr. Speaker, it is true that the Krever report recommended that the provinces and territories pay compensation.

This government felt that it should take a leadership role, as always, and pull the provinces together to produce a consensus to compensate 22,000 people. That is what we did.

As for the rest, the member will remember that there is a working group in place, a process to examine options, and perhaps he should let that process conclude so that we understand where we go from there.

Mr. Grant Hill (Macleod, Ref.): Mr. Speaker, we were told a few minutes ago, from the website of the health minister, the following statement: ''We accept the Krever conclusions in their entirety and without reservation''. Those two things do not square.

Will the minister delete that phrase from the website and put in the real phrase, that the recommendations do not meet what Krever set out at all?

Hon. Allan Rock (Minister of Health, Lib.): Mr. Speaker, whoever led the member to the website should take him through it with greater care.

Of course we accept the conclusions, all of the conclusions. He went through all the facts and he put forward conclusions which are clearly correct.

When it came to recommendations, it was up to governments to decide where to go from the Krever report.

As the member knows, the governments reached a consensus among all provinces to compensate 22,000. As to the rest, let us wait for the process involving the officials to conclude and then we will go from there.

* * *

VIOLENCE AGAINST WOMEN

Ms. Judy Wasylycia-Leis (Winnipeg North Centre, NDP): Mr. Speaker, cross-Canada deliberations on child custody and access have become a forum for the taunting and intimidation of women who report domestic abuse.

Women have been booed and hissed and the existence of violence against women has been denied.

When I attended one of those hearings I was reminded of 1982 when Margaret Mitchell was laughed at in the House for raising the issue of violence against women.

I want to ask the minister responsible for the status of women if she shares our concerns and if she is prepared to express her concern today and set the record straight with respect to violence against women.

Hon. Hedy Fry (Secretary of State (Multiculturalism)(Status of Women), Lib.): Mr. Speaker, the issue of violence against women, whether it be in the home, in the workplace or in society at large, is one of absolute concern to this government. It has shown it by much of the legislation it has brought forward and the programs it has established.

The concern that the member brings about is disrespect for women. It is fundamentally important that we listen to all sides of this debate, and that we listen to all with respect, so we can learn and the committee can make appropriate recommendations based on that respectful listening.

Ms. Judy Wasylycia-Leis (Winnipeg North Centre, NDP): Mr. Speaker, it is very important for the minister responsible for the status of women to present very clearly the government's position with respect to violence against women and for that to be articulated very precisely.

The government is attacking women's equality rights by imposing impossibly restrictive funding guidelines and by not countering views that turn back the clock 20 years.

Will the minister today give the House an assurance that she will help underfunded equality seeking organizations to counter the outrageous propaganda that seeks to deny violence against women?

Hon. Hedy Fry (Secretary of State (Multiculturalism)(Status of Women), Lib.): Mr. Speaker, this country is one of the few countries in the world that funds NGOs. There are not very many countries which do that. We will continue to do that. It is absolutely and fundamentally important that women's organizations be able to speak to government, to hold a mirror up to us to let us know what are the realities of women's lives. We intend to continue to fund that.

We are not denying any organization that is committed to the equality of women access to funding. Once they apply, we will fund them.

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YEAR 2000

Mr. Jim Jones (Markham, PC): Mr. Speaker, the government's chief information officer, Mr. Paul Rummell, quit his job over the weekend to move to the private sector. This move comes in the middle of the millennium bug battle, the largest technology project Canada's government has ever seen.

Mr. Rummell would have had to prepare a report on the status of the project for his successor. Will the Prime Minister release this report to the public?

Hon. Marcel Massé (President of the Treasury Board and Minister responsible for Infrastructure, Lib.): Mr. Speaker, Mr. Rummell has served the government well. He came from the private sector and was here on a temporary contract. He has now finished his assignment. The year 2000 czar will now be in the public service, Mr. Guy McKenzie, who is a civil servant with an irreproachable past. He has shown that he has the qualities necessary to make a success of the endeavour.

• (1450)

Mr. Jim Jones (Markham, PC): Mr. Speaker, the rats are fleeing the ship. Mr. Rummell left to avoid being the government's scapegoat when it ends up losing the race against the clock.

The millennium bug is a serious problem and the government needs to get it together within its ranks.

My question again is for the Prime Minister. Will he commit today to take personal responsibility and ownership when, 561 days

and 9 hours from now, his government proves to be inadequately prepared for the next millennium?

Hon. Marcel Massé (President of the Treasury Board and Minister responsible for Infrastructure, Lib.): The responsibility, Mr. Speaker, for dealing with the problem of the year 2000 bug has been given by the Prime Minister to Treasury Board. We have put together a year 2000 project office that at present has already done two surveys of the various federal departments and we are well on our way to being able to deal with the problem. The appointment of a first class official will help us take care of it.

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YOUTH

Mr. Stan Dromisky (Thunder Bay—Atikokan, Lib.): Mr. Speaker, my question is for the Secretary of State for Science, Research and Development.

Can the secretary of state tell us what the federal government is doing to help young Canadians become active participants in the knowledge based economy?

Hon. Ronald J. Duhamel (Secretary of State (Science, Research and Development)(Western Economic Diversification), Lib.): Mr. Speaker, besides providing a situation whereby Canada will be the most connected nation in the world by the year 2000, there is one particular initiative that needs to be mentioned. The Industry Canada SchoolNet digital collections program has already awarded 280 contracts, creating 1,400 jobs for young Canadians in order to increase Canadian content on the information highway in a significant kind of way, in the multimedia area and in entrepreneurship.

As well, for our aboriginal Canadians, on June 2 I announced a project for aboriginals that will be on the Internet, creating 200 jobs, giving them opportunities to be involved in entrepreneurship and giving us an opportunity to appreciate even more than we do our aboriginal—

The Speaker: The hon. member for Calgary West.

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THE ENVIRONMENT

Mr. Rob Anders (Calgary West, Ref.): Mr. Speaker, a long winded press release might have done just as well.

The minister responsible for Newfoundland is dumping 70 million Canadian tax dollars into the environmental mess at the former Argentia naval base. He is spinning it as a make-work project, just like the fishery, just like the Sydney tar ponds, just like TAGS; short term fixes ignoring the underlying problems of Atlantic Canada.

The Americans have committed to pay for the clean-up of their military bases in Newfoundland. Why will the minister not send the bill to Bill?

Hon. Alfonso Gagliano (Minister of Public Works and Government Services, Lib.): Mr. Speaker, Treasury Board approved a financial plan to clean up the Argentia site where American arms were left. The external affairs department is negotiating with the American government for a refund.

In the meantime we are cleaning up the environment and at the same time we are creating jobs in Newfoundland and in Atlantic Canada.

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[*Translation*]

YEAR 2000 COMPUTERS

Mrs. Francine Lalonde (Mercier, BQ): Mr. Speaker, my question is for the Deputy Prime Minister.

In a unanimous report tabled May 14, the Standing Committee on Industry recommended that there be a complete tax write-off of new computers purchased by SMBs to replace those that are not Year 2000 ready.

Will the Deputy Prime Minister undertake to follow up on this tax measure by the end of the session so that SMBs may make the necessary adjustments as rapidly as possible?

Hon. Herb Gray (Deputy Prime Minister, Lib.): Mr. Speaker, we are considering the situation very seriously. I would be very pleased to receive additional information to be able to give a more elaborate response to my hon. colleague as soon as possible.

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[*English*]

STATUS OF WOMEN

Ms. Wendy Lill (Dartmouth, NDP): Mr. Speaker, Canada's largest women's organization, the National Action Committee on the Status of Women, has no funding to carry out the work of promoting justice and equality for women in Canada.

• (1455)

New funding guidelines are threatening the viability of women's organizations.

Will the minister responsible for the status of women ensure that her government spends at least $2 per woman and girl in Canada on women's equality and drop the new funding guidelines that are causing such unnecessary grief for women?

Hon. Hedy Fry (Secretary of State (Multiculturalism)(Status of Women), Lib.): Mr. Speaker, I think the hon. member is referring to the fact that the national action committee has not received funding yet from this government.

If the national action committee applies for funding it will be considered, but it has not yet applied.

Secondly, most of the large national organizations that are committed to working toward women's equality have already received their funding under the new guidelines.

I therefore appeal to the national action committee to apply.

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IMMIGRATION

Mr. Peter MacKay (Pictou—Antigonish—Guysborough, PC): Mr. Speaker, on April 30, 1998 the minister of immigration released a report on the number of ministerial permits issued in the year 1997. Of 4,059 ministerial permits issued, 37% were for individuals who were criminally inadmissible to Canada, 395 of the permits were issued for individuals who had committed serious offences including assault, sexual assault, and 79 had committed those offences within the last five years.

Can the minister explain why it is her government is assisting criminals to enter the country when we should be trying to keep them out?

Ms. Maria Minna (Parliamentary Secretary to Minister of Citizenship and Immigration, Lib.): Mr. Speaker, first of all, this information is not news. As the hon. member knows, the minister tabled this information in the House of Commons on April 2. The hon. member did not have to wait for it to be in the news to make a point of it.

Nonetheless, over the last five years the number of permits issued has decreased by 75%, from 16,000 per year to 4,000. We have changed it considerably. A permit can be revoked at any time. Permits are given for many different reasons, such as temporary work permits.

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TAXATION

Mrs. Karen Redman (Kitchener Centre, Lib.): Mr. Speaker, my question is for the Parliamentary Secretary to the Minister of National Revenue.

As a member of parliament I have often been consulted by people in my riding to address Revenue Canada issues which are perceived as unfair to my constituents.

Under the Canada Customs and Revenue Agency will I still be able to assist my constituents with their concerns?

Mrs. Sue Barnes (Parliamentary Secretary to Minister of National Revenue, Lib.): Mr. Speaker, Revenue Canada is committed to fairness in dealing with all taxpayers, individuals and corporations, and that will continue. That is why there is a taxpayer declaration of rights and a fairness principle. Both of these policies will continue with the agency.

All members of parliament, with the consent of their taxpayers, will have exactly the same revenue access to help their constituents as they now have. That also applies to all taxpayers in this country.

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YEAR 2000

Mr. Werner Schmidt (Kelowna, Ref.): Mr. Speaker, this government is nowhere near ready for the year 2000 or the fixing of the millennium bug. Today we recognize how quickly the ship is sinking.

The chief officer who is in charge of this himself said not long ago ''We're increasingly nervous each day as we go along. We've never not been nervous about this issue—''.

How can the government continue to give the assurance that we will solve the year 2000 problem when its captain is leaving the ship?

Hon. Marcel Massé (President of the Treasury Board and Minister responsible for Infrastructure, Lib.): Mr. Speaker, once again, Mr. Rummell, who was the chief of information technology, was borrowed temporarily from the private sector under contract. He has now finished his assignment and will be replaced soon.

In the meantime, the person in charge of the year 2000 office will be a civil servant, Mr. Guy McKenzie, who has a lot of experience in this field. He also has the ability to help us solve our problems in time for the year 2000.

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[*Translation*]

ATLANTIC GROUNDFISH STRATEGY

Mr. Yvan Bernier (Bonaventure—Gaspé—Îles-de-la-Madeleine—Pabok, BQ): Mr. Speaker, my question is for the Minister of Human Resources Development.

At this very moment, on the Magdalen Islands, 300 people are demonstrating in favour of substantial support measures for fishers and fishery workers when TAGS comes to an end.

Will the minister admit that this demonstration is a further indication that fishery workers are very worried about what awaits them and that they want from the federal government a response to all their demands as quickly as possible?

● (1500)

[*English*]

Mr. Robert D. Nault (Parliamentary Secretary to Minister of Human Resources Development, Lib.): Mr. Speaker, Human Resources Development Canada is now in a consultation process with the provinces. We are looking at a couple of elements, a couple of directions.

Once we finish that consultation with the provinces we will be going to the final phase of looking at alternatives and proposals that we will put to people. From there we will do like we did when the crisis first started, we will make sure we do what is right for the people who need our help.

* * *

EDUCATION

Mr. Nelson Riis (Kamloops, NDP): Mr. Speaker, in an effort to provide access for students to post-secondary education, recognizing the need to prepare for the knowledge based economy of the 21st century, the province of British Columbia has frozen tuition fees for the past three years. It is now concerned that students from other provinces will move into that province to take advantage of these more reasonable levels of tuition fees.

Will the government take leadership on this issue and bring together the ministers responsible for post-secondary education and attempt to standardize fee schedules across the country so that Canadians, no matter where they live, will be able to access post-secondary education?

Hon. Jim Peterson (Secretary of State (International Financial Institutions), Lib.): Mr. Speaker, this government is very concerned about the question of access to education. This is why we have acted so strongly. This is why we brought in the millennium scholarship fund. This is why we have the RESPs and this is why we have introduced the Canada educational savings grant where we will actually top up individual contributions in order to make access an issue.

This is why we have reformed the Canada student loans program. We have allowed a deferral of interest for up to 54 weeks after graduating. We will make sure that a person does not have to pay back more than 15% of their income in any one year. This is why we brought in the Canada study grant—

The Speaker: That brings to a close question period.

* * *

POINTS OF ORDER

COMMENTS DURING QUESTION PERIOD

Mr. Bill Blaikie (Winnipeg—Transcona, NDP): Mr. Speaker, I rise on a point of order arising out of question period.

In the course of asking my question, at one point I referred to the concern that Canada was being seen as a hypocrite and at that point Mr. Speaker rose from his chair and cautioned me with respect to the use of language.

I understand the rule against calling a person a hypocrite, but my understanding of the rules is that they do not prohibit me from expressing a concern that my country is being seen as a hypocrite because of particular actions the government is taking. In my judgement that is perfectly within the bounds of parliamentary language and I think the admonition was unwarranted.

The Deputy Speaker: The hon. member for Winnipeg—Transcona is a very experienced member of the House and very knowledgeable in the practices of the House. What he says is quite correct in terms of the use of the word hypocrite.

I have no doubt that it is wrong to call an hon. member a hypocrite directly, but using it in a more general sense is not unparliamentary. However, I am sure the hon. member knows also that during question period particularly and at other times in the House words are used which may sometimes cause disorder.

• (1505)

I suspect that the admonition the hon. member received by the Speaker was delivered on the basis that he believed the hon. member's words might cause disorder. While they may have been parliamentary in the strict sense, the cause for disorder is always something a Speaker has to bear in mind when making a ruling.

The hon. member has stated the position correctly. I am sure there was not an admonition intended of him for using the word in the sense that it was an improper use of the word. I think the admonition dealt with the question of disorder in the House. Accordingly, I hope the hon. member will accept that in good grace.

Mr. Bill Blaikie: Mr. Speaker, the reason the use of the word tends to cause disorder is that people think it is out of order when it is not. To the extent that the appearance of a word being out of order when it is not is reinforced by the Chair, that in itself contributes to disorder the next time the word is used properly.

The Deputy Speaker: I hope the statement the Chair just made will clarify the situation for all hon. members.

ROUTINE PROCEEDINGS

[*English*]

GOVERNMENT RESPONSE TO PETITIONS

Mr. Peter Adams (Parliamentary Secretary to Leader of the Government in the House of Commons, Lib.): Mr. Speaker, pursuant to Standing Order 36(8), I have the honour to table, in both official languages, the government's responses to 49 petitions.

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[*Translation*]

ADMINISTRATIVE TRIBUNALS (REMEDIAL AND DISCIPLINARY MEASURES) ACT

Hon. Marcel Massé (President of the Treasury Board and Minister responsible for Infrastructure, Lib.) moved for leave

to introduce Bill C-44, an act to authorize remedial and disciplinary measures in relation to members of certain administrative tribunals, to reorganize and dissolve certain federal agencies and to make consequential amendments to other acts.

(Motions deemed adopted, bill read the first time and printed)

* * *

[*English*]

NATIONAL PARKS ACT

Mr. Steve Mahoney (Mississauga West, Lib.) moved for leave to introduce Bill C-419, an act to amend the National Parks Act and other acts in consequence thereof (Canada Parks).

He said: Mr. Speaker, I am pleased to introduce this private member's bill, the enactment of which amends the National Parks Act and other acts in consequence thereof, and replaces the term national park with the term Canada park.

(Motions deemed adopted, bill read the first time and printed)

* * *

PETITIONS

NATIONAL UNITY

Mr. Peter Goldring (Edmonton East, Ref.): Mr. Speaker, I rise in this august Chamber, this edifice to Canada's confederation, this esteemed House that welcomed the enjoinment of Newfoundland in 1949, this venerated Chamber that will soon usher in Nunavut as a partner as well.

I am humbled to serve the constituents of Edmonton East and proud to be Canadian as I discharge my duties today by presenting a petition from citizens across Canada, but most notably from the numbers from the province of Quebec.

The petition calls for the Prime Minister and Canada to declare that Canada is indivisible and that this state is presently alterable only by all citizens of Canada and their Government of Canada.

I concur.

The Deputy Speaker: I think the hon. member knows it is quite wrong for him to indicate his concurrence or otherwise in respect of a petition he presents. I hope he will contain himself within the rules.

● (1510)

EMERGENCY PERSONNEL

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Speaker, I am pleased to present a petition signed by a number of Canadians including those from my own riding of Mississauga South. The petitioners draw to the attention of the House that our police officers and firefighters are required to place their lives at risk on a daily basis as they discharge their duties.

Often when one of them is killed in the line of duty the employment benefits do not provide sufficient compensation to their surviving families. Also, the public mourns the loss of our public safety officers killed in the line of duty and wishes to support in a tangible way the surviving families in their time of need.

The petitioners therefore call on parliament to establish a public safety officers compensation fund for the benefit of families of public safety officers including police officers and firefighters who are killed in the line of duty.

MULTILATERAL AGREEMENT ON INVESTMENT

Mr. Nelson Riis (Kamloops, NDP): Mr. Speaker, it is an honour to present a petition, pursuant to Standing Order 36, on behalf of a number of constituents from the communities of Logan Lake and Kamloops. The petitioners are concerned about the government's intentions to continue on with the multilateral agreement on investment, most commonly referred to as the MAI.

They point out all sorts of reasons why they oppose the MAI. They raise the question of who supports the MAI. They point out that it is in particular the international corporations that are promoting this. They are asking the government to back off and not proceed.

PENSIONS

Mr. Nelson Riis (Kamloops, NDP): Mr. Speaker, in the second petition the petitioners are concerned about the government's intention to change the way senior citizens are provided pensions. They are worried that it will be targeting pensions based on family income. They list a number of other concerns and are basically suggesting that no changes be made until all Canadians have had adequate opportunity to provide input into the decision.

PROFESSIONAL SPORTS

Mr. Nelson Riis (Kamloops, NDP): Mr. Speaker, I have another petition related to taxation. The petitioners are concerned that 90% of the seats at the stadium for the Blue Jays are really tax deductions and not people simply buying a ticket. They make the case that it is the same for all professional sports. They ask why this kind of tax deduction is permitted, what kind of business is being transacted as they watch a Blue Jays game or the Raptors play or any professional sport.

They consider it to be an absolute abuse of the taxes. They are suggesting that real fair tax reform is long overdue.

JUSTICE

Mrs. Diane Ablonczy (Calgary—Nose Hill, Ref.): Mr. Speaker, I have two petitions to present. The first is from my Calgary riding of Nose Hill. It asks for significant amendments to the Young Offenders Act.

MARRIAGE

Mrs. Diane Ablonczy (Calgary—Nose Hill, Ref.): Mr. Speaker, the second petition asks parliament to enact Bill C-225, a private member's bill introduced by the Liberal member for Scarborough Southwest, which has to do with the definition of marriage.

Mr. Paul Steckle (Huron—Bruce, Lib.): Mr. Speaker, pursuant to Standing Order 36, I have a couple of petitions to present. In the first the petitioners believe that Canadians basically understand the concept of marriage as only the voluntary union of a single, that is unmarried, male and a single, that is unmarried, female.

Whereas it is the duty of parliament to ensure that marriage as it has always been known and understood in Canada be preserved and protected, they therefore petition parliament to enact Bill C-225, an act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act so as to define in statute that a marriage can only be entered into between a single male and a single female.

ASSISTED SUICIDE

Mr. Paul Steckle (Huron—Bruce, Lib.): Mr. Speaker, my second petition has to do with the sanctity of human life. The petitioners believe that the majority of Canadians believe physicians in Canada should be working to save lives, not to end them. They therefore petition parliament to ensure the present provisions of the Criminal Code of Canada prohibiting assisted suicide be enforced vigorously and that parliament make no changes in the law which would sanction or allow the aiding or abetting of suicide or active or passive euthanasia.

JUSTICE

Mr. Roy Bailey (Souris—Moose Mountain, Ref.): Mr. Speaker, I am pleased to present a petition from the constituency of Souris—Moose Mountain. It has 15 pages. The people across this constituency from every corner are asking parliament to significantly amend the Young Offenders Act. It is a big issue there and I am pleased to present this petition.

• (1515)

PESTICIDES

Ms. Sophia Leung (Vancouver Kingsway, Lib.): Mr. Speaker, I have a petition from British Columbians. They are asking parliament to withdraw or cancel the pesticide use permit number 21401898 issued to the Canadian Food Inspection Agency and the ministry of agriculture and that parliament enact legislation to prevent the spraying of the citizens of Canada with bacteria and chemical pesticides in the future. This petition has been signed by more than 2,000 citizens.

NUCLEAR WEAPONS

Ms. Bev Desjarlais (Churchill, NDP): Mr. Speaker, I have petitions on behalf of citizens of Manitoba. They request that parliament support the immediate initiation and conclusion by the year 2000 of an international convention which will set out a binding timetable for the abolition of nuclear weapons.

* * *

[*Translation*]

QUESTIONS ON THE ORDER PAPER

Mr. Peter Adams (Parliamentary Secretary to Leader of the Government in the House of Commons, Lib.): Mr. Speaker, I suggest that all the questions be allowed to stand.

The Deputy Speaker: Is that agreed?

Some hon. members: Agreed.

GOVERNMENT ORDERS

[*English*]

SUPPLY

ALLOTTED DAY—JUDICIAL RULINGS

The House resumed consideration of the motion.

Hon. Hedy Fry (Secretary of State (Multiculturalism)(Status of Women), Lib.): Mr. Speaker, I am pleased to resume the debate on this issue.

I began by saying that I was particularly distressed by the motion on the floor because I think it offends both the principles of democracy and principles of equality that Canada has in fact espoused for so long.

In terms of democratic principles, we are hearing today that the opposition party wishes to state that parliament should have complete say and should have authority over the courts of this land. That is really what the basis of this motion is about.

I went on to say that one of the problems was that in many places where there was no democracy, that is exactly what happens with disastrous results. We only have to look at areas like South Africa and regimes where we know that judges are thrown into jail and people are not allowed to talk about equality or to talk about anything that the government or the parliament of that land does not wish them to speak about.

The danger of having this House tell judges what they should and should not do is it interferes with the fundamental principles of justice. There have been many gains in Canada that have given us a reputation that is enviable around the world in terms of our ability to promote human rights and to foster equality in this country.

Many of those changes have been made because of case law, because of recommendations and because of rulings brought about. The courts in fact have moved parliament to move the agenda

forward to recognize the rights of individuals, the rights of groups and to bring about the issue of equality.

When the courts speak to justice, when they make the decisions, they inform parliament. They assist parliament. They hold a mirror to parliament so that we can continue to bring about the things we hold dear as espoused in our charter and as espoused in the Canadian Human Rights Act.

Putting a lid on the courts of this land, deciding that the courts have absolutely no power to move the agenda of justice forward is an abuse of power. That is exactly what is being said today in this motion. It may be put in all kinds of a wonderful manner. It is very common for the party across the way to put this kind of discriminatory, anti-justice statement forward in such smooth and sophisticated language, but the truth is what I am speaking about.

● (1520)

The fundamental truth behind this is about the abuse of power of the House that is being espoused by that party. We have heard the saying that power corrupts and absolute power corrupts absolutely. When it first came into the House that party talked about justice. It talked about grassroots. It talked about the rights of the people and the rights of the individual. And as soon as it becomes the official opposition we see what power can do. Boy, can it can corrupt.

This is also about equality. The basic and fundamental principle of Canadian society is about equality. Equality is not about sameness. Equality is about recognizing the differences in our society. This is one of the most diverse societies in the world. It is not only diverse in terms of the race of its people, their colour, their religion and their abilities and disabilities. It is diverse in every sector we can imagine that the vibrancy of humanity brings about in its diversity. That diversity gives us strength.

One of the most important things we need to know is the differences that we all share as humans present for us many different barriers that we must overcome if we are to achieve equality. Good government and good justice are about recognizing those barriers and setting different strategies to achieve equality, knowing that when other groups are denied equality under the law we must do something. This is where the courts of our land have led. What that group is saying basically is that it is opposed to fundamental equality.

We also hear the term family values; let us not talk about anything that breaks down the traditional family. I remember what the traditional family used to be. If a young woman had a baby out of wedlock she was chased out of the town. She was a pariah. Nobody wanted to talk to her because she was not married and she had a child.

We also know in days gone by the public service would not hire a married woman because she was taking a job away from a man who was the breadwinner. We know about some of these kinds of things. We know about some of the divisions that have gone on.

People have been discriminated against because of their colour or because of all of their differences. We know that there was a time when the diversity of the House would never have occurred because people were not even allowed to vote in this country because of their differences.

These were all brought about by the parliaments of the day. It is our charter of rights and our legal system and the courts of the land that have moved the agenda forward so we are the people we are today.

To stand here and say that this is about denying the family and about breaking down the family is the same as when we used to say if we let people of a certain colour into a particular place it would change the tone of the place. Do we want them to live next to us when landlords and ownership of land was built so that everybody could not live next to each other? Women were not considered to be persons and could not sit in the Senate. These were the laws of the land. We are talking about suggesting that parliament knows all and sees all.

We talk about the new family of today being a group, a unit. The fundamental recognition is that they support each other financially, emotionally and bring about stable units in our society. How many of us are here and have been brought up by a single mother? How many of us are here because we have come out of a blended family? We now see from surveys of families that people are not necessarily getting married, that many structures are common law structures. Are we suggesting that there is no room in this fundamental understanding of what is a family of what is a bond of support between two people, that it must be so narrowly defined and be limited to the old ways?

One of the hon. members from the official opposition stood up in the House today and said that this has been going on for millennia. Precisely. All kinds of offensive acts have been going on for millennia. People have been denied justice in this world for millennia.

Now is a good time for parliaments of the land to consider how the issue of justice is served, that it is not only served by the parliaments of the land, that it is served in many ways by the courts of this land. Justice has to do with the recognition of difference and acknowledging and respecting difference, as well as looking at the stability of our communities and the things that make them stable.

● (1525)

People do not have to be of a particular colour, sex or sexual orientation in order to love, to support, to be caring and to uphold the structure of society. It is not limited to any one group in our society.

Mr. Speaker, I have to tell you I am very offended by this motion. You have no idea. I am getting rather incensed right now.

Civil society must be based on the premise of respect for differences. This is what our society is based on. Reform's failure to recognize this says how out of touch its members are with the reality of the lives of the people they say they are supposed to serve.

Everyone recognizes the things Canada has done. Canada for the fourth year running is the best country in the world in which to live in terms of human relationships. Three years ago Canada received a humanitarian award from the United Nations. It was the first time a country had been given this award. This award was given because Canada is the only, and I underline the word only, country in the world to have been able to give justice and equality to all its diverse people in a timely and equitable manner.

We are the only country that recognizes that equality is about difference and about recognizing difference. There is no room in Canada for diversity is what that party is saying. The narrow definition of families is what really offends me. It should offend everyone who lives in a non-traditional family in this country.

I want to conclude by saying that when we talk about how we bring about human rights in this country, it is not about looking back at what we used to do in the ''good old days'' because many of those good old days were very bad old days. We must look at ourselves as a country that has a role to play in the world. It is a country which I firmly believe in the next millennium is going to be asked to take up the mantle of leadership. It is not because we are the wealthiest country in the world because we are not. And it is certainly not because we have the mightiest army in the world.

The world is looking to Canada because we have defined the concept of democracy. We have defined the concept of human rights. We have defined the concept of equality in such a way that we have given life to the people of our country. It allows them to walk proud. It allows them to take their place under the laws of our land. They can all achieve whatever is their fundamental potential. And we can have a society where everyone regardless of their colour, their race, their gender, their sexual orientation, their religion can feel that they really and truly belong, that they have a place in this society.

For us to believe that we as parliamentarians know it all and have all the answers and cannot listen to what the justices, the supreme court and other people in our land tell us is absolute arrogance which offends me as well.

Mr. Grant McNally (Dewdney—Alouette, Ref.): Mr. Speaker, it is quite shocking to listen to a minister of this government who sits in cabinet utter such responses to a motion brought forward in a democratic way for discussion on the floor of this House.

The hon. minister says that she is offended that the opposition would bring this motion forward for debate. I wonder what her vision of democracy is all about when she is offended by free and open debate in this place. It is rather shocking. I think it tells quite a bit about this government, its weaknesses and its inability to want to face questions and debate in an open way.

I would like to ask her a quick question. She mentioned family. She mentioned all sorts of things in her rambling discourse. I want to ask her about a comment made by her own colleague, the government House leader in a letter he wrote to a constituent in 1994.

The government House leader stated ''I object to any suggestion that would have homosexual couples treated the same way as heterosexual couples. I do not believe homosexual couples should be treated as families. My wife Mary Ann and I do not claim we are homosexual. Why should homosexuals pretend they form a family''. This came quite shockingly from the government House leader.

I would like to know if she agrees with her colleague in cabinet.

• (1530)

Hon. Hedy Fry: Mr. Speaker, I am sorry if the hon. member thought that my rambling discourse was too difficult for him to follow. I am sure that the complex ideas I brought forward probably are too difficult for him to follow.

I am not offended at the debate. The fact the debate is going on in the House says that we indeed have a democratic society in which we can debate these issues. I am offended at the context of the motion, at what the motion proposes.

The important thing we have to talk about is that when we ask a question hopefully we want an answer and hopefully the answer will shed light and clarify the thinking. If we do not listen then we will always be stuck in our same little world.

I am not offended by the debate. I am offended at the principles put forward in the motion, as I said and which was difficult for the hon. member to follow, that were fundamentally undemocratic. They would suggest that the supreme court of the land does not have something to teach and to inform the House, or that equality was about sameness, old traditions, millennia of old rules and old ways that have completely offended the people of our country and left many people outside equality and without rights under the law.

The issue regarding families is not about being married, unmarried, single, gay, lesbian, heterosexual or not. It is about recognizing a fundamental structure in society that holds people together,

supports them and binds them in emotional and financial relationships. All those structures, regardless of whatever form they take in this rapidly changing and diverse country of ours, must be honoured and must be given equality under the law.

Ms. Bev Desjarlais (Churchill, NDP): Mr. Speaker, I have a very basic question. Does the hon. member think that the Rosenberg case should be appealed?

Hon. Hedy Fry: Mr. Speaker, it is not my place to make that decision or to even comment on that decision.

We are discussing a motion which basically says that the courts of our land do not have a right to interfere in what parliament does or does not do. That is what I am debating. Those decisions will be left up to the Government of Canada to discuss later.

Mr. Ken Epp (Elk Island, Ref.): Mr. Speaker, in the answer to the question of my colleague the minister went on at some length directly contradicting what the House leader of the Liberal Party said.

I would like her to repeat after me: I disagree with my House leader.

Hon. Hedy Fry: Mr. Speaker, this smacks of trying to put words into someone's mouth. I will not repeat what the hon. member has asked me to repeat. I am certainly not a trained seal like hon. members across where I bark when I am told and I reiterate whatever I am told by someone else.

The fundamental thing about a democracy is that everyone is free to make whatever statements they want, to decide what they want and to believe in whatever principles they want. They should not be judged based on those decisions.

I am here to speak for myself in this debate on the motion brought forward. Members have heard my position. I think it reflects that the Liberal Party and the government believe in democracy, the rule of law, order, understanding change and moving toward equality not being about sameness. That is what I am here to talk about.

Mr. Jim Pankiw (Saskatoon—Humboldt, Ref.): Mr. Speaker, the hon. member indicated she is not a trained seal, but in fact in the vote on hepatitis C every Liberal member voted with the will of the Prime Minister.

An hon. member: On command.

Mr. Jim Pankiw: On command they voted against compensating all victims who have hepatitis C. Quite frankly trained seal might be an overstatement, but I think the words trained and obey would apply in the circumstances.

Hon. Hedy Fry: Mr. Speaker, while I would love to respond to the statement I have absolutely nothing to say because for me it does not mean anything.

• (1535)

Mr. Ken Epp: Mr. Speaker, I have a further question then. The minister, like the rest of us, has a lot of respect for the courts and for the judicial system. They are part and parcel of our system of justice and system of law.

The law clearly states that it is parliament that makes the law. One honourable esteemed judge explicitly said that these legislative changes were a role of parliament. That principle has been carried through many generations.

I would like to ask for a response as to whether the minister really believes that we should shut down this place and allow the courts of the land to create the law as well as to interpret and apply it.

Hon. Hedy Fry: Absolutely not, Mr. Speaker. That is contrary to what I was saying earlier. The fact that we stand here today to debate the issue is what democracy is all about. It is what the House is all about.

I am talking about some fairly fundamental principles that are being debated here. I am talking about the substance of debate. I know substantive debate is frowned upon by hon. members opposite, but we are talking about substantive debate. We are talking about the context of the motion. We are also talking about what that motion could mean in the long term.

It is that which offends me, not the fact that we sit here and debate and not that parliament does not have the right to make laws. If we continue to presume that we are arrogant enough to know all the answers, if we continue to presume that since we have done it the same way for thousands of years we should continue to do so, there will never be any progress. The gains the country has made which have made it the number one country in the world would have been absolutely futile and for naught.

Mr. Ken Epp: Mr. Speaker, I will be brief. I asked the minister an explicit question and I would like a straight answer. Does she believe that the courts should be creating law, making law, making rules and thereby making this place redundant? I still want an answer to that question.

Hon. Hedy Fry: Mr. Speaker, the courts are not here to make the law. The courts are here to interpret the law. Our Charter of Rights and Freedoms is pretty clear. Our Canadian Human Rights Act is pretty clear. The courts are here to interpret laws within the context of the society in which we live, interpreting and informing lawmakers at the same time.

An hon. member: Oh, oh.

Hon. Hedy Fry: We are back to the concept that they ask a question but they really do not want to know the answer. When we try to give the answer they keep talking. If the member would like to listen to the answer I will repeat it.

Yes, the courts are here to interpret the laws. The courts are not only here to interpret the laws. They are also here to interpret them under the umbrella of our Constitution, our charter and our Canadian Human Rights Act. At the same time they are to look at them within the context of the society in which we live, defining and looking at society to see how it has achieved equality under the laws that are already in existence.

Mr. Werner Schmidt (Kelowna, Ref.): Mr. Speaker, we just heard a most unenlightening diatribe of information. It was a total misconception of the context within which the motion was written and a total misunderstanding of the actual words that were written. I am very surprised that the lady has left, but really not because she does not want to be learned, I do not think, about the issue.

The issue before us is a serious one. We should take this issue on the basis of what is right and wrong about it rather than whether it is a Liberal interpretation, a Reform interpretation or any other interpretation. What is being dealt with here is the fundamental question of who shall be supreme: parliament or the judiciary.

The crux of the issue is who determines the law, who interprets that law and who applies that law? That is the point being made by the particular motion before the House this afternoon.

That is the question we need to address. The issue in this case specifically centres around a particular word and its definition. The word is spouse and the definition of that word.

• (1540)

I draw the attention of the House to the fact that all Reform speakers will be sharing their time.

The issue centres around the word spouse. The Ontario Court of Appeal has decided that the definition of spouse shall be a person of the same sex who cohabits at that time with the taxpayer in a conjugal relationship. That is the definition that has now been given by the Ontario Court of Appeal.

I draw the attention of the House to the fact that parliament does not share that definition of the court of appeal in Ontario. I dare suggest that not only does it not share the definition but the Minister of Justice presented to the House in Bill C-37 a definition that is rather different.

The definition she used when she presented the bill was as follows. It referred to a surviving spouse but the key word is spouse. What is the definition? In relation to a judge, it includes a person of the opposite sex who has cohabited with a judge in a conjugal relationship for at least one year immediately prior to the judge's death.

The question then becomes a rather interesting one. How is it possible that parliament has clearly stated as recently as last week its definition and the court of appeal of Ontario has come forth with a different definition?

There is a fundamental cross current, shoving and pushing, that does not make much sense. It seems to me the equivocation about the definition of spouse in this case is what? Is it different for a judge than it is for other people? How could that possibly be? We heard the hon. member opposite talk about equality. That would suggest that judges are not to be treated differently than other citizens in Canada.

We need to recognize that the minister of the crown in this case does not have her thinking in order. If the minister is to be known as a minister of integrity, and I think she wants to be and is, I believe she has no other option but to appeal the decision in the Rosenberg case. She must do so.

I want to raise another issue which is as significant and perhaps even more significant. It has to do with leadership. Underlying all legislation and our Constitution is a system of beliefs and values. We believe in democracy as the best form of government. We believe democracy, government of the people for the people by the people, is the best. For that kind of government to succeed it requires a particular sense of beliefs.

First there is the belief that is the best form of government. I cannot help but think about the late prime minister of Britain, Mr. Churchill, when he said ''Democracy is a clumsy form of government but it is better than anything else''.

We begin to wonder exactly what these hon. members are saying when they disagree with this point. Not only do we need to have an understanding of the underlying principles of democracy. There is also the need for a system of values that we all agree on to develop a consensus of opinion about anything at all. In order for that consensus to be consistent, those values must be shared among a large group of people. It is true that requires at least a semblance of recognizing we have a common purpose, a common set of directions. This is where I have appealed to the minister to go in a new direction.

• (1545)

I refer to a philosopher down across the line who has described the North American continent, in particular the United States but also Canada, that we live in a cognitive, moral, confused situation. There really does not seem to be any particular belief or recognition that there is a right or a wrong.

Recently a group of students were asked what they would do if they had to choose between saving the life of a pet and a human being. The choice was the pet. What does this say? It tells us that we have a very interesting set of values that has changed rather dramatically.

What that also suggests is that we have a moral deregulation. What is right is what works for us. In fact, we have changed a large part of our vocabulary. Looters, for example, are now non-traditional shoppers. Killers are morally challenged. We must recognize that there is such a thing as an objective moral truth.

How do I dare say such a thing? I quote from philosopher Dr. Christina Hoff Summers, a W.H. Brady Fellow at the American Enterprise Institute in Washington, D.C.:

> While it is true that we must debate controversial issues, we must not forget there exists a core of noncontroversial ethical issues that were settled a long time ago. We must make students aware that there is a standard of ethical ideals that all civilizations worthy of the name have discovered. We must encourage them to read the Bible, Aristotle's *Ethics*, Shakespeare's *King Lear*, the Koran, and the *Analects* of Confucius. When they read almost any great work, they will encounter these basic moral values: integrity, respect for human life, self-control, honesty, courage, and self-sacrifice. All the world's major religions proffer some version of the golden rule, if only in its negative form: Do not do unto others as you would not have them do unto you.

These are not my words. These are the words of a scholar who has studied broadly, widely and deeply. These are the values that we agree on, courage, integrity and self-control. We like these things.

If the minister in this case allows the appeal court's decision to stand because she fails to act, which is all she has to do for it to go ahead, she will not only be internally inconsistent with herself through her definition of spouse in Bill C-37, but she will also be inconsistent with the legislation of parliament.

Even more significant is that if she does not act she will also lose her integrity. That in my opinion is the worst criticism I could offer. By her inaction she will tell the people of Canada that she is an advocate of moral deregulation which, in its simplest form, simply means morality is whatever works for us. This is not good enough.

That is a betrayal of all the great literature and of all civilizations that have found that there are basic and objective moral values which are integrity, respect for human life and things of this sort.

Will she do it? I implore her to.

Hon. Hedy Fry (Secretary of State (Multiculturalism)(Status of Women), Lib.): Mr. Speaker, I feel I must respond with a comment and ask a question.

What started the discussion was the motion put forward by the hon. opposition members which states that in the opinion of this House federal legislation should not be amended or redrafted by judicial rulings. What this really states is that the courts have absolutely no right to interpret the law and no right to point out to parliament when they believe it has done something wrong.

● (1550)

Mr. Eric Lowther: Mr. Speaker, I rise on a point of order. I think it is important to note that the hon. member was referring to the motion and actually misread the motion.

The Deputy Speaker: She may have, and I am sure the minister is delighted to have that drawn to her attention, but I do not believe it is a point of order.

Hon. Hedy Fry: Mr. Speaker, my comprehension of this motion is extremely sound. What we have is a general statement being made here which says that in the opinion of this House federal legislation should not be amended, and then it gives an example. The broad statement is that federal legislation should not be amended or changed or be subject to any comment at all by the courts.

That is what I was referring to. The issue of equality then came in. The hon. member just said we are all talking about equality here and judges should be treated equally.

It is the kind of simplistic reasoning we listen to across this House every single day. It is difficult to deal with that kind of simplistic reasoning. If we are to say that when judges speak about an issue of law, an interpretation of law, they are on the same par as I am, although I am not a judge and do not understand the interpretation of law in that same way, we are not even understanding what we really mean by equality, by expert opinion, by knowledge gained in a profession.

It is like saying that anybody should be treated equally if they choose to do a gallbladder operation on somebody. The concept of equality is so flawed in the minds of the hon. members across the House that I often wonder if we should even be bothering to debate it.

Then we bring up the issue of my integrity and of right and wrong and morality and of what philosophers have said about courage and integrity and self-control.

Courage is the ability to do the right thing even though it may be unpopular. When we talk about moral values, whose moral values do we speak about? Do we continue to talk of the tyranny of the majority? When we speak about morality, do we speak about Judeo-Christian morality? Do we speak about Islamic morality? Do we speak about human rights? Do we speak about morality of the aboriginal people? What do we mean by morality? Must we always continue to define everything we do based on our own particular religion and wherever we come from?

The concept of morality is a broader one. It is about understanding the need of every human being to be able to realize their potential, to live freely in the way that God created him or her and

to have access to everything that God has put on this earth and the people here to make sure they do not put barriers in the way of that. That is morality. That is fundamental morality.

Mr. Werner Schmidt: Mr. Speaker, it is a delight to be able to respond to the hon. member.

I understand that the hon. member in her other life is a well trained and very competent professional and knows fully the significance of defining words precisely and very accurately. I know that very well.

I also know that what she just referred to as morality was not what I said at all. I read rather clearly about the values that have been found in literature, in philosophy and the various issues. When she asked whose morality, I did not address that particular question. I said these are some of the things we need to do, and that is a very significant issue.

The other point about judges having no input into our society and how the law is interpreted and that there may be some errors in the law, they might be better writing the law, that is not the question here today. I encourage people to do exactly that.

The issue here is a decision of an appeal court. That is not a question of saying the law could be improved. That is not what that is. That is a decision saying that the law from this point forward shall be stated thus. That is different from saying legislators should look at this and see whether it might not be better to rewrite the law. I think that becomes the issue here.

I am afraid that she misread what I was trying to say rather badly.

● (1555)

Mr. Jim Pankiw (Saskatoon—Humboldt, Ref.): Mr. Speaker, what is happening here is an abandonment of family values by the Liberal government and a clear display of hypocrisy when it comes to defending traditional families.

By the lack of will on the part of the justice minister and the Liberal government to appeal the Rosenberg decision what is happening is that the Liberal government is allowing the courts to bypass parliament and to rewrite federal laws.

The Reform Party motion reads:

> That, in the opinion of this House, federal legislation should not be altered by judicial rulings, as happened in the redefinitions of the term ''spouse'' in the Rosenberg decision, and that, accordingly, the government should immediately appeal the Rosenberg decision.

The purpose of our motion is to try to put the Liberals' feet to the fire and get them to come out clearly on one side or the other. The reason I say they have displayed hypocrisy is they are clearly not going to appeal that decision.

I have some letters here. One is from the justice minister. I quote from a portion of the letter that she wrote on April 29 of this year:

> The definition of marriage in federal law is not in a statute passed by parliament, but is found in what is called the federal common law dating from an 1866 British case of Hyde and Hyde v Woodmansee—This case has been applied consistently in Canada and states that no marriage can exist between two persons of the same sex, or between multiple wives or husbands.
>
> Thus, the definition of marriage is already clear in law in Canada as the union of two persons of the opposite sex. Counsel from my department have successfully defended, and will continue to defend, this concept of marriage in court.

That is the key part of her letter.

That concept and that term has just been rewritten by the federal court. Now the justice minister is unwilling to intervene and to appeal that decision. The reason I use the word hypocrisy is how can she clearly state in a letter dated April 29 that the government will defend this concept of marriage that we have had from the beginning of the history of our country, but now in the face of losing that she is not prepared to act?

I have another letter dated February 24 of last year from the current health minister in which says basically the same thing. For quite some time Liberal cabinet ministers seem to have had no difficulty in writing down and stating in no uncertain terms their willingness to defend the traditional family. But now in the face of this decision by a court they are willing to completely reverse themselves on that issue. The implications of this are very significant.

Most important is the issue of who is supreme in this country with respect to law making. Is it the judiciary or parliament? Time and time again we see cases where judges are rewriting law and parliament seems to be unwilling to stand up and exercise what should be our supreme authority, law making.

The Rosenberg ruling which came down April 23 in the Ontario Court of Appeal changed the definition of the term spouse in the Income Tax Act to include same sex relationships.

Parliament writes the laws in this country and the courts are there to apply them. The courts should not create public policy because judges are not elected legislators. It is not their place.

● (1600)

Clearly the justice minister should appeal the Rosenberg decision in order to protect the definition of the term spouse and to uphold parliament's role as the supreme law making authority in Canada. Failure to do so will prove that the Liberals are less interested in protecting families and more interested in pursuing a social engineering agenda.

What strikes me as even more hypocritical is that currently before the House of Commons is Bill C-37, an act to amend the Judges Act. Written within that legislation is a definition of spouse

which includes a person of the opposite sex. There is consistency between the letters of the cabinet ministers I have referred to and legislation coming from their departments. But there is no consistency with that and their lack of willingness to intervene against the decision of the court.

Why is the definition of spouse a concern? Governments have authorized many benefits under the term spouse, including income tax deductions, eligibility for pensions, spousal benefits, employee fringe benefits, et cetera. They have authorized that to opposite sex couples specifically because of the role they play in procreation and the raising of children.

By tradition and nature the terms spouse and marriage refer to the union of a man and a woman. Such a cornerstone of public policy ought not to be changed by the courts. Rather if the government is committed to such a change, it should be done in the full light of parliamentary debate.

The lack of willingness for the Liberal government to appeal that decision simply amounts to hiding behind the judicial decision and not taking the responsibility to debate this and other similar type issues in which judges have rewritten laws, to bring it to parliament and debate it. It is hiding behind judges' rulings instead of confronting the issue head on and showing some leadership. That is what we see repeatedly from this Liberal government, a lack of leadership.

Here is an opportunity for the Liberals to display leadership, to be consistent with their previously stated positions. Instead they are going to hide behind the decision of a judge and overturn the definition of a spouse which has stood throughout the history of our country.

I will quote the current health minister when he was the justice minister. He said the courts should not make policy or rewrite statutes, that that is the role of parliament. How then can he sit in the House today and act in complete contradiction to what he stated on October 25, 1994? Again it is clear, blatant hypocrisy.

I would also like to point out that in the 35th parliament Motion No. M-264 proposing the legal recognition of same sex spouses was defeated in this House by a vote of 52 to 124, almost a three to one margin.

The will of parliament on this issue is clear. Why then are the courts writing it in when parliament has clearly already said no? The courts are overstepping their boundaries. They are overstepping their jurisdiction. This government really should demonstrate some leadership and demonstrate to Canadians and the courts that the supremacy in law making in this country lies in this House, not at the discretion of appointed judges.

• (1605)

Hon. Hedy Fry (Secretary of State (Multiculturalism)(Status of Women), Lib.): Mr. Speaker, I want to comment on a couple of things the hon. member said.

He said that this government has taken away its support for traditional families. On the contrary. This government has strengthened its support for traditional families. This government has taken measures within the last budget, within our employment insurance, within the child tax benefit, in all sorts of ways to provide support for traditional families.

I am glad that the hon. member used the term traditional and the recognition that parliament must serve the people in all of the diversity of its people. Today the traditional family is no longer the norm for a family. There are many other families. Is the hon. member trying to say that the government cannot serve all families, including traditional families? This is what we are seeking to do if we talk about equality. We are seeking to serve all families.

The hon. member also made a statement about a social engineering agenda. Is the hon. member trying to suggest that recognition in any way, shape or form of same sex families means that it is catching, that we are trying to make sure that everybody in Canada becomes gay or changes their sexual orientation? What does the hon. member mean by social engineering? This is a very interesting question. I would like him to give me an answer to that.

Mr. Jim Pankiw: Mr. Speaker, the hon. member says that the Liberal government is strengthening support for traditional families. In fact nothing could be further from the truth. Time and time again we come before this House and implore the Liberals to change the discriminatory tax policies that this government holds against families. They refuse to act. To say that the Liberals are strengthening support for families, nothing could be further from the truth.

Furthermore, changing the definition of a spouse from the union of a man and a woman to two men or two women, if someone cannot see how that is an erosion of traditional family values, then I do not know. I guess I am at a loss for words.

Mr. Bill Graham (Toronto Centre—Rosedale, Lib.): Mr. Speaker, let me come back to the member's point about surrendering the sovereignty of parliament to the courts. The member seems to be so upset about the fact that the courts are interpreting what the concept of discrimination is. Does he and his party believe that we should repeal the charter?

Is the member not aware that the Rosenberg decision is a decision by one of the highest courts of this land? The charter is the highest law of the land and rules over all other laws that we pass in

this House. If the laws are inconsistent with the provisions of that charter, if they discriminate against people and if he and his party were to come into power and wanted to pass laws which would single out groups for discrimination, would he be in favour of repealing the charter? Is that what he believes? Does he not believe that we have courts in this land whose very job is to ensure that we in this House act in terms of the principles of non-discrimination and tolerance which govern our society?

Mr. Jim Pankiw: Mr. Speaker, I thank the hon. member very much for his question. At least part of it was on issue, that is, the issue of the supremacy of the courts versus parliament.

The authority of a court should be to rule whether a law is valid or invalid, whether it is constitutional or not. The courts do not and should not have the authority to rewrite laws which they have done in this case.

Mr. Speaker, I hear absolutely rude and obscene heckling. I would like you to intervene.

The Acting Speaker (Mr. McClelland): We have another minute for questions and comments. If you would like to finish your comment.

An hon. member: Oh, oh.

Mr. Jim Pankiw: That is absolutely pathetic.

The last thing I would like to say is that this is not singling out groups for discrimination. It is simply saying that for the entire history of our country, a spouse has been defined as a union of a man and a woman.

An hon. member: You are saying your way or the highway.

• (1610)

Mr. Jim Pankiw: I am saying that I am proud to stand here and defend the definition of a spouse that we have had since the beginning of the history of our country as the union of a man and a woman. Frankly, the minister's heckling is obscene and disgusting.

Mr. Bill Graham (Toronto Centre—Rosedale, Lib.): Mr. Speaker, I am glad the member who last spoke did concede that this is an issue which we should be discussing and that we are on solid ground.

Let us talk for a moment in this House about the Rosenberg decision and what we are trying to achieve in the House. Rosenberg was a decision by one of the highest and most respected courts in this country. It was about the interpretation of the charter, the fundamental document which governs us in our democratic society. It guarantees that this legislature and all legislatures across the country will conduct themselves in accordance with the principles which govern us as Canadian citizens and as legislatures.

I believe that that charter decision was right. I believe that it was right in what it was stating about us and our society. It was right about what it was trying to do in ensuring that people were not discriminated against because from a practical point of view it does not make sense in today's world, and I will come back to that point. It is right in principle and it is right about what it is doing in society. It is right about what it is doing in my riding of Toronto Centre—Rosedale and in all members' ridings in terms of people who are living in similar circumstances who are paying taxes, leading decent lives and who have a right to be treated the same as everybody else.

To go back to the issue of which is supreme, the courts or parliament, I made this point when I asked the member my question. In my view the charter is supreme. Parliament spoke. The people of this country approved of the charter. We as legislators and the legislatures of the various provinces approved of the charter precisely because the people were aware that one day people could stand up and make the allegations of the type that are being made in this House. The people were aware that they wanted a bulwark of courts and law to stand between them and the type of rhetoric we have been listening to this afternoon.

When it is said the charter is being misinterpreted by the court in the Rosenberg decision, where were those members when we adopted the changes to the human rights act? I was in the House that night. Seventy-five per cent of the members in the House voted in favour of changing the human rights act to provide against discrimination. They represented the will of the Canadian people. When the Rosenberg judges read what we were doing in this House and they made that decision, they were saying Canadians do not believe in discrimination and that they as the courts are not in the business of enforcing it. If you read that decision—

An hon. member: We are not talking about discrimination.

Mr. Bill Graham: Oh, yes, you are. You have not read the Rosenberg and the Supreme Court of Canada decisions which clearly say that these measures are discriminatory and cannot be saved under section 1 of the charter. They can only be saved under section 7 if they are to be justified in a reasonable and democratic society which our courts have said they cannot.

Let me finish with my point and then we can engage in this debate further about the nature of the charter, the nature of the courts and ourselves.

Let us talk for a moment about ordinary people trying to work and live in our society and trying to create a life for themselves. These are decent everyday people who are saying ''I do not understand something. I am working and paying into a pension plan. I do not get the same tax treatment as somebody else''. This is

not a case about family values in the sense that the member is trying to cast it. This is not a threat to the traditional family. I do not believe that the traditional families in my riding of Toronto Centre—Rosedale believe that their existence is so fragile that it has to be built by discriminating against somebody else. That is not the nature of traditional family values.

The traditional family values in our country are ones of tolerance, of working with one another, of trying to work out our differences, of working out how we can survive together. The best employers in the city of Toronto follow these principles. I speak of the University of Toronto and other employers, but I also speak of the Toronto *Sun* which does not happen to be known as being a paragon of crazy Liberal values.

● (1615)

The Toronto *Sun* does its best to ensure that its employees are not discriminated against in their pension benefits. Why? Because it wants to hire the very best people. The city of Toronto almost unanimously—only two councillors voted against it on Friday—voted on the issue we are talking about today. They said they did not want as a city to be paying taxes and into benefit systems which could not guarantee that their employees of whatever nature would be treated on the same basis.

That is what we are talking about. That is what the Government of Nova Scotia was talking about when it adopted a similar measure recently. Nobody was talking about destroying family values.

I can understand why Reformers want to cloak this issue in family values. In that way they can rally around people who are frightened and who are seriously worried about what is happening in society. I am as concerned as they are about divorce rates, family break-ups and other issues of that nature. To suggest they are talking about how people will be treated economically is a mistake. I say that sincerely because I believe they are seeking to use the example of family values on the backs of other people to discriminate against them.

The member who spoke before me spoke about family values and the definition of spouse. I can remember when I was a young law student that the definition of spouse at that time would not have included common law spouses. It would not have included men and women living together for more than three, four or five years and contributing together in circumstances that were not part of the traditional family. The Income Tax Act and other acts in those days discriminated against such people.

We have learned since then that we must recognize the right of Canadians to be able to choose their own lives. I am surprised by the Reform Party which is always talking about getting the state out of the face of people and getting the government away from dictating how they should live.

I suggest the true social engineer is the Reform Party. It is not us who say do not let individuals choose their lives when they are not harming anyone and are making a contribution to society. It is Reform members when they stand in the House to say they want to social engineer us into living in a certain type of relationship or being discriminated against in terms of pensions in other benefits. That is the true social engineering of the Reform Party.

It is a mistake on behalf of Reformers to bring forward the motion at this time. They have misread the nature of the Rosenberg decision and the nature of the mood of our country and of the House. Let us live with tolerance and encourage citizens who are willing to work and live together to create constructive social units in our cities and in our rural areas and make real contributions to the country. Let them be a part of the Canadian family. Let them all work together. Let us all work together to create that type of society, not a discriminatory one.

I am reminded that I am to split my time with the member for Windsor—St. Clair.

Mr. Grant McNally (Dewdney—Alouette, Ref.): Mr. Speaker, I listened with great interest to my colleague's debate. I would like to ask him a question about how this decision might impact further on other individuals in our society.

I think of my own mother who is a widow and her sister who is just recently widowed and the fact they might be living together very shortly. Would they fit under the same definition for recognizing benefits? They would be of the same sex but not in a conjugal relationship. What about other individuals in similar situations, two friends living together or whomever else it might be?

What does my hon. colleague think about the courts setting direction and reading meanings into law? Does he agree with that or that decisions should be made in the House?

● (1620)

Mr. Bill Graham: Mr. Speaker, I thank the hon. member for his very reasonable question. It is something we have to discuss in the House.

My first principle is that we passed the charter. We cannot interpret the charter ourselves. We gave the courts the responsibility of interpreting the charter. The time will come when a case similar to that of his mother and aunt living together in similar circumstances might arise. They could go to a Canadian court to say they should not be discriminated against when other groups in society are not being discriminated against. They may well find the law at that point, as the court in the Rosenberg case decided, fits them within it. If that is what the courts say I will support it wholeheartedly. I will support it in the House. I will support it as a matter of public policy.

I do not think it will cost the exchequer of the country enormous amounts of money. It will provide an opportunity for people who are living together in similar circumstances and have made similar contributions to society to be recognized in our laws.

I cannot prejudge what a court would say. I can say that it is the type of issue I would be more than happy to discuss with the member. It is perfectly reasonable. If we could keep our discussion on that sort of level we would all be much further ahead in the House.

Mr. Ken Epp (Elk Island, Ref.): Mr. Speaker, I will ask the member a question with respect to the nub of the debate today, the supremacy of the legislative function.

I do not think anyone argues with the fact that the Supreme Court of Canada has the final say on judicial matters. It has long been accepted that the legislative arm of government is vested in parliament, in the House of Commons with the rubber stamp of the Senate, which is appointed, not elected and therefore of some questionable legitimacy.

If the court makes a decision contrary to the will of the people as expressed in the House of Commons, would the member take objection to it? I am speaking specifically of the issues we are talking about. In parliament we have specifically debated and in free votes have clearly rejected this premise. In the votes managed by the front benches over there things have gone the opposite way, which is also a violation of democracy.

I would like him to respond. Does parliament have supremacy in the legislative function of our land or does it not?

Mr. Bill Graham: Mr. Speaker, I answered that question when I first started. Parliament has supremacy in the legislative functions we exercise subject to the constraints we chose freely to impose upon ourselves through the charter, the supreme law of the land. The same is true of all provincial legislatures. The same is true of ours. Unless we choose to adopt the notwithstanding clause we have accepted to fetter our jurisdiction in that way, and I have no trouble with that.

I think the hon. member is operating from a false premise. He says we have spoken on the issue and the courts have gone against how we spoke. We have not spoken on the issue since parliament adopted the Human Rights Act amendments in a free vote, not imposed by the front bench.

The House will remember very well that it was a free vote. There was a lot of controversy here as to whether or not it should be a free vote. Many people felt it should not have been. The fact that it was a free vote, and that 75% of members of the House at that time said they were not in favour of discriminatory measures of the type we are hearing about today, sent a clear message to us as legislators and to the courts that the Rosenberg decision as it stands is consistent with the mood of the House. It is consistent with the mood of the country and it is consistent with the basic principles which govern us as a democratic society.

BUSINESS OF THE HOUSE

Mr. Peter Adams (Parliamentary Secretary to Leader of the Government in the House of Commons, Lib.): Mr. Speaker, there have been consultations among the parties and I think you would find unanimous consent for the following motion:

That, notwithstanding any Standing Order of usual practice, when proceedings on the business of supply expire at 6.30 p.m. this day, the House shall continue to sit to consider the report stage of Bill C-30, the report stage and third reading of Bill S-9, the third reading stage of Bill S-3, and the consideration of Senate amendments stage of Bill C-4;

That, any division requested on the said business shall be deferred until the conclusion of the consideration of Government Orders on Tuesday, June 9, 1998;

That, during the consideration of the aforementioned business, no quorum calls, requests for unanimous consent or dilatory motions shall be received; and

That, when no Member rises to speak during consideration of Bill C-4, the debate shall be adjourned and the House shall adjourn to the next sitting day.

• (1625)

The Acting Speaker (Mr. McClelland): Does the hon. parliamentary secretary to the government House leader have unanimous consent of the House to move the motion?

Some hon. members: Agreed.

The Acting Speaker (Mr. McClelland): The House has heard the terms of the motion. Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

(Motion agreed to)

Mr. Peter Adams: Mr. Speaker, again, following consultations among the parties, I think you would find unanimous consent for this motion:

That, notwithstanding the Special Order of February 9, 1998, the length of speeches and the rotation between parties during the consideration of the business of supply on June 9, 1998 shall be as provided in the Standing Orders and in the usual practice of the House in considering Government Orders.

The Acting Speaker (Mr. McClelland): Does the hon. parliamentary secretary to the government House leader have unanimous consent of the House to move the motion?

Some hon. members: Agreed.

The Acting Speaker (Mr. McClelland): The House has heard the terms of the motion. Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

(Motion agreed to)

SUPPLY

ALLOTTED DAY—JUDICIAL RULINGS

The House resumed consideration of the motion.

Ms. Shaughnessy Cohen (Windsor—St. Clair, Lib.): Mr. Speaker, the motion asks that in the opinion of the House federal legislation should not be amended or redrafted by judicial ruling. In effect the opposition is asking that the House express an opinion contrary to our Canadian constitution which clearly sets out the respective roles of parliament, the courts and the executive.

The proper functioning of a democratic society depends on a number of key players: parliament, the executive and the judiciary. This is a classic situation where the sum is greater or bigger than the parts and when each of these three parts respects the others we enjoy a strong democratic society. I submit that the Reform Party neither respects the House nor the executive nor the courts. This is a problem.

To go back to constitutional law 101, it is not the courts that limit parliament. It is the constitution which includes the charter that limits parliament. The Canadian parliament, the Canadian government, made a deliberate choice to provide the courts with a role in interpreting, not in rewriting, not in amending, the charter and the constitution. That role includes the power to declare unconstitutional legislation invalid.

The Reformers do not believe in the charter. They have not had the nerve to say it but they would like to get rid of the Charter of Rights and Freedoms. They claim to support the equality of all citizens but they continually try to undermine the one legislative instrument which guarantees equality, the Charter of Rights and Freedoms.

Perhaps members of the Reform Party just do not understand the role of the charter in the courts and the protection of basic human rights. I must say I have heard them support the constitutional role of the courts once in a while but only when they are interpreting legislation in such a way that the courts are actually agreeing with Reform.

The new gun registry is being challenged by the courts. If the courts support Reform's point of view on the gun registry, does anyone think we will hear any complaints about the courts? I do not think so. There is no question that the rule of the courts in interpreting the charter has given the courts a higher profile and a more direct effect on the daily lives of Canadians. That is not something that they are doing arbitrarily. It is a power that we in this assembly gave to them, that nine out of ten provincial legislatures in the country gave to the courts.

• (1630)

While the courts exercise considerable influence on the shape of Canadian law, they do so under well-established rules of constitutional and statutory interpretation, not on the basis of philosophical preference on the part of judges, and certainly they should not be doing it on the basis of the philosophical presence of a small rump party like Reform.

I would suggest, having read the polls today, that the 12% solution that the Reform Party offers to Canadians is not the solution that most Canadians would prefer.

The Canadian people do not trust the Reform Party to protect basic human rights for good reason. Under the Reform approach people would once again live in fear of the power of the state to dictate how they live. The power of the government and the legislature would be absolute, with no protection for the rights of minorities.

In the new Canada act which it proposed, the Reform Party says it is going to ask the legislature to give it the power to review supreme court decisions and modify the law if necessary. We reviewed a supreme court decision in the last parliament when we dealt with the issue of the rape shield law. We were trying to protect people who had been abused. I would like to ask where the Reform Party was then. Did it show leadership in this matter? No. It followed along, kept its toes in the water and took its toes out. One member actually speculated at committee on why we were not trying to protect the rights of men in this bill and whether innocent men were being harassed by the courts. The Reform Party cannot be trusted.

Only the most difficult issues of national importance are heard by the Supreme Court of Canada. It is inevitable, therefore, that there will be a body of opinion that will disagree with a decision handed down by that court. The supreme court, in particular, is aware of the importance of adhering to legal standards in deciding matters and in deciding issues before it.

I am confident, and the majority of members of the House are confident, that the Canadian courts have demonstrated and will continue to demonstrate the necessary appreciation of their role in a democratic society.

The charter has in effect resulted in a dynamic dialogue, a conversation among the courts, the executive and parliament. Unconstitutional legislation is usually replaced by legislation which is designed to accomplish similar objectives in a more constitutionally tailored form. This dialogue enhances the democratic process.

In terms of recent rulings which have read in provisions to a statute, this is a remedy the courts have used rarely and only after careful examination. Again, this is part of the dialogue. Legisla-

tures are free to respond by correcting legislation with limitations that may be justified under section 1 of the charter.

Canadian judges have been asked to assume increasingly demanding constitutional functions in determining issues of fundamental importance to all Canadians. I am the first to recognize that in doing their jobs judges and their decisions are not always popular. It seems to me that this is inevitable given that we, the legislators, gave them the sometimes unenviable task of determining some of the most difficult and divisive legal, social and economic issues of our time.

It is for this very reason that we do not want ''popular judges''. Indeed, it has always been of primary importance to all Canadians that judges be independent and free to make those difficult and sometimes unpopular decisions.

As Madam Justice Rosalie Abella recently observed:

> Governments necessarily prefer to rely on perceived majoritarian wishes; courts, particularly in the enforcement of minority rights, are necessarily frequently obliged to override them—.While elected governments may wait for changing attitudes in order to preserve public confidence and credibility, both public confidence and institutional credibility argue in favour of courts being free to make independent judgments notwithstanding those same attitudes.

That is the crux of it: the independence of our judiciary. It is the key constitutional principle and one which is critical for the public's confidence in the judicial system.

Although all members of the public will not necessarily agree with a particular decision, it is important that the public know that the courts will make decisions free from the interference of the likes of those people across the way and their fellow travellers.

The universal declaration on the independence of justice adopted in Montreal in 1993 states:

> Judges individually, shall be free, and it shall be their duty, to decide matters before them impartially in accordance with their assessment of the facts and their understanding of the law without any restrictions, influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

• (1635)

The United Nations General Assembly endorsed basic principles on the independence of the judiciary in 1985. One of the principles states:

> There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision. This principle is without prejudice to judicial review—

All democratic governments have endorsed these principles of judicial independence. In adopting these principles, governments and legislatures have agreed to constrain their power to ensure the judiciary remains independent and has the legitimacy necessary for continued public confidence in the justice system.

I say to the other side: Stop harping. Read the Constitution. If they cannot figure it out, they ought to get some advice. That is what their budget is for.

Mr. Grant McNally (Dewdney—Alouette, Ref.): Mr. Speaker, I am quite amazed that my hon. colleague states that the courts do not limit parliament. In fact, I think she well knows, as we all do, that when a decision is rendered by a court that decision has an impact. It sets a precedent for future decisions. For us to ignore that fact is irresponsible.

This was an Ontario appeal court ruling. The justice minister is not even willing to take the next step to appeal it to the highest court in the land, the supreme court.

The member stated that these types of cases should be appealed to the supreme court only if they are very important cases. I would ask her whether she thinks the definition of marriage is not an important issue. A lot of people in this country are looking for direction from this government and wanting to know exactly where they stand on that particular point. The fact is that the judiciary, in this particular case and in others, is reading in new meaning to the law. If that is the case, does this member agree that should continue, that a group of individuals should decide what is best for individuals in this country?

As the Secretary of State for Multiculturalism stated, it is the tyranny of the majority. That is quite a shocking statement.

I wonder what her response would be to those two questions.

Ms. Shaughnessy Cohen: Mr. Speaker, I thank the hon. member for his questions. It simply reinforces what I said in the past and what I will continue to say, which is that in that party and in those quarters there is a fundamental misunderstanding of the system, of the charter of rights and freedoms and of our Constitution which is the highest law in the land.

Let me say that I do support the courts in their ongoing mandate to uphold the rights and the freedoms of all Canadians, including minority rights.

The member specifically referred to the Rosenberg decision. Then he talked about marriage. Rosenberg has nothing to do with marriage.

Let me ask the hon. member and his stern faced colleagues over there this question rhetorically. By extending these rights to the people involved in the Rosenberg decision, by allowing two people who care for one another to take care of one another in a living situation, how does that detract from them and their style of life?

Mr. Jim Pankiw (Saskatoon—Humboldt, Ref.): Mr. Speaker, I have two questions for the hon. member.

First, in her speech she said that members of the Reform Party on the one hand were opposed to this judge's decision, but on the other hand, if the judiciary decides that Bill C-68 is unconstitution-

al, we will support that. Does she not see the difference between a judge ruling whether a law is constitutional and a judge inserting words and rewriting legislation that should be the sole responsibility of parliament? Does she not see the difference? Clearly, if the judge's decision in this constitutional challenge of Bill C-68 is to rewrite and change the law, we would be opposed to that. That is not the job of a judge.

Second, the hon. member and many of her Liberal colleagues are saying that this is discriminatory stuff. I have an April 29, 1998 letter from the Minister of Justice in which she says that a marriage is a union of persons of the opposite sex and that the justice department will continue to defend this concept of marriage in court. Does she think that her justice minister is prejudiced? Because that is the same position we are taking.

• (1640)

Ms. Shaughnessy Cohen: Mr. Speaker, the answer is no. I do not view this as stuff. I view this as an important issue in our constitutional history and an important issue to be debated here.

Let me say that if the justice minister asked me for my opinion, my view is that we should not appeal Rosenberg. I believe it is the view of many of my colleagues on this high side of the House that we should not appeal it. Quite frankly, I do not think it has anything to do with whatever fears the hon. member may be expressing implicitly in his statements.

Mr. Gerry Ritz (Battlefords—Lloydminster, Ref.): Mr. Speaker, I rise today with pleasure to speak on behalf of the constituents of Battlefords—Lloydminister on the motion that my colleague from Calgary Centre has placed before this House.

I would like to take a moment to clarify something. The member for Windsor—St. Clair read a motion in her debate and it certainly is not what we are proposing today. Our motion states:

> That, in the opinion of this House, federal legislation should not be altered by judicial rulings, as happened in the redefinition of the term ''spouse'' in the Rosenberg decision, and that, accordingly, the government should immediately (repeal) that decision.

That is what our motion reads today; not the one that she came up with.

I believe that all duly elected members of this legislature can see the logic in the first part of the motion. We are sent here by the voters of our respective ridings to represent their wishes in this House and we all go through a lot of trouble to get here. Occasionally we disagree on how to reflect those wishes, but when we come up with legislation we expect that it is the best that can be written and passed, once again by a majority of votes, and that it will be acceptable to a majority of our electorate.

If we want to continue to fight against what we see to be bad legislation, then we do so in public. Ultimately we stand for re-election based on what the voter sees as our view of that legislative program.

Of course, no law is perfect and for the purposes of reviewing those laws and testing their fairness we have a judicial branch whose job it is to uphold or strike down individual statutes. Judges at various levels are asked to interpret laws as well, but this means it is their job to define the meaning that the words contained in the statute were meant to have, and only the meaning.

Nowhere and at no time have judges ever been given the task of putting words in that are not there now. Not only are judges not elected by popular will, they are not chosen to write laws or to create public policy with the potential to affect millions of lives or dictate the expenditure of millions of taxpayers' dollars.

Revolutions have been fought over the issue of the people being taxed without representation, but in this country we seem willing to ignore history; if not blatantly, we re-write it and hand over authority to unelected individuals or groups who have their own narrow agenda as their driving force.

The case we cited as an example of judges overstepping their bounds involves the redefinition of spouse in the Income Tax Act, but it has implications for hundreds of other statutes and regulations as well. No doubt many commentators will read into this example that Reform is on its high horse about the sanctity of marriage and the restriction of family to certain approved forms to the exclusion of others. This is a complex issue and no one is suggesting here today that people should not be allowed to choose how they want to order their lives.

The issue is whether or not judges have the right to impose on all of society an interpretation of laws written by elected representatives—and I stress elected—and debated openly in our public forum here in this House. Where the interpretation involves adding words that were never included in the statutes in the first place is wrong. Canadians should be worried about this growing tendency of courts to re-write legislation on the fly and I would like to touch on some examples which have no doubt been brought up already today.

Professor Ted Morton of the University of Calgary relates how the Supreme Court of Canada struck down provisions in the Elections Act that prohibited prisoners from voting, and it did this not once but twice. In the first instance it disallowed a blanket prohibition which may have been unfair to the odd individual, but even after the act was amended to include only convicts serving

two years or more the justices felt that it was unreasonable. The only thing unreasonable was the nonsense being perpetrated on law-abiding Canadian voters by these self-styled guardians of democracy.

As Professor Morton writes:

> Giving prisoners the right to vote is not only bad policy but also bad law—. To allow those who break the law to make the law is an insult to all law-abiding citizens and devalues the meaning of citizenship. It is for this reason that there is no other nation where prisoners enjoy a constitutional right to vote.

At a time when we are struggling to instil in our next generation respect for the law and a sense of social and civic responsibility, the beliefs and actions of this unelected elite who supposedly represent the law itself are undermining all of our efforts and their status as well.

● (1645)

Another professor at the University of Western Ontario, Mr. Rob Martin, writes in a recent issue of *Law Times* that it was Justice Antonio Lamer who first invented the idea that judges could read in what they feel to be missing from legislation. In Dr. Martin's opinion, Justice Lamer has even suggested that he and his colleagues could fill in gaps in the Constitution, creating new institutions whenever they felt so inclined. A little overstepping their bounds.

It must be clear to even the most hardened sceptic that the practice of allowing judges to rewrite statutes, order public money spent and change the very meaning of our language to suit special interest agendas can only mean that parliament will become unnecessary.

Society at large will be subject to the whims of a handful of individuals meeting in private and handing down decisions without ever having to justify themselves or those decisions.

Of course this is a worst case scenario and aside from having lots of other institutions break down at the same time, one would also have to believe that the individuals on the various judicial benches all had some sort of evil intent. Far from it.

I want to make it clear that I do not believe that is the case here but let us also be clear that even good intentions can lead to bad policies and bad decisions. As the old saying goes, the road to hell is paved with good intentions, and some of these judges just seem to want to get there and put in street lights and traffic signs while they can.

I have read where lawyers are complaining that they not longer have any idea what kind of decision is going to come out of a high court proceeding. Maybe this is an indication that justices have painted themselves into so many corners they cannot remember if they are half way through painting the floor black or half way through painting it white. These hints of confusion and disagreement among the justices may explain some of the recent decisions we have seen.

Look at the 1985 Singh decision or the more recent Halm decision that together create a massive bureaucracy to handle refugees. The irony is that according to Professor Morton, the UN had regarded Canada's immigration system as one of the world's best before the justices started to mess with the handling of refugees.

Now we have massive backlogs, $179 million in extra expense, millions going to a refugee industry run by lawyers, and thanks to another supreme court decision we are forced to treat convicted drug traffickers as choir boys. They are not guilty here yet.

I suppose since the immigration minister herself has apparently tossed the rulebook out the window regarding accepted convicted criminals, perhaps the justices felt it was time to rewrite the Immigration Act on behalf of Canadian people. We can see that prisoner voting and the extraordinary rights of convicted criminals as refugees in Canada form a pattern and the final piece of that puzzle was supplied last year in the Feeney decision. In that case a young man allegedly beat an old man to death and returned to his trailer to sleep off a drunken stupor.

The police had every reason to believe they had found their man and within the law as they understood it they could make an arrest. They had probable cause. Not so, said the justices. A warrant was necessary in that case although previously it had not been.

We are not talking here about innocent people caught up in an irresponsible system. It is not a question of presumed innocence being abused but of law officers on our streets and in our immigration system doing their jobs by the rules of law as set out by parliament, the legislators.

When our police cannot count on the rules, how can they expect the private citizen to respect and obey them? What tends to happen is that police are discouraged and frustrated to the point of taking matters into their own hands, leading to less liberty, not more.

I have a final word about Rosenberg. It is true that the Reform Party policy sets out that marriage exists as a union between a man and a woman and subsequently that spouse refers to the members of the opposite sex in that union, as the justice minister herself has stated in her communique.

This is what the law has said for centuries and is what the vast majority of the Canadian people believe and there are many good empirical reasons why that definition should form the basis of Canadian society for years to come. This is not exclusionary. People are still free to choose. They still have rights. If it is a question of how individuals are to share social programs to reflect their lifestyles, then by all means we will look at the benefits in a separate scenario. But let us do it here in this House where the debates can be followed by every interested party and where we can

have input from a variety of viewpoints. We do not have to redefine society to suit every individual if we can simply redefine benefit.

I offer another quote from Professor Martin: ''It is a principle of our law that constitutional issues should only be raised as a last resort. If a case can be resolved on non-constitutional ground, then it should be.''

We must put an end of the knee-jerk reaction that suggests every identifiable group is a victim simple in need of extra rights to go along with the ones they already have.

• (1650)

Mr. Eric Lowther (Calgary Centre, Ref.): Mr. Speaker, I appreciated the very succinct and thorough talk by my colleague on this motion.

I was interested to hear him briefly refer to a document the justice minister had written that clearly articulated her position. I was looking at a quote from *Hansard* that seemed to conflict with what the justice minister had said according to the previous speaker.

If I understood the previous speaker, he was saying the justice minister supports the current definition of spouse and marriage and was willing to defend that in court. But when I looked through *Hansard* there was a clear question asked on this case to the justice minister and the answer we got back was along the lines of the judiciary has the job to interpret and apply the law. The two seem very contradictory to me. One is status quo and one lets the courts do as they will.

I was wondering if my colleague would be willing to address that issue and if he could offer some explanation as to why that might be going on and maybe how a Reform government would approach this issue.

Mr. Gerry Ritz: Mr. Speaker, I thank my colleague for his question.

When we referred to the justice minister and her statement supporting the institution of marriage as it now stands, it was in a letter regarding a constituent who wrote in with concerns that Bill C-225, a private member's bill before this House, is very timely.

The constituent supported that bill to the full letter of the law and asked for the justice minister to support that bill as well. In the letter back to the constituent, the justice minister reiterated that under today's laws in Canada the definition of spouse is the marriage of people of the opposite sex and that she would continue to defend that concept of marriage in court, if should be.

That is basically the premise of the motion today. It is to ask the justice minister to appeal Ontario's decision in the Rosenberg case to the highest court of the land, the supreme court, and see it to its fruition. Let us get a little more attention on this. Let us look at it through the lens of family friendly regardless of our definition of family and get this thing out in the open and have a long serious look at it. I think we need to do that.

As to how a Reform government would approach this situation, we are talking about moral issues here. In our blue book we propose a matter such as this going to a binding referendum that would be held Canada-wide. Let everyone out there have a say rather than just the justices giving us direction or the parliamentarians who may tend to skew their constituents' answers. We would ask our constituents themselves to make the ruling on these types of institutions.

Mr. Lynn Myers (Waterloo—Wellington, Lib.): Mr. Speaker, I listened with great interest to the hon. member and I want to know why the Reform Party continues to want to undermine the charter of rights and freedoms. Why exactly is that?

It is fundamental to due process of law and the underpinnings of fundamental justice that the courts need to have independent power when it comes to enforcing the charter or it cannot protect the equality of all citizens. We understand that and we know that to be true.

I participated in the judges debate and I was amazed when one of the Reform members actually suggested that a certain judge did not deserve a pay raise because she did not follow Mosaic law. Giving statements like that, I really wonder where the Reform Party is coming from on these kinds of issues. Why does it continue to try to undermine the charter of rights and freedoms?

Mr. Gerry Ritz: Mr. Speaker, I guess we are down to the issue of the chicken and the egg. What came first in Canada, the laws or the courts? In our estimation, the laws had to come first and the courts are there to interpret them. The justices are asked to interpret those laws to the given cases before them, but not to write the laws or to fill in the blanks that they feel are missing. That is the fundamental difference in our philosophy and theirs.

Mr. Rick Casson (Lethbridge, Ref.): Mr. Speaker, it is a pleasure to rise today on behalf of the constituents of Lethbridge to speak to this motion.

The motion before is to stop federal legislation from being altered by judicial rulings.

• (1655)

It is not limited to the specific issue of spouse. Rather, this motion has ramifications beyond that decision taken by the courts in the Rosenberg case.

It is imperative that this House examine in depth the implications of allowing the courts free rein over the rewriting of laws, which is over and above the mandate subscribed to them through democratic procedure.

By not appealing the Rosenberg decision, we are allowing the courts to create public policy. I remind this House that the judiciary is not an elected body

When we as members of Parliament are elected by our constituents, we are elected on the basis of our platform, our individual accomplishments in our communities and our dedication to our constituents to uphold the democratic rule of this country.

The fundamental role of writing law lies with the legislature. As duly elected representatives, we are accountable to the people of this country and to the will of the people. The motion before us today is to appeal the Rosenberg decision because it violates the democratic rule of parliamentary supremacy and supports the controversial notion of judicial activism.

This Liberal government has remained conveniently silent on the role of parliament and judicial activism. When judges start acting like law makers, they have exceeded their legal authority and their intended mandate.

When will the government appeal a decision saturated with judicial activism and uphold the laws of this country? It is imperative that the legislature create and write laws as dictated by the will of the public. The will of the public has yet to be heard.

The silence of the Liberal government speaks volumes. This government has until June 22 to appeal this blatant example of judicial activism.

Not appealing this recent decision can only be interpreted as approving this action. If the Liberal government supports the direction of the Rosenberg decision, it should still appeal the decision and follow the correct channels if it wants to change the definition of spouse.

Regardless of personal beliefs, one way or another, the essence of this argument is founded in democracy. Either someone respects the tradition of parliamentary supremacy or they do not. If the Liberal government wants to rewrite laws in order to include same sex spouses, that is for the legislature and not for the judiciary to decide. This could not be more clear.

I urge my colleagues to rethink the strategy of leaving legislative decisions in the hands of unelected officials. If the will of the people dictates a change to the current definition of spouse, the proper channel must be followed in order to change the laws of this country. The ramifications of not appealing a judge made law are enormous.

Is this an example of the gradual erosion of the very democratic principles that have been upheld in this great country since Confederation? Is this Liberal government prepared to take a back seat to law makers while unelected judges rewrite laws without any adherence to democratic tradition?

Will this Liberal government ever have the fortitude to stand up to the judiciary and lay down the law once and for all? I am sure every member of parliament realizes just how politically difficult such a decision can be.

After examining the issue, we could choose to bury our heads in the sand and refuse to address these difficult questions or we can appeal the decision and return the issue into the hands of the legislatures of this country.

When our constituents voted us in, they did so on the premise that we would uphold the democratic principles of Canada. If the government does not act to appeal the Rosenberg decision, we will not be upholding democracy. We will be encouraging a judicial activism free for all.

A government that refuses to tackle this difficult task while in office is just not doing its job. We made a solemn promise to our constituents when we were sworn into parliament. Accountability is crucial.

When Canadians voted us in, they entrusted us to deal with improving on Canada's existing laws and to rewrite laws when and where necessary. Yes, there will be very difficult decisions to make along the way but these decisions must be made. They must be made in accordance with the rules and principles of democracy.

What this Liberal government will be doing if it chooses to silently support this action is ignoring proper democratic procedure and opting for the easy way out.

Yes, we will have vastly different opinions in this House on this issue of the definition of spouse. Yes, the debate will be full of conflicting opinions and beliefs, and it has been. Yes, it is politically awkward and yes, the debate will filter down to the constituency level. It is a debate that must occur in parliament, even if it is politically inconvenient.

We were elected to deal with the simple and the tough issues all the same. It is a debate that must be held in the central legislature of this country. We owe it to our constituents to uphold our roles as law makers. It is imperative that this Liberal government take a leadership role and stop shipping awkward political questions to the judiciary for decisions.

• (1700)

We must heed similar warnings coming from judges themselves. Justice John McClung of the Alberta Court of Appeal is on record as saying:

> We judges are now permitted, sparingly, to correct legislative excess, but we should remain co-servants with the law makers in the business of representative government and we should never allow ourselves to evolve into their second guessing surrogates. Yet judges seem to be moving, incrementally but steadily, from the role of parliamentary defenders to that of its nemesis.

Straight from the mouth of the judiciary we have been warned by the courts themselves. Consider this judicial notice for the legislature to gets its priorities in order and get back to legislating the affairs of this country.

If we do not appeal decisions that are blatant examples of judicial activism we are sending a clear message to judges that they

can go ahead and act like law makers instead of concentrating on their roles as the interpreters of laws.

The citizens of this country do not elect their judges to make laws. That is what they elect us to do. That is precisely why this Liberal government must respect the democratic principles of this country and limit the far reaching effects of judges making laws.

I urge the government and all political parties in this House to say no to judge made law and to put the issue to debate in the House where law making is supposed to originate. I call on the government to openly state its position and return issues of public concern to the forum for which debate is intended.

Difficult or not, we must maintain and uphold the democratic principles of this country and put a cap on law making from unelected judges. It is within this Liberal government's power to do so and I urge it to adhere to the legal principles of this country. The government has until June 22 to act responsibly.

* * *

BUSINESS OF THE HOUSE

Mr. Peter Adams (Parliamentary Secretary to Leader of the Government in the House of Commons, Lib.): Mr. Speaker, there have been further consultations among the parties with regard to this evening's session. I think you will find there is unanimous consent for the following addition to the motion which I made earlier about the House continuing this evening. I move:

> That, at the conclusion of debate on any motion in amendment to Bill C-30 at the report stage, a division shall be deemed to have been put, requested and deferred pursuant to special order made earlier this day.

(Motion agreed to)

* * *

SUPPLY

ALLOTTED DAY—JUDICIAL RULINGS

The House resumed consideration of the motion.

Mr. Andrew Telegdi (Kitchener—Waterloo, Lib.): Mr. Speaker, I find the member for Lethbridge's comments to be totally incongruent. On one hand he talks about upholding democratic traditions of Canada. The next thing we know he is attacking the judges and wants to elect them like in the United States.

Surely the member should recognize that the charters of rights and freedoms has a very important role to play in our democratic institutions. When he talks about upholding democratic traditions of Canadians he should have some sensitivity to minority rights.

I understand that the member's party since I have been in this House has been continually attacking minority rights not for any gains it might have but to try to divide Canadians and try to politically profit from it.

We are no longer back in the traditional Bible days of the Social Credit Party, nor are we back to the Bible hours conducted by the leader of the official opposition.

● (1705)

Mr. Rick Casson: Mr. Speaker, it is unfortunate that these things are mentioned in that tone. I do not think it was the Leader of the Opposition who had the radio program. I think it was his father. He is very proud of that, as his father was and as I am sure his children are.

After I was elected and before I came to Ottawa to be sworn in a constituent asked me in my office what I felt the most important part of my job was as a member of parliament. I told him I felt the most important thing I could do was represent the wishes of my constituents. I still believe that. He said that I was wrong. He said that the most important thing I would do as a member of parliament is create responsible legislation, legislation that all our constituents will have to live under. He told me I must do it with a great deal of thought and a great deal of preparation.

I really took that to heart and it did somewhat alter my priorities. It made me more aware of how important this part of our lives is, being in the House, working on and preparing legislation for the citizens of Canada to live by.

The fact remains that I am elected and I represent the people of my constituency and the people of Canada. When I help to make a law or when I support a law I am adding their voice to that law. We must never lose the ability as legislators to prepare laws for the people of Canada. If we feel or see it happening that the judges of this land instead of interpreting and enforcing laws are reading in items and changing the intent, we have to protect against that.

If something in a law is not doing what it is supposed to do then we should bring it back to this House for debate. That is all we are trying to get to today. All this other ranting and raving about whatever is not getting to the point.

The lesson well learned from a constituent was that law making is very important and it is a big part of this job.

Mr. Lynn Myers (Waterloo—Wellington, Lib.): Mr. Speaker, I will be sharing my time with the hon. member for Mississauga West.

I rise to address the motion before the House today. The member opposite appears a bit confused about how our democracy works, about the checks and balances put in place to ensure our system of democracy is well protected. The simple truth is that the decision by the Ontario Court of Appeal regarding the Rosenberg case is one of hundreds decided across Canada daily involving one branch or another of the federal government.

It is a supreme irony that members of the official opposition have focused so much attention on a decision of the Ontario Court of Appeal while there are hundreds of others of great importance they have chosen to ignore. This decision was recently rendered by the Ontario Court of Appeal. It is my understanding that it is being

considered by officials and that in due course the Attorney General of Canada in collaboration with her colleague, the Minister of Finance, who is responsible for the Income Tax Act, will come to a decision as to how to best proceed.

I ask whether the hon. member is suggesting that all litigation conducted against the Government of Canada at whatever court level must be debated before this House. I would think not and I would hope not. That would clearly be unworkable and would prevent this House from carrying on the serious business of government.

With respect to the suggestion in the motion that the judiciary is overreaching its jurisdiction, let me clarify for members opposite how our democracy works. The courts continue to play their traditional and rightful role. As all Canadians know, the courts have a legitimate role which they were given long ago when our Constitution was first established. Our Constitution is an important guarantee of democracy.

It is the Constitution that sets out the power of this parliament and the power of the provincial legislatures. It is for this reason that elections are mandated within a strict time period and that the governor general is given a role as is the Senate.

It is the legitimate important role of the courts as provided by the Constitution to review any action taken by this House or by the provincial legislatures. And that they do to ensure the action was properly conducted by which I mean within proper jurisdiction.

It would not do for the federal government to begin to legislate in areas within provincial jurisdiction or vice versa, or outside the limitations of the fundamental rights and freedoms guaranteed to all Canadians by the charter of rights and freedoms. The fundamental importance of the balance of power set out in and by the Constitution and the ability of ordinary Canadians to challenge their government is part of what makes this country what it is, a shining example of democracy and fairness.

● (1710)

The courts have been tasked with interpreting the Constitution and making decisions on behalf of all citizens. Sometimes that role will require courts to point out to the government not only where their actions are clearly outside of their authority but where unintended consequences may potentially exist as a result of legislation passed in good faith by the House. It is the responsibility then of the courts to signal even those occasions where there was no intention of acting outside of their authority and where legislation was passed in good faith by the House.

Canadians understand and appreciate the need for governments to balance the interests of all Canadians and to try to be fair. After all, governments are elected by the majority, but in a democracy their duty is to serve the interests of all Canadians. Laws and the duty of government cannot responsibly reflect only one vision of what is right or the debate would endlessly revolve around who had the power to shape these norms and focus all Canadians to live them.

This decision is not the first to bring to the attention of the government that there is need to find some fair solution to an important equality issue. The decision itself is not the end of the story, as the hon. member well knows. What is most intriguing is that he seems to object to the court as he sees it assuming some of the role of parliament by changing the legislation. But he is not suggesting that it should be the House that does the job. Rather he suggests an appeal to another court, this time the Supreme Court of Canada. It is a very strange twist of logic indeed.

I assure the House that there is no such thing as judicial legislation, although some alarmists have tried very hard recently to convince us of the existence of this creature used only by ''radical judges'' who are ''out of control''.

Let me suggest rather that it is entirely more accurate to understand that the courts are only playing the same role they have always performed, that of reviewing government action and in a few cases where they believe the answer is clear attempting to help both the Canadians before them and parliament with a suggested solution.

Again, the remedy chosen in this case that is written in is not our preferred choice of remedy, but then again it is hardly written in stone as some seem to believe. Even if the decision is not appealed there remain a number of options open to the House including legislating a solution, which is preferable to us as long as that solution complies with the Constitution and in particular with the charter of rights and freedoms.

As I see it, the courts and legislatures are still engaged in a constructive dialogue in this area of the charter. Courts interpret our constitutional principles and apply them to legislation. If courts think legislatures have it wrong, courts then will declare that provision invalid, but it will always remain open to parliament to introduce a new law that meets the concerns set out by the court.

Because of this the motion is simply inappropriate and shows a lack of appreciation of how democracy works. There is no need to interfere with the routine process with this kind of case or these kinds of cases which have been handled within the government system since Confederation. There is no need for parliament to begin to discuss conduct of individual court cases. Furthermore, it would be entirely inappropriate for parliament to begin to comment on specific cases and decisions of the court.

Public confidence in the courts and in the justice system is largely dependent on the independence of the judiciary. An important element of judicial independence is the ability of judges to make decisions free from interference. It is a cornerstone of the

Canadian democratic system and one well worth noting. That freedom also includes freedom from interference by parliament.

This motion, if passed, would represent a serious precedent for interference with the judiciary in attempting to tell the courts what kind of remedies they can and cannot order when a court finds a provision unconstitutional. Instead we should leave this decision, as we have hundreds of others, to the usual process.

Sociologists have pointed out that the variety of household forms in today's society should perhaps be recognized in some way by increasing flexibility to reflect all relationships of economic dependency.

● (1715)

Statistics show that one of the most common household forms for people over the age of 65 is two siblings living together who may well be able to afford an apartment only by combining income. In the coming years some argue that government policies must struggle with the values of Canadian society and with what kind of society we want to have: a society that treats everyone as individuals or a society that facilitates caring, as one socialist has put it.

Certainly part of our stability as a nation comes from the strength of our families. Families continue to be the foundation of our nation, as acknowledged in this House and in all of the homes of this great nation.

In summarizing what this motion means and what it represents, I want to first point out that it is inappropriate in four ways. First, the conduct of court cases by the government is within the sole jurisdiction of the attorney general and this House should not set a precedent by interfering with the mandate or with the ordinary process of determining the appropriate action of a court decision.

Second, this House should not set a precedent by beginning to debate how each and every court case concerning the federal government should be conducted. That would be absolutely ludicrous.

Third, this House should not set a precedent which would appear to Canadians to interfere with the independence of the judiciary. If we do not agree with the court decision, the answer is not to address the decision itself, but to determine other methods of proceeding.

Finally, fourth, not only do Canadians not view this specific court decision as the judges taking over, but they continue to believe that the balance between the role of the courts and the role of parliament is essential to the proper workings of democracy.

I believe that after careful reflection most members of this House will agree with the points I have made.

Mr. Grant McNally (Dewdney—Alouette, Ref.): Mr. Speaker, I listened with interest to my colleague's speech. Recently the Minister of Citizenship and Immigration made an appeal to the supreme court on a specific case involving an Ontario court decision concerning a young woman who is being deported whose children were born in Canada.

Is the hon. member indicating that the Minister of Citizenship and Immigration is interfering with the correct process by making an appeal to a higher court? That is in fact what he seems, by logical conclusion, to be stating in that particular line of reasoning in his debate. I find that quite surprising.

What seems to be at the nub of the issue here is that government members misunderstand the fact that the judiciary in this particular case, as well as others, is reading a new meaning into the law that was not there previous to this new interpretation in this finding.

I would like the hon. member to comment on this. When the Minister of Citizenship and Immigration makes an appeal because that particular case would set a precedent that would affect other cases, does he not feel that is the similar process that should occur in this case? There is a direct contradiction. I would like the hon. member to address that.

Mr. Lynn Myers: Mr. Speaker, in reply to the hon. member, I want to simply point out that I think he is missing the point. It is certainly the minister's prerogative to appeal. It is, in fact, the process and is within her rights and the laws set out in Canada.

I really find it disheartening to hear the Reform members flip-flop in terms of supreme court and other judges' decisions. I was surprised to read a May 7, 1996 press release issued by the Reform member for Prince George—Peace River, entitled ''Kids Win in Supreme Court Ruling'', in which he applauded the court for upholding the rights of non-custodial parents. Even the leader of the Reform Party got in on the act and made political hay in this case.

My point is that when it suits the members opposite they will use it and when it does not they will not. Canadians see through this kind of hypocrisy all too well. It is just simply part and parcel of the kind of nonsense that we get from members opposite.

Mr. Jim Pankiw (Saskatoon—Humboldt, Ref.): Mr. Speaker, my question is very simple.

● (1720)

Do the members opposite not understand the difference between a case in which the court upheld the law and a case in which a judge writes words into the law that did not exist before? Do they not see the difference? None of you have demonstrated any understanding of that simple concept all day long. Do you not see the difference between a judge determining if a law is constitutional or not and writing new law in that was never intended or meant to be there by this parliament? Do you not see the difference?

The Acting Speaker (Mr. McClelland): Before the member for Waterloo-Wellington responds, I remind members to address each other through the Chair.

Mr. Lynn Myers: Mr. Speaker, in answer to the member opposite, I simply want to say that yes we do understand the difference. We understand the basis of this great country, the democracy that underpins it and the foundation on which we build day after day.

What they fail to see is that there is a real danger in interfering in the independence of judges. More to the point, we cannot interfere with the independence of the judiciary. I am amazed that the members opposite would do that.

In fairness, it is part and parcel of their approach to negativity and fearmongering which they are very able and very capable of doing this. That is too bad.

The member opposite said something about getting on their high horse. As usual they are on their high horse with that sort of self-righteousness.

I say to them that this government continues to stand on the foundation of the very democracy on which our Constitution was built. We will continue to do that. It is the right and the appropriate thing to do and Canadians respect that.

Mr. Steve Mahoney (Mississauga West, Lib.): Mr. Speaker, I am going to ask the member for Wild Rose not to have a heart attack this afternoon during this debate.

This is really a three-part motion. The first part deals with the Reform Party's attitude toward judges, how they are appointed and what powers they should have. The second part deals with the definition of ''spouse'' and the whole issue of—

Mr. Dick Harris: Mr. Speaker, I rise on a point of order. I am sure you will agree that the comment just made by the member opposite regarding the health problems that the member for Wild Rose has are no part of this debate. It certainly served no interest for him to make that comment. I would ask him to withdraw it.

The Acting Speaker (Mr. McClelland): It really is not a point of order. It is not the role of the Chair to get involved in discussions of this sort. It should go to the member for Mississauga West.

Mr. Steve Mahoney: Mr. Speaker, I am happy to retract it. It was not meant in any way to be cheap. It was simply in reference to the last time we had a debate in this place when that gentleman and I got fairly heated with one another.

Do not be too sensitive. I withdraw the remark. I agree that it has no relevance here.

Let me go back to what I was saying. It is a three-part motion. If the party was being in the slightest bit honest about what it wants to attempt here it would not couch the initial part which deals with its opinion that federal legislation should not be altered by judicial rulings. Then it puts it together with the definition of ''spouse'' in the Rosenberg decision. The third part is about the right of appeal.

There was a bit of a Freudian slip by one of the members opposite. When he was reading the entire motion, the Reform member, and forgive me, I forget his riding, said on the third part that the government should immediately ''repeal'', not appeal, the decision. The motion reads ''the government should appeal''. It is the member opposite who said, in a rather interesting mistake, that the government should repeal the Rosenberg decision. That mistake tells me a lot. That mistake, and I assume it is a mistake and was not said intentionally, really underlines the true feeling of the Reform Party, which is that parliament should simply have the right when it does not like a judge's decision to repeal it.

● (1725)

It is astounding that the Reform Party, which so often wraps itself in the veil of liberty and the protection of freedom for all, would want to give any government, other than its own which we know we will never see, that kind of power. Think about the ramifications.

We could stand in this place and say we do not like a decision that was made by any court in the land and if we could get the support of enough of our colleagues we could overturn the decision. It would lead to anarchy.

I do not like to use extreme terms because Reform members try to pretend that when we do that we are painting them as something they are not. But they are not thinking logically about the impact of turning that kind of power over to a group of men and women which could change every three, four or five years.

Look at the demographics of change now. We have what is referred to as Canada's pizza parliament, with five different parties. There are regional interests. The interests of the people in the west are going to be different than the interests of the people in Ontario. We all know that the interests of the people who the Bloc purports to represent are different than the interests of the majority in this place.

This system is based on the separation of parliamentary procedure and the judiciary. To put them together would be very dangerous.

In the United Kingdom I was talking to some British parliamentarians not long ago who are looking at actually writing a charter of rights. They do not have one. The people from Westminster who founded the democratic parliamentary system do not have a written constitution. This country had to go to them to get its Constitution and they never had one. They do not have a charter of rights. They are looking at putting one together.

The member opposite asked my colleague why we do not understand that the judge is rewriting law. What they fail to understand is that the judge is interpreting law. That is the judge's job, based on the charter of rights and the Constitution. That is what they get so excited about. They want good old ''I will get my six guns on and I am going to change the law''. That is what they want. That is not the way this country has been built.

The Reform Party talks about power to the unelected. When it comes down to judicial matters which require someone with tremendous experience of the law to understand the impact they will have on people, frankly, I have a lot more confidence in the judges in this country than I do in members of the Reform Party. To turn that kind of authority or power over to this place is just not realistic.

We can debate the impact of certain decisions on society.

I mentioned that this motion was broken down into three areas. The Reform Party would have judges elected the way they do in the United States. That is not on. That is not the kind of policy Canadians want. They do not want someone sitting at the bar making a decision based on their chances of getting re-elected. They want them sitting on the bench based on what the proper decision is, based on the laws of this land, and based on constitutional rights and the charter of rights and freedoms.

It is curious that they would wrap this issue of judicial accountability into the issue of the definition of same sex benefits or spousal benefits.

• (1730)

I have never believed that one get rights because of sexual orientation. I also do not believe one should lose them. I do not believe the country is built on the principles of being able to say because one is different one does not get this right and someone else does. That is not what Canada is about.

In the simplistic mentality and jargon of members of the Reform Party that is exactly the kind of system they would be creating. If they were truly interested in reform of the judiciary, why would they pick this decision instead of others?

I heard a member opposite talking about the immigration minister having a right to appeal. That is exactly the point. The minister has the right to appeal, not repeal but appeal, just like Canadians. It is amazing. It makes us equal in this place. We can appeal that decision. We can then change the law if we want to write new law and it will be interpreted by the courts based on that new law, our constitution and our charter.

I cite an example from the *Daily Mail* in London, England. I referred earlier to the U.K. which has decided to change the way it deals with fraud, people who commit fraud when trying to get into the U.K. It has turned it around from some cases which took 10 years to get through a judiciary process and otherwise to doing it now in seven days. We can do that. Parliament has the power to do that.

Judges make decisions about asylum seekers that a number of us do not like. It has happened where members on this side of the House do not like it any more than those on the other side of the House. Should we simply say that is it and overrule the judge? That would create an absolute catastrophe in a bureaucracy. It would be a frightening scenario that would leave it to the subjective minds of people who perhaps are going into an election, are unsure of their footing and do not have a history or knowledge steeped in the law.

This is dangerous. This is very dangerous ground. Reformers in my view are doing nothing more than pretending to want to change the judiciary while highlighting their concerns over issues relating to sexual orientation. If we separate them and have debate in this place on both issues I would have no difficulty, but trying to cloud one with the other is less than dishonest. It is hypocritical.

Mr. Eric Lowther (Calgary Centre, Ref.): Mr. Speaker, I was very interested to hear the comments of the previous speaker. When I listened to the arguments he so passionately put forward I was concerned that he was skewing the issue. He was muddying the waters. He was making it confusing for people. I would like to clarify a few points and get his perspective on them.

The particular case we are bringing forward is just a representative case. There are many others. I have a list of them: the Feeney case, Delgamuukw, Eldridge, five or six different cases I could go into details on. However this case is a good illustrative example because the courts have added words to the law in place that was approved by the House. The court actually read in or added words. The hon. member knows how much work goes into determining the exact wording of every piece of legislation that comes through the House. We are concerned about the reading in or addition of words.

I was confused when I listened to the member opposite. I compared what he had to say to what I heard from other members of his party say, in fact some of the leaders of his party. In the last parliament, for example, the justice minister of the party he is from said that we should not rely on the courts to make public policy in matters of this kind, that it is up to legislators and we should have the courage to do it.

• (1735)

I fully endorse that statement as I think all Canadians do. That same justice minister went on to say that the court should not make policy or rewrite statutes, that it was the role of parliament.

What happened in this case was that the court rewrote. It added words. It is not a matter of interpretation or application. It is a matter of writing legislation in the courts. Their own minister clearly said the courts should not do it. Yet I sit here incredulously listening to the member across the way telling us that this is what the courts should be doing. I ask him to please clarify.

Mr. Steve Mahoney: Mr. Speaker, for a change I thought that was a fairly thoughtful question from a member of the Reform Party. I appreciate the question.

The point I am trying to raise is not to muddy the waters at all. The point I am trying to make is that had they chosen the issue of a judicial decision for debate on whether the parliamentary prerogative should prevail over the judiciary, that is one debate I think we could have in this place. I know where I would come down. I would come down clearly on the separation of the two houses.

However, they have tied it into the other issue. They are acting like school boys in the fifties with a *Playboy* magazine inside the textbook in the school and snickering. They are tying it into the sexual orientation issue instead of dealing with it on the basis that it should be dealt with.

Mr. Dick Harris: Mr. Speaker, I rise on a point of order. While the member for Mississauga West may have taken a *Playboy* magazine to school, I can assure you that none of our members did. He should retain the exclusivity of that.

The Acting Speaker (Mr. McClelland): And of course the Speaker.

Mr. Steve Mahoney: Mr. Speaker, I do not know what that was about except that they are awfully sensitive.

The point of the analogy is that they are taking a subject which should stand in debate on its own merits, the role of the two links of parliamentary procedure in the judiciary. Were they putting it into a higher level of debate we could have a clear debate and establish the different guidelines.

I know what Reformers want. They want shoot 'em up justice. They want to elect their judges. They want the power to tell a judge ''If you don't do what we say we are going to fire you. We are going to change your decision because we are elected and you are not''.

I know what they want. It is not what Canadians want. Canadians do not want their courts to make quick, bad decisions. They want them to be well thought out and the government decision should also be well thought out.

Mr. Dick Harris (Prince George—Bulkley Valley, Ref.): Mr. Speaker, I am pleased to rise in debate on this supply day motion.

Let me start out by saying that although I am not surprised I am somewhat disappointed that some members of the Liberal Party have lost sight of the issue we are debating today. They have chosen not to put forward substantive debate backed up with sound thinking but have resorted to slander and vicious attacks on members of my party.

I point out particularly the Minister of State for Multiculturalism and the Status of Women who spoke earlier, the member for Kitchener—Waterloo, the member for Windsor—St. Clair and now most recently the member for Mississauga West.

If I had to choose a title for my debate today it would be just who is running the country anyway. I chose that title because I am often asked it as a member of parliament by constituents who have become aware of a seemingly insane or idiotic judicial decision been made somewhere in the country. The phone rings in my riding and I hear from a mad constituent who is asking ''What on earth are you guys doing allowing judges to make decisions like that? I thought parliament was running the country. Just who is running the country?'' That is the question which I think supports the supply day motion today.

• (1740)

In this supreme court decision we have a body of judges that was given the power through the 1982 constitution to undermine laws made in the Chamber. There was a time before the 1982 constitution when the House reflected democracy in a rather pure form. Representatives who came to the House were sent here by the people who elected them to represent the views of their people.

As I understand it, that is what a House of Commons or a parliament is for. Elected, accountable parliamentarians should be able to come to the House to debate and truly represent not only the people of their ridings but the overall feeling in society. Perhaps that is where some Liberal members have become confused. Maybe they have forgotten exactly what democracy is.

Through the constitution power and responsibility were passed on to judges to undermine laws that have been debated and set in the House. I accuse former Prime Minister Trudeau of making a provision in the constitution that forever allowed parliament to abrogate its responsibility to make decisions that may not be seen as popular by some factions in the country. He simply provided the tool through the constitution so that parliament did not have to do anything but sort of maintain the status quo, carry on and make decisions that can be called, at best, middle of the road, fence sitting type laws. That responsibility was given to the judiciary. It is wrong that judges should have the power to say to parliament that they will rewrite the law and at the stroke of a pen simply do that.

The case mentioned in the supply day motion today, the Rosenberg case, is an example of that as the member for Dewdney—Alouette pointed out so appropriately. This body of judges took a standing law of parliament and did not make a recommendation that in their opinion parliament should redress the particular law. They did not say that. They did not recommend or come up with a report that parliament should revisit and debate it. They unilaterally made a decision to rewrite a law which affects the lives of every Canadian living in the country. The judges rewrote it. It was not

debated in the House. It was made by a small group of appointed, unelected and unaccountable people.

We as politicians, as representatives of the Canadian people, simply cannot allow that to happen. We can allow judges to interpret the law given their best judgment. We can allow judges to carry out the laws that were laid down in the House. That is their job. However we cannot allow judges to make new laws. That is job of the House.

The fears pointed out by the member for Mississauga West about how a majority of one party, a government, could simply run roughshod over parliament and the people of the country is actually a supportive position for a triple-E Senate.

• (1745)

That House in a true democratic fashion should be elected. It should have equal representation from all parts of the country, even the areas that simply have rocks and trees and a few people. It should be able to be effective in changing the views of this House which is represented by population. I thank the member for making our case on a triple-E Senate. If we got that, some of the fears that this member had would not be present.

This is not an isolated case of judges making laws. As the member for Calgary Centre pointed out, there are a number of different cases and he pointed to the Feeney case. Here was a case where the police were carrying out their job of catching the bad guys—which I think is what they are there for—and bringing them to justice. The supreme court ruled that they can no longer carry out their job in this fashion. They can no longer go into a place where they know there is substantive evidence to convict unless they get a special warrant. This has thrown the whole concept of police work into huge uncertainty.

This decision was made by a judge, not by this place. Not by the Parliament of Canada. As a result of this judge's decision, a person who was convicted of a savage murder is walking free. In some fuzzy logic of a judge's mind, this decision was made.

The court in the Delgamuukw case has taken upon itself the responsibility to deal with the aboriginal land claims in this country. It has to be the Parliament of Canada that does that, not a body of judges. The body of judges may make recommendations to the Parliament of Canada and urge the Parliament of Canada to deal with them. They cannot make decisions themselves.

We can talk about the Singh case, the immigration case regarding refugee hearings. This decision, made by an unelected, unaccountable board, a group of judges, caused a huge upheaval in the refugee system. It cost the taxpayers millions of dollars and created an untold backlog of cases because the courts, the judges, chose not to make recommendations but to change the law.

I hope the members opposite will see clearly the point of this debate. The debate is that it is the Parliament of Canada that must become and continue to be supreme in the law making of this country.

Mr. Jim Pankiw (Saskatoon—Humboldt, Ref.): Mr. Speaker, on two occasions I have tried to have Liberal members elucidate whether they understand the difference between judges ruling whether or not laws are constitutional and judges actually writing law and changing the meaning of laws in their decisions. I have been very unsuccessful in having them explain whether or not they understand that and furthermore whether or not they agree with it.

I would like to ask the hon. member what position he feels judges should have. Should they have the authority to simply rule on the constitutionality of the law or should they be allowed, as they have done in this case, to change the law and write new meaning into the law?

• (1750)

Mr. Dick Harris: Mr. Speaker, in my opinion the role of judges is certainly not to rewrite the law. The role of judges is to examine the Criminal Code as we see it, to examine the Constitution as we see it and to make recommendations to the Parliament of Canada as to their opinion as to whether there is validity in the points of concern for them. They make recommendations and urge the Parliament of Canada to consider making changes in the areas that they feel are necessary. That is the role of the judiciary in my opinion when it comes to the Constitution and the Criminal Code.

We can never allow the courts of this country to make new laws. That is our job. If we do not fulfil that responsibility, then we should not be here.

Mr. Grant McNally (Dewdney—Alouette, Ref.): Mr. Speaker, I have listened with great intent to my colleague and I thank him for his speech.

The point I made earlier was that the Minister of Citizenship and Immigration is appealing a particular case. The reason I would suggest she is doing that is because it would set a legal precedent. That decision will set a legal precedent which then again could affect other rulings in that particular area.

Here we have another example of this particular case affecting legislation in the definition of spouse and perhaps the redefinition of marriage.

I am wondering if my colleague could comment on the fact that the Liberal government says one thing in one area, it takes a

specific action in appealing a particular case that will affect law in one area, yet it does absolutely nothing. It seems as though it does not even want this issue to be brought to the forefront, underpinning the fact that judges are reading in a new meaning to this particular law.

Could the hon. member comment on this contradiction, this lack of action in one instance when there is action in the other instance? How does he think the government might be able to explain this contradiction?

Mr. Dick Harris: Quite frankly, Mr. Speaker, I think it is very irresponsible of this government, of any government, to take a position of picking and choosing which court decisions it is going to challenge.

In every law of this country that is changed unilaterally by a judicial board or a supreme court, if in their decision they rewrite the law, it is the obligation and responsibility of the government of the day, whatever government it is, to challenge that rewriting of the law. The government must say clearly to the courts ''In case you have forgotten, it is not your position to rewrite the laws. It is our position. Therefore we will take up the challenge. We will challenge that decision. In fact, at the end of the day when we have successfully won that challenge, we will then take your decision as a recommendation and an urging for us to deal with it in the House of Commons and the Parliament of Canada''. That is the position the government should be taking.

Mr. Myron Thompson (Wild Rose, Ref.): Mr. Speaker, it gives me pleasure to speak to this supply motion today.

I would like to say first off that the Liberal member for Mississauga West need not worry too much about my heart. It is pretty strong. In fact, I am sure it is going to be around a lot longer than this Liberal Party. There is pretty good evidence of that because of the attitude we have heard today coming from that side of the House. It was the same attitude which existed in the 35th Parliament and guess what. There was a whole section of Liberals over there and poof, they are gone. So just keep it up. It will not be long. I know my heart will be around when the rest of them are gone.

I do not know how many times I have been asked the question in my own riding and at other times when we go around to other parts of the country by people who are quite concerned and they say to me ''Why are the courts making the laws? Is that not what we sent you to parliament for, to make the laws? Why are the courts making the laws?''

My colleague from Calgary Centre gave a whole list of examples of where that has happened. The only reason the Rosenberg decision is in the supply day motion is that it is the most recent case where there is another example of the court changing the law arbitrarily with this House not having anything to say about it.

• (1755)

People out there in Canada believe that when they pay good money to individuals to run the country that whoever is doing it should be accountable to them. I always believed that and I am sure you did, Mr. Speaker, before you came here. Taxpayers believe that the people they pay, including those in the courts, should be subject to some sort of accountability for the big bucks taxpayers pay.

Canadians ask who is running the country and who is making the laws. Their other question is to whom are those people accountable? Unfortunately my answer has to be no one. Under the present system they are not accountable to anyone.

I do not think for a moment that there is anyone in this House or from my side of the House from this party who would deny for a second that the expertise of people who understand our Constitution and the laws that go along with it should not be there to make absolutely certain that what we do is according to what the law of our land, the Constitution including the charter of rights, intended. There is no doubt about that.

When a piece of legislation that needs change comes into question, I believe and I think most Canadians believe that the change has to be made in this House. Then they have the opportunity to hold us accountable in the next election. At least one day every four or five years Canadians get to exercise their democratic right to send the message that they are or are not pleased with our performance and what we are doing. When taxpayers do not have the opportunity to do that because something is arbitrarily done through judiciary activism, they get a little upset, and I do not blame them.

We are bringing this before the House today to try to get this government to understand we need to have a little better understanding of what the taxpayers of Canada truly want. They want good representation. They want people to be accountable for the big bucks and we know they are big bucks. We are number one in the developed nations in terms of taxes. They want to know where their money is going and whether it is producing what they would like.

I am quite certain now that the court has written a redefinition into a piece of legislation regarding the word spouse without going through this House there will be some upset people. I certainly hope they let those members over there know it. When that decision was made I certainly found out in a hurry, as did my colleague from Prince George. People do pay attention to what is going on. My phone started ringing and letters started coming. That is why not too long after that decision, I made a member's statement in this House regarding that very thing. I was trying to put forward the voice of the people.

The government has an obligation to defend its stated position on the definition of spouse. We have the obligation to defend what we had in place. If an appeal fails, then bring the issue before parliament to debate it and settle it in a democratic fashion. I do not understand what is wrong with that. That is what we are supposed to do, debate, make the law. We can even show our appreciation to the courts for calling to our attention that the legislation is not properly done and that it needs to be changed. Let us do our job here. The courts are not supposed to do it for us. I did not think that was the case.

● (1800)

The former justice minister, now the health minister, said while defending the need for Bill C-33 ''We should not rely on the courts to make public policy in matters of this kind. That is up to legislators and we should have the courage to do it''. I could not agree with the minister more.

I do not always agree with this gentleman but that was one statement that he was right on. That statement was something I thought these people across the way would have accepted as being real good common sense. It came from that side.

We are currently on the clock. The deadline for the government to appeal this is June 22. It is clearly a judge made law. It rewrites a major federal statute and is of a timely nature. This decision must be appealed immediately.

I do not understand why the courts decided to read in a same sex definition when parliament has already said no. During the 35th parliament Motion No. 264 proposed the legal recognition of same sex spouses and was defeated by a vote of 52 to 124. Out of those 124 votes many of them came from that side. They had to or it would have never been defeated.

Why the flip-flop? What is going on? Out of the blue this becomes okay but in the last parliament it was defeated soundly. It took every party of the House to do that.

This is something I know Canadians across the land are quite concerned about. I know this because of the question that was asked of the member from Prince George at town hall meetings, who is running this country, the courts or us. We must recognize that is being said. We must recognize that people are concerned about this and we must do our duty. We have a major task to do and we should live up to it.

Mr. Eric Lowther (Calgary Centre, Ref.): Mr. Speaker, I really enjoyed the member's comments. They are always straight to the point, refreshing and very clear.

I know a bit about the member's riding, about how much he is appreciated in his riding and how much the people in his riding respond to him personally, to his approach and to how well he is respected by the people there and his personal commitment to represent those people in this House.

I think the House should be interested to hear the voice of the people of Wild Rose. What would those people say? What are their concerns? What would they say about this motion and judicial activism or whatever we want to call it in general? Let us hear the voice of the people of Wild Rose on this issue if we could.

Mr. Myron Thompson: Mr. Speaker, all I can say is that initially when I made the member's statement I mentioned a while back following this case a number of people phoned, wrote, faxed and E-mailed to thank me for bringing the issue before the House because it was something they were wondering what was going on and they were concerned about it.

There were not a large number of them because a lot of people do not really pay that much attention to what does go on. Unfortunately for this country there are too many people out there who do not pay enough attention. However, those who did were quite pleased that it at least was brought forward. They did not even comment on whether they objected to the decision or not. I think the major thing they were concerned about, and I believe it is a logical one, is who is running the country. Are the courts making the decisions and running the country or is parliament? That is a fair question.

● (1805)

I know the people over here hear the same questions and comments lots of times, if they would just admit it, live up to it and be willing to do their duty.

Mr. Jake E. Hoeppner (Portage—Lisgar, Ref.): Mr. Speaker, I would like to ask my colleague from Wild Rose how he feels about governments using the court system.

The Soviet Union had a dictatorship for a long time and what my mother always told me is at the start before the revolution the government used the courts to put people into prison. Once they had control of the government, they had the revolution. Then the dictatorship did away with the courts altogether. We have seen that happening the same way in some third nation countries. I am wondering if he has any fear of that happening here. I would like to hear his thoughts on that.

Mr. Myron Thompson: Mr. Speaker, the history of the tragedies that took place in that land over those years is indeed tragic. Rather than direct my answer to that situation and how it compares to today, I simply say that we live in the greatest country in the world. There is no doubt about that. I know the Liberals agree with me. But we have to stop all the silliness like you had better calm down or you will have a heart attack, blah, blah, blah, and genuinely look at what is going on and take a look at history, because history is valuable.

Look at some of the things that have happened in the past. What can we do in this place that will prevent any tragedies from occurring in the future? What can I do here that is going to make my four grandkids live in a better country than we have today? What can we do for their future?

All we have to do is stop all the nonsense and realize we are the top court of the land and the people are expecting us to maintain this place in a fashion that will make this country the greatest we could ever imagine. That is what I want to do. I object to all the nonsense that goes on in that regard.

Ms. Carolyn Parrish (Mississauga Centre, Lib.): Mr. Speaker, on first reading today's motion my reaction was of pleasant surprise. It appears to raise an issue of Canadian governance that is both philosophically important and publicly current. That was on quick first reading. But a moment's reflection reveals that the motion has serious problems and does not deserve our support. In fact, there is more than a bit of the old Trojan horse in the hon. member's proposal, not to mention some contradictory logic.

First, by focusing on the Rosenberg decision involving pension benefits for same sex couples, the opposition raises disturbing questions about what its real agenda is here. Is it the defence of parliamentary prerogative that is actually at issue for it? Is Reform saying appeal because it does not like the judicial process involved? Is it the application of the charter of rights and freedoms by a court that it objects to or is it really its dislike of the fact that a court has decided that same sex couples qualify as spouses under the Income Tax Act and that the government may decide to accept the consequences for existing income tax legislation?

There is a second reason why the House should reject this motion. As I said a minute ago, there is a distinct whiff of self-contradiction here. The motion clearly suggests that judicial rulings are pre-empting the government's ability and authority to govern. But surely that same ability and authority must rest on government's having the opportunity and obligation to deal with issues in a considered, comprehensive manner.

Courts should not carelessly rush to judgment and neither should governments. It makes for bad law and much worse national leadership. That is not an attribute that this opposition seems to appreciate or apply, be it on social values or national unity.

• (1810)

Let me remind the House that the government does have until June 22 to decide whether to appeal the decision to the Supreme Court of Canada. Our government is considering the implications of the Rosenberg case. We will take as much of the time available as we need because only that way do we have the best chance to ensure and give Canadians the confidence that our decision is in the best interests of the country and all its citizens. That is how a country should be governed. We will not be pushed to judgment and risk enshrining intolerance or a partisan whim.

I have no trouble speaking against this motion. It has nothing to do with the important issue of the balance between legislative authority and the obligation of Canada's courts to apply the charter of rights when required. Clearly this balance is not always an easy one. I will listen with great interest to members of all parties who can bring real legal and philosophical expertise to the debate when and if the opposition lets that take place.

Maybe I can help today's debate become more than a typical opposition grandstand by doing what I can to encourage a different balance here today, a balanced understanding of background to the Rosenberg issue.

At question is a recent ruling by the court of appeal. It found that the charter of rights requires that employer sponsored pension plans offering benefits to same sex partners be accepted for registration for income tax purposes. The courts remedy reads same sex partners into the definition of spouse in the Income Tax Act for this purpose.

In other words, it means that the judgment effectively amends or overrides the tax act definition of spouse which limits entitlement to a spouse of the opposite sex. Let us be clear about something. As it stands, the court's decision applies only to determined eligibility for pension survivor benefits. It does not affect the definition of spouse for other purposes in the Income Tax Act.

It should also be noted that this judgment does not require employers to include survivor benefits for same sex partners in the package of pension benefits they provide to their employees. Nor do current rules prevent them from doing so. What the judgment does require is that when an employer does offer such benefits, the pension plan must now qualify under the Income Tax Act to be registered and to receive the same tax treatment as any other registered plan.

There is nothing arcane or ominous about this tax treatment of registered plans. Any pension plan registered for tax purposes simply receives beneficial tax treatment similar to the treatment enjoyed, for example, by anyone who holds an RRSP. Contributions to such a pension plan by employers and employees are tax deductible. The contributions made by employers are not treated as taxable benefits to the employee and there is no tax on the investment income earned by the plan. Instead this tax is paid when funds are withdrawn from the plan normally as pension amounts paid to the employee after retirement.

I said earlier that the Rosenberg decision relates only to the registration of pension plans. There is no question that the decision, as it now stands, could have significant implications for other provisions of the Income Tax Act and could extend to other legislation. To begin with, provisions such as the tax free transfer

of RRSP balances to a surviving spouse are parallel in function and logic to the survivor benefits provided under pension plans. Amendments to these rules would need to be considered. Beyond this is the question whether the logic of the Rosenberg judgment should be considered to apply to other tax provisions that provide benefits to married and common law heterosexual spouse.

There are literally hundreds of provisions related to spouses in the Income Tax Act. Such benefits include the spousal credit, the transfer of unused credits, including the age credit, pension income credit, disability credit, education and tuition fee credits, and the ability to contribute to spousal RRSPs. These are benefits provided to Canadians under the Income Tax Act. We should also recognize that the act contains many provisions that impose obligations on spouses as well.

These include the requirement to combine incomes for purposes of income tested refundable tax credits such as the GST credit and the child tax benefit, limiting couples to one principal residence only, the income attribution rules and the extension to related persons of restrictions applicable to significant shareholders.

● (1815)

Clearly it would be difficult to justify extending only the benefit conferring provisions of the ITA to same sex partners and not the provisions that impose obligations. The result would be a tax system that systematically advantaged same sex couples over married and common law couples. In contrast, the existing rules do not systematically favour one group over another since those who qualify as spouses are exposed to a balanced mixture of benefits and obligations.

This leads to another interesting point. If all the provisions of the ITA that relate to spouses were extended to apply to same sex partners, it is not at all clear that the same sex couples as a group would be net beneficiaries of the change. Although data do not allow precise estimates I understand that work done by the Department of Finance suggests that if we modify the current rules to treat same sex couples in the same way as married and common law couples for all purposes of the ITA it would actually result in a small annual aggregate net financial loss for same sex couples.

The result is that the gain to the government in lower benefits under provisions like the GST credit would exceed the additional revenue cost of benefit conferring provisions like the spousal credit. We fully appreciate that the question of recognizing same sex partners in government legislation must not be limited to questions of financial advantage or disadvantage for the individuals concerned or for the government.

It is proper and useful to debate such a topic. The balance of rights and obligations for spouses under the ITA is not a win-win situation. The issue of how some same sex partners are treated by the tax system is not simply one of denial of benefits available to other Canadians.

We all know that opposition members, especially those of the official opposition, likes to reduce things to issues of black and white. It allows them to thunder and thrash with great emotion. Anyone who has real passion for good governance and its fundamental basis in human rights, social justice and tolerance knows that effective decision making demands the application of both head and heart, which means considering all aspects of an issue. That is what our government is doing because that is the real way of doing things. That is the fair way and that is the logical way. That is why the principled response to the motion is to reject it. When they are willing to engage in open and honest debate the House should listen, but for the motion the only response possible is to send it to defeat.

Mr. Ken Epp (Elk Island, Ref.): Mr. Speaker, I have a question based on the very last sentence of the hon. member.

She said when this party, referring to Reform, is ready for honest and open debate they were ready to listen. That is the whole point. It did not get to the House. The whole point is that the courts made the decision on behalf of Canadians without consulting Canadians and without consulting their elected representatives in this place.

I would say yes, let us do it. Let us debate the issue. Let us talk about whether we are ready in society to allow an appointed court to start making rules and regulations which govern our lives without reference to what Canadian people are ready to support. That is the crux of the issue. The member's comment would be much appreciated.

Ms. Carolyn Parrish: Mr. Speaker, I am glad the member opposite was listening right to the very end. I always find it interesting that the Reform Party wants to consult. I think consult is the buzzword. They should become the party of consultation rather than the party of reform.

One thing that would be most difficult would be for any of us to consult intimately with every constituent. Often our job as the governing party and as members of parliament is to consider issues in great depth and to make decisions based on what is best in consultation with people. It is not a ritualistic thing.

It is also very difficult to take the knowledge of a very learned body like the supreme court and try to impart it to every citizen in the country and then consult to see what they would like to do. If we consulted every Canadian in Canada we would often find they want us to do something based on incomplete knowledge, incomplete facts or a lack of expertise. It would be very interesting to let Reformers run the country for about a day to see what they came up

with. They would not have the time to do all the consulting they would like to do.

• (1820)

I believe we have very learned people appointed to the positions of judges. They have a body of knowledge that they take to those positions. They make learned decisions based on information that the Canadian public and members of the House would not be able to do.

Mr. Jim Pankiw (Saskatoon—Humboldt, Ref.): Mr. Speaker, does the hon. member think that judges should have the authority to write or rewrite legislation to change the law? Does she think their role should be not only to rule on the constitutionality and the applications of law but to change the meaning of laws and to write laws? A simple yes or no answer would suffice.

Ms. Carolyn Parrish: Mr. Speaker, if I ever got a simple yes or no question I would probably be able to do that.

The judges are basing their decisions on upholding the Charter of Rights and Freedoms. They are not being told to rewrite it. They are being told to read it, understand it, become expert at it and make decisions based on it. I do not think they are being told to change the laws. They are being told to interpret based on protecting the most fundamental document in Canada.

Mr. Grant McNally (Dewdney—Alouette, Ref.): Mr. Speaker, I have listened to the debate throughout the day and it has become clear now through what this member has just stated that there is a certain belief on the government's part about this idea of intellectual elitism.

We recognize that our supreme court justices or justices across the land are learned people who are working hard to do their job. They have opinions and perspectives. However what the hon. member just stated in her comments was that decisions by judges should override the majority of people in the country.

I am wondering if she is exerting the fact that individuals should be quiet, not raise any issues at all, but simply leave things in the hands of the judiciary, a group of unelected officials however learned. Is she telling the people of Canada that they should sit down and we will take care of everything?

Is she saying that we know better, that the learned people in society know better, and that we should reject the common sense of individuals and not allow them the opportunity to debate important issues?

I am wondering if that is what she is purporting because it is a thinly veiled argument. It is becoming very clear in her comments and those of other members of the government that that is at the hub of their belief of the Canadian electorate. As the minister for multiculturalism stated, it is the tyranny of the majority, in fact the majority that elected the Liberal government. Is that what they are indicating on that side?

Ms. Carolyn Parrish: Mr. Speaker, I have been in several levels of government and I always find it fascinating that there is no prequalifying test to run for election. Walking and chewing gum at the same time is the basic level to get elected.

I find it appalling the member opposite would feel something as important as the laws of the land could be the subject of common debate, that anyone is an expert on it. If he had a very severe pain in his internal organs would he call in for consultation a group of people from the streets of Ottawa to say ''Let us try to find out what is wrong with you?'' He would call in a medical practitioner who has been trained to analyse the situation.

Judges and lawyers go through a very stringent process. People become judges when they have qualified by understanding the laws and being able to show good judgment, which is something we do not always see from members opposite.

• (1825)

Mr. Jim Pankiw: Mr. Speaker, I did not get a simple yes or no answer to my question. I guess the hon. member felt that my question was wordy, so allow me to try to shorten it.

Should judges have the authority to add new meaning to laws in their rulings?

Ms. Carolyn Parrish: No, Mr. Speaker.

Mr. David Chatters (Athabasca, Ref.): Mr. Speaker, I do not have a lot of time left to engage in the debate, but there are a couple of comments I would like to add to the debate that has been going on in the House.

From my point of view it is unfortunate that the subject of judicial activism and how the supreme court is writing things into Canada's laws has to be tied to the subject of redefinition of spouse. Probably that was inevitable, simply because that area of judicial activism is the most blatant example of the courts—

* * *

BUSINESS OF THE HOUSE

Mr. Jim Pankiw (Saskatoon—Humboldt, Ref.): Mr. Speaker, I rise on a point of order. I believe you would find consent for the following motion:

> That, notwithstanding the provisions of the Standing Orders, for the remainder of this session, motions pursuant to Standing Orders 57 and 78(3) shall not be receivable by the Chair.

The Deputy Speaker: Does the hon. member have unanimous consent of the House to propose the motion at this time?

Some hon. members: Agreed.

The Deputy Speaker: Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

(Motion agreed to)

* * *

SUPPLY

ALLOTTED DAY—JUDICIAL RULINGS

The House resumed consideration of the motion.

Mr. David Chatters: Mr. Speaker, after that interruption I will try to resume where I left off.

I regret that the issue we are now debating is tied into redefining the word spouse in law. If we go as far back as when Mr. Trudeau, the icon of Liberal ideology, introduced the Charter of Rights and Freedoms in Canada he specifically and quite clearly chose to leave out of the charter the whole subject of sexual orientation. The intent of the law that he introduced was extremely clear. On top of that, on a number of occasions parliament chose to support the existing definitions of spouse and marriage.

The intent of parliament when it comes to the law was extremely clear. The former minister of justice and the current minister of justice have clearly expressed their support for the existing definition of spouse.

That is why we chose this case on which to raise the issue of judicial activism. While I support and respect the wisdom of the courts and the wisdom of the judges, that is the exact role given to them when the charter was introduced. They were to examine very carefully every issue that came before them in light of the charter and to make recommendations to parliament if in their view the issue before them did not comply with the charter.

Nowhere—and I have heard this over and over again in the debate today—was the court given the mandate or the instruction to write into the Charter of Rights and Freedoms issues that were clearly contrary to the will of parliament. That is the basis of what we are debating today.

All kinds of strawmen have been thrown up over the issue to try to deflect the argument away from what we are talking about and to try to imply some ulterior motive which does not exist.

● (1830)

I was amazed at the outrageous comments the member for Mississauga West made, suggesting somehow that it would be truly dangerous to the country and to our system of democracy to give the supreme power to the elected parliament in this country. That amazes me. How can it be dangerous to invest the supreme power in an elected body that is accountable to the people every four or five years but yet it is not dangerous to allow that power to exist in an unelected, unaccountable small group of individuals? I simply do not understand the reasoning there at all.

The Deputy Speaker: It being 6.30 p.m., it is my duty to inform the House that proceedings on the motion have expired. Pursuant to order made earlier this day, the House will now proceed to consideration of orders of the day.

* * *

[*Translation*]

MI'KMAQ EDUCATION ACT

The House proceeded to the consideration of Bill C-30, an act respecting the powers of the Mi'kmaq of Nova Scotia in relation to education, as reported (without amendment) from the committee.

SPEAKER'S RULING

The Deputy Speaker: There are two motions in amendment on the Notice Paper for the report stage of Bill C-30, an act respecting the powers of the Mi'kmaq of Nova Scotia in relation to education.

Motion No. 1 will be debated and voted on separately.

[*English*]

Motion No. 2 will be debated and voted on separately.

[*Translation*]

I will now put Motion No. 1 to the House.

MOTIONS IN AMENDMENT

Mr. Claude Bachand (Saint-Jean, BQ) moved:

Motion No. 1

That Bill C-30, in Clause 7, be amended by replacing lines 24 to 28 on page 2 with the following:

''7. (1) A community shall, as far as possible, provide or make provision for primary, elementary and secondary educational programs and services for members of the community, wherever they reside in Nova Scotia.''

He said: Mr. Speaker, Bill C-30 before us was referred, of course, to committee. Unfortunately, in committee, we were not completely ready to introduce certain amendments. The discussions had to be reread. Finally, after talks with the Nova Scotia chiefs, it was agreed to introduce the amendment before us today.

I would point out that there is a difference between the bill as written and the amendment now before us. The difference is this: following an agreement with the Mi'kmaq, the bill provided that all education services on Mi'kmaq reserves in Nova Scotia were to be solely for residents of the reserve.

● (1835)

I put a few questions to the officials who appeared before the committee and discovered that it was limited to those on the

reserve solely for monetary reasons. I decided to see if the services could not be extended to all Nova Scotia Mi'kmaq.

There is a major problem in Canada right now concerning off-reserve Indians. There is a frequent tendency towards this sort of agreement entitling those on the reserve to certain services. Now, almost 40% and even 50% of status Indians live off-reserve. These people are being told they will not be entitled to services.

I became aware of the problem several years ago, and this is perhaps the first time there has been a really specific example, a bill that excludes off-reserve Indians.

Members need to understand why people do not live on a reserve. Often, it is not by choice. Right now, for example, there is a terrible lack of housing on reserves. On certain reserves we visited, it was not unusual to see two or three generations, 15 or 16 individuals, living under the same roof. There are limits to overcrowding. Since the limit is often reached, these people are forced to leave the reserve and live elsewhere.

I think, however, that the government has certain responsibilities with respect to these people. The government's approach to off-reserve Indians is unfortunate. It is not even the same minister defending their interests. Given that the government has a fiduciary responsibility for the aboriginal peoples, a terrible injustice is being done to the people who live off reserve. It is important to expand educational services to the Mi'kmaq living off reserve as well.

We have before us an agreement signed by some ten communities—four have yet to sign—and of these ten communities that have signed, there are probably 3,000, 4,000 or 5,000 people living off reserve in Nova Scotia unable to take advantage of the educational services to be given the Mi'kmaq.

As I was saying, this has become very important to me in recent years and this is the first specific application I have had to demonstrate it. I am sure the head of the alliance of natives living off reserve would support the proposal before us. I invite all my colleagues in the House to do the same.

There is an impact, however. If there were no amendment to the agreement before us, $150 million would be given to the people living on Mi'kmaq reserves. With the amendment, we are asking the government to improve the agreement. This agreement, worth an estimated $150 million, could be valued as high as $200 million, because it is important that we treat all status aboriginals with a valid card equitably.

As I was saying earlier, it is not because people want absolutely to live off reserve. On the contrary, people consider this new agreement, the new bill under consideration, provides an extraordinary opportunity to take control of education. God knows how important education is in a society. It is education which makes it possible to teach the culture and the language.

Aboriginal people are increasingly concerned about cultural and language issues, and developing language skills is an extension of their culture. This is important in today's context, after nearly a decade of denial of their jurisdiction over cultural and linguistic matters.

The government must not seize this opportunity to vote in favour of the amendment, without giving an inch on the matter of the $150 million, because doing so would just add to the services to be delivered by the Mi'kmaq and would of course take away from service quality. The regulations and the agreement have $150 million set aside for them. This must not be an excuse for letting another 5,000 or 6,000 Mi'kmaq join the agreement without changing the budget provided in the original agreement.

• (1840)

To me, it is obvious that this change must lead to enhancement of the agreement. As I have already said, I invite my hon. colleagues to solve the problems of those living off reserve for once and for all.

We must avoid clauses that say that on reserve aboriginals are included, but there are no longer any obligations toward those who have left. Where are these obligations? Where are the people who have left? Sometimes they move to other communities, but sometimes they simply end up on the street. I am told that half of Ontario's aboriginal people are in Toronto, and in some cases are among Toronto's homeless.

Municipal and federal governments therefore have to deal with them. I think that the federal government's fiduciary duty should include everyone.

It is too bad that the government makes a distinction and that on reserve and off reserve Indians are not looked after by the same minister. In my view, this is a clear indication that the government wants to be relieved of its fiduciary obligation towards Indians. This is not right.

I think it had a chance, with this bill, to introduce a motion to attempt to correct just one aspect, that of education for the Mi'kmaq. This form of discrimination seems to crop up everywhere. But when there is a opportunity like the one today to eliminate discrimination by ensuring that there is a bill that covers them all, I think it should be seized.

On reserve Indians, who are often represented by the Assembly of first nations, often tell themselves that they must at least hang on to part of the pie. What often happens is that, once these decisions are taken, off reserve Indians are simply forgotten; they are not

entitled to the same services as the others and end up being discriminated against all the time.

I therefore urge the government to truly fulfil its fiduciary role toward all status Indians who are normally covered by the legislation, but who, because their place of residence is different, are told that their rights will be ignored and that they are not entitled to the same services as the others.

The purpose of the amendment before us is to correct this situation, and I urge my colleagues to vote in favour of the motion.

[*English*]

Mr. Peter Adams (Parliamentary Secretary to Leader of the Government in the House of Commons, Lib.): Mr. Speaker, I rise this evening to speak against the amendment by the member for Saint-Jean which is phrased in Motion No. 1. I suggest that this motion not be accepted.

It seems that Bill C-30 is an historic piece of legislation that returns control over education to the Mi'kmaq First Nations in Nova Scotia. Bill C-30 has great support among first nations, the province of Nova Scotia, educational institutions in Nova Scotia and strong support of many members of this House. The Mi'kmaq people wish this legislation will pass quickly so they may begin to develop education programming for their people.

Members should be aware that this motion as it is put by the member for Saint-Jean deals with the issue of education off reserve. As such, it is encroaching on provincial constitutional jurisdiction for education throughout Nova Scotia. We on this side of the House believe that we should not impose federal legislation as an intrusion into an area of provincial jurisdiction without significant consultations with the Mi'kmaq and with the Government of Nova Scotia.

The issue of off reserve education must be dealt with in negotiations with other parties. It cannot be unilaterally imposed in federal legislation. Moreover, we cannot agree with the proposed amendment as it is contrary to what was negotiated in the agreement with the Mi'kmaq and with Nova Scotia. Accepting the amendment proposed by the hon. member would require the renegotiation of the agreement. First nations are not funded to provide programs and services to members wherever they reside off reserve. As such, it would impose a difficult burden on Mi'kmaq First Nations to provide such services.

● (1845)

The participating Mi'kmaq First Nations want to proceed with their preparations to restore education jurisdiction to their communities. I urge all members not to support this amendment, but to move ahead with the bill as it was supported by the House of Commons Standing Committee on Aboriginal Affairs and Northern Development.

Mr. Mike Scott (Skeena, Ref.): Mr. Speaker, I rise today to speak against the motions put forward by the Bloc Quebecois, and the reason that I will be speaking against these motions is because they fundamentally do not change the principle of the bill. It is the principle of the bill which the Reform Party has great difficulty with.

Behind the principle of the bill is the notion that aboriginal or other people require separate, exclusionary education in order to be successful in life. When the federal government brings forward legislation like this, what is the government saying? Is it saying that the Mi'kmaq children cannot obtain a proper education in the public school system? If that is what it is saying, then indeed we are all in trouble because the public school system is the system that provides an education for most Canadian children. If that system is failing in any way, we had better know about it and we had better deal with it right now for the good of the future of our nation.

I know that the public school system certainly has its shortcomings, but if the education system is by and large delivering a product that is acceptable in terms of the success rate of students going through the system, then why indeed look at a separate, exclusionary educational system for Mi'kmaq children?

I submit that the entire philosophical foundation upon which this bill is formulated is wrong. It is divisive and it presupposes that Canadians cannot work together, be educated together and coexist in an environment of peaceful co-operation. It presupposes that we have to divide ourselves and further divide ourselves as Canadians into groups and subgroups in order to get ahead. I submit that is a very wrongheaded and in the long run a very divisive and indeed destructive philosophy.

I am perhaps most disturbed, though, by the aspect of this initiative which I call the potential for a misapplication of scarce public funds. Scarce public funds refers to that great pot of money that the finance minister collects every year from Canadians, the taxpayers' contributions to the federation. The idea is that the federal government has unlimited money to put into education or into anything. Of course we have all come to understand differently over the last few years that government resources are limited and indeed we have found out just how limited because we have been living well beyond our means for so long that it has caught up to us and virtually every Canadian is feeling the pinch. We have very limited resources to be applying toward education.

I will give the House some facts. They come right from the department of Indian affairs, lest anyone think I am making them up. The department gave us a briefing a few short months ago to advise us of what a wonderful job it was doing in managing the affairs of aboriginal people in Canada. Officials of the department talked about this wonderful educational budget they have and the

fact that it was being used to provide an education service in aboriginal communities across Canada.

In most non-aboriginal communities the cost of educating one child per year in the elementary and secondary school systems is about $7,000. It varies by province and it varies by region, but in general we can take that number as a fairly safe estimate of what it costs to educate one Canadian child in the regular public school system on an annual basis.

● (1850)

The records of the department of Indian affairs show that it is spending approximately $20,000, which is about three times as much for every aboriginal child in the separate aboriginal school system. I and many would argue that the success rate of this separate educational system is far from sterling. It is very obvious when more aboriginal youth in this country go to jail than to university that something is wrong. It is very obvious when the proportion of aboriginal youth who actually finish grade 12 is far less than it is in the non-aboriginal population that something is really wrong.

I could not for the life of me understand how so much money could be going into a system when the results coming out at the other end were so dismal.

I had the occasion a few years ago to visit a small school on a rural countryside reserve in British Columbia. I want to tell all members what I found there. I was invited by the then chief and one of the counsellors. They were quite proud of this school, and rightly so. It was a beautiful building. It was new and I could understand their sense of pride.

The building was virtually new. I do not know what the cost of it was, but I would venture to guess it was well over $1 million. It was for a group of 11 children. The reason for that is that most of the parents of the children in that community had already voted with their feet and had sent their children to the regular public school system because they felt their children had a much better chance of getting a good education in the regular school system than they did in this special aboriginal only school system.

Let me tell the House what else I found. For these 11 children there were two teachers, full time I presume, and a clerk working behind the desk who greeted visitors and who, I assume, did other clerical duties. So there were three full time, paid staff. On top of that there was a school board comprised of eight school board members, all receiving an annual remuneration for being school board members. There was also a chairman of the board who, I assume, received remuneration for being a school board member as well as chairman.

This was an extremely expensive school and school board set up for the benefit of educating 11 children of various ages. One could imagine how difficult it might have been for the teachers in that environment to focus on the children properly when the range in ages was so great. This is an absolute fact. This exists today in British Columbia.

If we find this in one circumstance and we look at the department of Indian affairs' own numbers and see that it is spending three times as much on aboriginal children's education as the regular public school system is spending, the results speak for themselves in terms of the attainment of those students. Something is horribly wrong with the picture.

I would submit and the Reform Party would submit that we are not going to address the problem by measures such as those which are in the bill before us. For that very reason we cannot support the philosophical underpinnings of this bill or the cost of it. The fact is that the whole concept of aboriginal only, exclusionary education has not succeeded in delivering a product. For all these reasons we cannot support this bill and we cannot support the amendments because they do not change the principle of the bill. I am thankful for the opportunity to present my views on this bill and I look forward to hearing what other members have to say.

● (1855)

Mr. Gordon Earle (Halifax West, NDP): Mr. Speaker, I am pleased to have the opportunity this evening to address Bill C-30 at report stage. Bill C-30 is an act respecting the powers of the Mi'kmaq of Nova Scotia in relation to education. This bill would transfer jurisdiction for the education of band members to nine Mi'kmaq bands in my home province of Nova Scotia.

Chief Lindsay Marshall of the Chapel Island Band and chairman of Mi'kmaq Kina'matnewey education stated to the Standing Committee on Aboriginal Affairs and Northern Development: ''Jurisdiction of education is a basic right that is enjoyed by all Canadians and a right that our Mi'kmaq nation has not exercised since the time of colonization of this country, 500 years ago''.

This bill sets out to undo that injustice and to place far greater control over education at the community level.

Motion No. 1 reads, in part, as follows:

> A community shall, as far as possible, provide or make provisions for primary, elementary and secondary educational programs and services for members of the community, wherever they reside in Nova Scotia.

This is an attempt to make sure that Mi'kmaq people, regardless of where they reside in Nova Scotia, will benefit from this transfer of educational jurisdiction.

As my hon. colleague from the Bloc Quebecois mentioned, we did hear concerns expressed by some Mi'kmaq presenters who appeared before the committee about this concept of dividing the community.

One presenter made a very clear presentation around the fact that quite often certain members of the community may not live right on the reserve, either because of housing, as has been mentioned, or perhaps because of job opportunities or other reasons beyond their control. Yet they are as much Mi'kmaq off reserve as they are on reserve. It was felt that the bill in its present format tended to divide the community and that therefore this kind of amendment would go a long way in showing that there is cohesion among the Mi'kmaq people and that, regardless of where the person resides, they should have access to the opportunities to maintain their culture, to have control over their education and to benefit from the educational system which would apply with this transfer of jurisdiction.

Members opposite have mentioned that there is some concern about moving ahead with this motion because there is now great support among the aboriginal people of Nova Scotia for this bill. Indeed there is. There is a lot of excitement in the air. There is a lot of anticipation and people want to get on with the job. We certainly do not want to hold up the legislation.

However, by the same token it is very important to consider the fact that a community must not be divided artificially, and we should not become overly concerned about the cost and the jurisdictional question because this has been a longstanding problem that aboriginal people have faced for years, the question of whether they can have access to a certain service.

Quite often they have found themselves bounced back and forth between federal and provincial jurisdiction. Some people have been told ''You are aboriginal and that comes under the federal government''. Then they go to the federal government and hear ''You are living off reserve and that service comes under the province. You should go there''. Quite often aboriginal people have found themselves in no man's land in terms of getting the same benefits that other Canadians would normally access.

We should not become overly concerned about that because reasonable people can work out ways of resolving those issues. I am sure the federal and provincial governments could work out a way whereby if aboriginals living off reserve want to access a program that is on reserve there could be a way of working that out to everyone's satisfaction. Where there is a will there is a way.

I am very supportive of this motion because I feel that it gives the bill the kind of thrust the aboriginal people want to have in terms of providing a unified community.

● (1900)

We have heard a lot of talk from the Reform Party about setting up a separate educational system being undesirable. I find it quite astonishing to hear that kind of talk because when we look at it, this is in fact what has been done from the time the federal government first created the Indian Act. It set up a system that has failed. The residential schools are a prime example of the failure of the non-aboriginal society to deal appropriately and fairly with our aboriginal citizens.

Why now, all of a sudden when aboriginal people would like to take charge of their own destiny, is there some great concern that we are setting up something separate and something different that is going to cause some harm? Certainly no more harm can be done than the harm that was caused over the years.

Now it is time, I would submit, for a positive change. We are on the brink of that change. We ought not to let any fearmongering and concern about this difference deter us from the goal of allowing people to take charge of their own destiny and their own future.

We hear talk about the cost. The hon. member from the Reform Party mentioned that it is costing three times as much to educate an aboriginal child in the current system than it is for someone in the public school system. He said that something is wrong, and I agree that something is wrong. What is wrong is that with the figures he is using and the comparison he is making, he is talking about the management of the educational system by the department of Indian affairs.

In Nova Scotia we are talking about something different. We are talking about transferring the ownership and the authority and the responsibility to the Mi'kmaq people themselves. We are not talking about continuing the department of Indian affairs administration.

The hon. member and the Reform Party has made a very strong argument in favour of the bill because they can see the mess that has been made by the department over the years. Now we want to move ahead to something more positive.

We should look at this in a very positive way. Certainly if the hon. members in this House want to move ahead on a new dawn in terms of what can happen for aboriginal people in Canada, we would support this bill wholeheartedly. We would look seriously at supporting the amendment to enable communities to remain together, undivided, so that they can overcome whatever difficulties they have in terms of living on the reserve or off the reserve.

This is a very important piece of legislation. We must not be sidetracked by any erroneous arguments around cost. I have said before in the House that many times we get sidetracked when we start looking at cost. We should be looking at what is right to do for our fellow human beings, for our fellow citizens and move ahead on that premise and not be sidetracked by drawing figures and comparisons here, there and everywhere.

Let us look at the reality of what this means to the people, to the children. We are talking more about culture. We are talking about

maintaining language. We see that over the years the aboriginal people have been robbed of their language. They have been robbed of their culture. They have been robbed of their identity. Hence the reason for the low self-esteem and lack of achievement.

This bill can move people forward with a sense of self-worth, a sense of control of their destiny. It can give them the meaningful life they need to move ahead in the future. This is what we should be working toward.

I am pleased to support the motion by my hon. colleague from the Bloc Quebecois.

Mr. Gerald Keddy (South Shore, PC): Mr. Speaker, this is an historic piece of legislation that delegates jurisdiction over education to the Mi'kmaq people through the Mi'kmaq education corporation. Nine of the thirteen Mi'kmaq bands in Nova Scotia support this legislation. The others have the option of joining later and are waiting to see how well this process works.

The Progressive Conservative Party supports self-government. This is seen as a step in that direction.

However, on the amendment from the hon. member for Saint-Jean with whom I have the pleasure of sitting in committee and always listen very closely to his words and comments, all that aside, I would still like to say how it is very difficult for me to support his amendment. I understand it was put forth in good faith but the Conservative Party cannot support the amendment. The reason we cannot support the amendment is similar to that of the hon. member for Halifax West in the New Democratic Party who said we do not have to worry about the cost. We do have to worry about the cost. What is more important is the Mi'kmaq nation of Nova Scotia has to worry about the cost.

● (1905)

We have a framework agreement that was negotiated among the bands of the province of Nova Scotia. That framework agreement has precedence over the bill itself. Within the framework agreement it was agreed to try this process for a period of three to five years and then look at the process.

The problem with this specific amendment is that it would require the reserve's goals to provide education programs and services to those living off reserve. It cuts in on provincial jurisdiction as the hon. member on the opposite side has already mentioned. More important, it is not in the framework agreement. It would place an administrative and financial burden on the schools that have agreed to opt in to the agreement.

At the same time and the thing we should not forget in the House is that at the end of the five year agreement we will have the opportunity to review this. The other bands in Nova Scotia will have the opportunity for a review and to look at it. At that time if we can afford the cost, it is possible to include the on reserve Mi'kmaq along with the reserve natives.

If we try to do this unilaterally the problem is that no cost estimates have been done. In many instances it may only be a matter of a quarter of a mile or kilometre or less. In other instances it could be a matter of busing children 15, 20 or 30 kilometres and there may not be the amount of students to make that a cost saving or a responsible measure.

Although I recognize the reason the amendment was put forth, the Conservative Party cannot support that amendment.

The Deputy Speaker: Is the House ready for the question?

Some hon. members: Question.

[*Translation*]

The Deputy Speaker: Pursuant to order adopted earlier today, the question on the motion in Group No. 1 is deemed to have been put and a recorded division is deemed to have been demanded and deferred.

Mr. Claude Bachand (Saint-Jean, BQ) moved:

Motion No. 2

That Bill C-30 be amended by adding after line 30 on page 4 the following new Clause:

''12.1 No later than three years after the coming into force of all the provisions of this Act, the Minister of Indian Affairs and Northern Development shall convene a conference composed of the signatories of the Agreement in order to determine whether this Act should be converted into a treaty within the meaning of section 35 of the Constitution Act, 1982.''

The Deputy Speaker: Is the House ready for the question?

Some hon. members: Question.

The Deputy Speaker: Pursuant to the order made earlier today, the question on the motion in Group No. 2 is deemed to have been put, and the recorded division is deemed to have been demanded and deferred until Tuesday, June 9, 1998, at the end of Government Orders.

* * *

[*English*]

DEPOSITORY BILLS AND NOTES ACT

The House proceeded to the consideration of Bill S-9, an act respecting depository bills and depository notes and to amend the Financial Administration Act, as reported (without amendment) from the committee.

● (1910)

Hon. Christine Stewart (for the Secretary of State (International Financial Institutions)) moved that the bill be concurred in.

(Motion agreed to)

The Deputy Speaker: When shall the bill be read the third time? By leave, now?

Some hon. members: Agreed.

Hon. Christine Stewart (for the Secretary of State (International Financial Institutions)) moved that the bill be read the third time and passed.

Mr. Tony Valeri (Parliamentary Secretary to Minister of Finance, Lib.): Mr. Speaker, it is my pleasure to present Bill S-9 for third and final reading in the House of Commons. This bill establishes a new act to be known as the depository bills and notes act.

The proposed legislation is rather technical in nature but it is extremely important to the efficiency of capital markets in Canada. The proposed new act updates federal legislation to bring it into line with the way that trades and financial instruments are processed today.

As hon. members are aware, advances in information technology are changing the way that businesses in every sector of the economy operate. There is no doubt that the financial sector has probably been more affected by these changes than most.

Competitive pressures in the financial sector are intense. They ensure that new ways of doing business are constantly being found to make financial practices and markets more efficient. The depository bills and notes act is just one measure being introduced by this government to help support and encourage the modernization of our financial sector.

The specific area of activity covered by this legislation is the processing of transactions in certain financial instruments that come under federal law. A key element of modern market practice is the holding of financial instruments in central depositories.

When an instrument held in a central depository is sold, ownership of that instrument is transferred from seller to buyer by means of an entry on the books of the depository. This means that there is no longer any need to arrange for the physical transfer of the instrument from one party to another.

The use of securities depositories has obvious advantages in terms of both the safety and efficiency of transactions in financial markets. While transfers of many financial instruments are already handled in this way, the proposed legislation will expand the list of eligible instruments to include two new types of instruments, namely depository bills and depository notes. Bankers acceptances and commercial paper will now be eligible to be held in a central depository. Bill S-9 also establishes that changes of ownership of these instruments will be affected by making the appropriate entries in the records of the depository by book entry.

This legislation is necessary because the existing rules governing these types of instruments as set out in the Bills of Exchange Act were written well before the establishment of central depositories and still refer to being in physical possession of a financial instrument when describing the rights of the parties involved in a transaction. These requirements of the Bills of Exchange Act have so far precluded the use of a depository for financial instruments that are subject to that legislation.

In other words, because this legislation has not been amended to accommodate modern practices, the full use of central depositories has been held back. The legislation before us, the depository bills and notes act, addresses this situation.

● (1915)

The new act ensures that in law the purchaser has the same legal rights with such modifications as are necessary in the circumstances as a purchaser of a bill or note under the Bills of Exchange Act without requiring the actual delivery of the instrument.

The introduction of these new financial instruments in no way precludes individuals or institutions from purchasing and holding other bills and notes that still fall under the authority of the Bills of Exchange Act.

To distinguish these new types of instruments from other similar securities they will be marked on their face with wording that indicates that they are depository bills and notes subject to the depository bills and notes act.

The benefits of extending the use of central depositories should not be delayed any further. The Canadian depository for securities would like to make bankers acceptances and commercial paper eligible to be held in their depository this fall. Passage of the legislation would allow them to do that.

The introduction of the depository bills and notes act is consistent with the recommendations made by the private sector group concerned with the workings of the international financial system commonly known as the G-30. This group is calling for the widespread introduction of securities depository systems and book entry transaction recording on the basis that they will improve the efficiency of the money markets. This initiative is also supported by all elements of the financial community.

A related technical amendment to the Financial Administration Act has been included in the legislation. The Financial Administration Act permits negotiable instruments such as T-bills and government bonds to be traded in the market. However, there is a technical legal issue regarding the definition of negotiable instrument and whether it includes government debt for which there is no physical certificate. The amendment will make it clear that government debt of this kind can be traded.

Bill S-9 deserves speedy passage and I urge my hon. colleagues to concur so that we may move on to other legislation.

Mr. John Williams (St. Albert, Ref.): Mr. Speaker, Bill S-9, an act respecting depository bills and bills of exchange, is one of those complex acts that seem to be of interest only to accountants, stockbrokers, bankers and the type of people who have had to ask for some changes in the legislation in order to improve the efficiency of the agencies they use every day to facilitate the movement of money. That is what Bill S-9 is all about, to ensure the finances of this country flow more smoothly because unfortunately the legal profession has caught up with us and made simple bills of exchange.

When I studied bills of exchange many years ago, it was down to a simple statement about what exactly a bill of exchange was and it was all included on a simple piece of paper, a promise to pay signed by one person to another, and so on. I will not bore members with the exact definition of a bill of exchange.

The lawyers got hold of a bill of exchange and added clause after clause and indemnifications and other rules and regulations to the point now that these bills of exchange are practically in book form rather than a single piece of paper. As a result, when we want to move a bill of exchange or have a piece of paper pass from one to the other, we have to pass a book, a whole raft of papers to ensure that legal liability is covered off and indemnification is covered off and so on. That has become cumbersome in this electronic age and that is why Bill S-9 has been introduced here to improve the situation.

● (1920)

Without getting into long details, the concept of the bill is to leave the big book of rules and regulations and definition of bills of exchange in one central depository and therefore to pass a piece of paper referring to this document in a central depository, saying we agree to abide by the rules and regulations without having to pass the whole book or documents from one person to another as evidence of the debt. There is now one piece of paper saying we refer to all the rules and regulations in the central depository and that is where they will remain and we can refer to them at any time.

I am concerned that perhaps a generation from now this single piece of paper that we now pass as evidence to the central depository record is going to get bigger and bigger and soon we will require a new Bill S-9 with a new single piece of paper referring to the documents which refer to the original documents. Who knows where we are going to end up.

Efficiencies are in order and required. That is why the Reform Party has seen fit to support this bill. We are the party of opposition so we have reluctantly decided that in the interests of efficiency, improved financial markets and the interests of Reform it would be beneficial that we support this bill. On that basis I will close and leave the more complex remarks to my colleagues.

Mr. Jean Dubé (Madawaska—Restigouche, PC): Mr. Speaker, I am pleased to join in the debate to Bill S-9, an act respecting depository bills and notes and to amend the Financial Administration Act.

Departmental officials have indicated that the depository bills and notes act is a technical piece of legislation needed to support improvements in the efficiency of capital markets in Canada. The bill is intended to modernize outdated federal legislation dealing with the transfer of banker's acceptances and commercial bills.

The bill addresses mobilization, meaning a physical instrument will be used but will be held in custody by a clearing house or the like until book entries can be made to show transfer of ownership. With the new technology available today there is no longer a paper transfer during a trade. A simple book entry is made. This bill does not actually spell out which one of these two acts is the case. Instead the transaction is governed by the rules of the depository house.

I would like to know whether this is common with similar legislation in other financial markets. For instance, if two individuals entered into an agreement where one's interest is transferred to the other but the depository is not notified of the transaction until just before maturity, who has the legal right to the interest before the custodian of the bill has been notified? Is it the buyer or the seller?

Furthermore, this legislation deals with electronic transactions and pushes the markets further away from the old system of paper trading and any protection offered against the millennium bug or what is now known as the Y2K risk.

A leading economist from New York, Edward Yardeni, has suggested that the Y2K problem is far worse than the American government likes to admit, partly out of the government's fear over lawsuits.

● (1925)

Mr. Chuck Strahl (Fraser Valley, Ref.): Mr. Speaker, we have already gone through quite a few of the details of this technical bill and I think most people watching, unless they are in the banking business or are dealing in the buying and selling of depository bills and notes and so on, are going to find this a dry and dusty debate.

I want to point out one thing about this bill that makes me a reluctant convert to agree to it. I do not claim any expertise, but the contents look pretty straightforward. They remove the requirements for actual physical transactions under the depository notes and bills. In other words, we can go electronic as we are heading into the 21st century and all that.

The number of this bill is S-9. *S* stands for Senate, Senate-9. There are other words that start with *S* that could also perhaps describe the Senate.

The reason I am not totally happy with this bill is that it originated in the Senate. The Senate has this privilege, but it is interesting that increasingly the government chooses to use the Senate to start the debate on these bills. It is happy to do so because the official opposition is not present in the Senate.

The Senate is filled with good, loyal, elderly statesmen, shall we say, who thrive on protocol, alcohol and geritol and are able in their collective wisdom to give so-called sober second thought. The problem is that this bill is not going there for sober second thought. It went there for the semi-sober first look.

The difficulty that many of us in the House of Commons have with that, all of us on the opposition side, is that commonly bills should originate in the House of Commons. They should go through first and second reading. They should go to committee. They should come back. They should go through the report stage. They should suffer through the amendments. They should endure the slings and arrows of the opposition.

They should go through the close scrutiny this place provides over a course of weeks usually and then having done all of that, they should then go through the Senate. It should not be that type of Senate, but be that as it may, we are stuck with it for now. Then they should go to the Senate. The Senate should give bills that sober second look and then, having done that, they should go for royal assent and away we go. That is normally the way bills go.

This bill originated in the Senate where there is no opposition. The official opposition is not present in the Senate. It goes through whatever machinations go on through there. I do not even know how the system works in that other place. Then it comes here and we are sort of supposed to rubber stamp it. That is what bothers me about this bill.

We are now up to S-9. I do not think we had nine in the entire last parliament and now we are up to nine bills already originating from the Senate. The Senate gets the first crack at it. It gets the first amendments. It does the hearings. It does whatever it is going to do to it all without the official opposition. At the end of it, it is just handed to us and we are expected to get out the rubber stamp, flop the approved sign on it, off to the GG it goes and Bob's your uncle.

Unfortunately we are not able to do that in that proper order. That is why this bill is less ideal than it could be. The government should bring legislation into the House of Commons. That is the proper way to do it. It should be dealt with by all parties in this place because this is a representative place of the Canadian mosaic. This represents people who support the government, people who oppose the government, a diverse group of ideas. No one has the monopoly on the truth, but at least you get a little exchange of ideas here. It goes to committee, the same thing, and so on.

But when it originates in the Senate, the process is wrong. It is skewed. It is wrong. The other place gets legitimacy that it does not deserve. Although I will vote in favour of this bill because the contents seem in order and I believe it will help to modernize our banking industry, the process is wrong. It is flawed.

In that sense the government is thumbing its nose at Canadians, saying it does not matter that we voted in members of the government, members of the opposition. We are just going to bypass that process and go directly to the Senate. Do not pass go. Do not collect $200. Just live with it. That should get them a go to jail card. The big halt should be put on it right there because the process is flawed.

• (1930)

I wanted to talk about the number of the bill, Bill S-9. Every time the government starts a bill in the Senate I will speak against it for that reason alone. That place does not deserve to have the first crack at it. It deserves to be here with us who are elected and not with those who are appointed.

I will support the bill, but I will oppose where it originated.

Mr. Mike Scott (Skeena, Ref.): Mr. Speaker, I thank my hon. colleague for his intervention. I certainly agree with everything he had to say. I just want to ask him a question.

When the hon. member looks at the fact that we are already up to S-9 in this parliament—and I believe he is right that in the last parliament we had very few bills that originated in the Senate—does he think that the reason for this perversion of process, the reason we are having so many bills generated in the Senate and coming to the House, is the lack of a parliamentary agenda on the part of the Liberal government?

Does the hon. member think that is the reason this phenomenon is so prominent in this parliament? Could my hon. colleague take a couple of minutes to expand on the parliamentary agenda of the Liberal government?

Mr. Chuck Strahl: Mr. Speaker, I thank the hon. member for Skeena for that question.

There is a paucity of legislation on anything meaningful coming from the government. It is interesting that even on the Senate side the senators are saying ''There is nothing for us to do''. I guess that is why the government gives them bills to start there. In other words there is no legislation coming in a timely fashion from the House of Commons, going through the committee structure, going through first, second and third readings, going through report stage amendments, going through votes and off to the Senate.

This pushes the level of credulity almost to the maximum. Even the Senate says there is not enough for it to do. I thought counting flowers on the wall did not bother them at all over there. I thought

there was general glee when there was little to do. In fact most Canadians wonder what it is they do there anyway.

They are even complaining there is nothing to do. The reason is—and the viewers at home should know this as well—the legislative agenda of the government is so slim and so weak that not only in the Senate but even in the House of Commons we find ourselves, I would not say killing time but looking for the visionary type bills that can move the country forward. Instead we have housekeeping bills. Again, we are happy to pass the bill, but would it not be better to have a plethora of meaningful bills which would help form a vision of where we want the country to go?

The difference between dreaming and a vision is that dreams are just idle chatter and conversation but a vision is a how-to plan with meat on its bones that can make something happen, that can make the country better. When we do not have meat on the bones we have slim pickings, to use that analogy. We are faced with that again in this session.

It is like the government got elected a year ago and now says ''Hey, we got elected. Does anybody know what we should do?'' It has been running around since then saying ''I am not sure what we should do but here is a housekeeping bill on allowing them to have a physical transaction under depository notes and bills that could be computer driven and not just an actual piece of paper that we hand to one another. There is a visionary statement. That will bring us rip snorting into the 21st century. What will we do with all the vision contained in these bills?''

The truth is that it is just weak. It is flaccid. It has palsy. It has no zip to it. It is viagraless. It has no potency. It has nothing to give it life. Weak, flaccid, limp bills kind of go through the system but do not really have any effect. It is thin soup and slim pickings. It means that we deal with these issues because we have to.

• (1935)

We will deal with them, but there is nothing visionary in this legislative agenda. That is unfortunate because Canadians would grasp on to that. If they could figure out where the government was going they would gladly help it get there. The problem is this bill, notwithstanding the whole legislative slim pickings, does not give enough of a vision statement that Canadians can rally around the flag, so to speak, to take us forward. That is too bad.

The Senate is not helping. It is just trying to get work to do over there and it has said as much. It does not have enough to do. It is wondering what it is supposed to do. It is probably even wondering what its purpose is any more. Besides all that the government has a weak legislative agenda. It is not a visionary agenda. It is the kind of thing that it is difficult to get Canadians excited about when this is the bill we are to stay late tonight to pass hopefully in a few minutes.

Mr. Peter MacKay (Pictou—Antigonish—Guysborough, PC): Mr. Speaker, I listened with great interest to the remarks of the hon. member, my friend from the Reform Party.

I cannot disagree substantially with what the member says about the flaccid, weak, thin soup legislative agenda of the government.c I take from his remarks that what he is telling the House and what he is encouraging is that the Senate take a more active role in the parliamentary process and that if we saw more substantive bills coming out the Senate the Reform might perhaps soften its position when it comes to the Senate and its general participation in the process.

We know that on occasion—and we have even seen it in this session—we have substantial bills coming out of the Senate, bills that have been passed and have received the approval of the House, as is often the case and as the process properly works.

I would therefore ask the hon. member if he would encourage the Senate to partake more actively in substantive bills by injecting viagra into the agenda of the other house to work toward bringing more legislation to the floor of this House? If that is the agenda the Reform would like to see take place I suggest that is quite a shift in position for that party.

Mr. Chuck Strahl: Mr. Speaker, it would be more than a shift in a position. It would be a complete lobotomy and I am not prepared to go that far.

I am only pointing out what the Senate says in general, that it does not have any meaningful work to do. We can list some things we think could be meaningful for it. We think there could be a very meaningful role for it in reviewing the appointment process. Right now the Prime Minister appoints thousands of people who seldom get the scrutiny or any scrutiny they deserve. A properly elected Senate could have an effective role in riding herd on the power of the Prime Minister's office.

Another thing the Senate could do is hold hearings on the appointments of supreme court justices, for example; the information commissioner we are now dealing with in this place; or the privacy commissioner, the watchdog on ethics. There could be good roles for the Senate including sober second thought on legislation. It could serve a legitimate role in that regard if it had the legitimacy that an election would bring.

I was not suggesting in my speech that the role should be increased to say that is where the bill should originate. I was quite clear in saying that bills should originate in this place. The role of an elected Senate with the integrity and legitimacy that an elected Senate would bring would give it the opportunity for sober second thought.

I know many of the senators over there right now have said in times past that they feel their own role would be enhanced if they were elected into that position instead of appointed. Right now their situation is a difficult one. In a sense I feel sorry for senators. They have to go through the motions. They have to rubber stamp stuff. They have to go through them before they go to the governor general. I think many of them are starting to question the role and legitimacy of their institution.

• (1940)

I am happy to go through a long list of good roles for an elected Senate, but I would not include in that initiating legislation in an appointed Senate that bypasses the House of Commons as the first legitimate look at legislation. I would not approve that. Nor would it ever pass mustard at a Reform Party policy convention or over a Reform cup of coffee.

The Deputy Speaker: The time for questions and comments has expired. Is the House ready for the question?

Some hon. members: Question.

The Deputy Speaker: Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

An hon. member: On division.

(Motion agreed to, bill read the third time and passed)

* * *

PENSION BENEFITS STANDARDS ACT, 1985

The House resumed from June 5 consideration of the motion that Bill S-3, an act to amend the Pension Benefits Standards Act, 1985 and the Office of the Superintendent of Financial Institutions Act, be read the third time and passed.

Mr. Chuck Strahl (Fraser Valley, Ref.): Mr. Speaker, I unfortunately was not part of the debate on Friday. I would point out that this bill has the title of S-3. That is a problem title.

I do not want to go through it again because people have probably heard the argument before. However I want to point out that there are a couple of problems. There are some problems with the bill itself. We have some questions as to some of the privileges the bill will confer on certain people and their ability to transfer funds from pension funds.

This bill originated in the Senate. I point out again that the process is backward. I will explain it to the government again. It should bring bills into the House of Commons. This is where people have been elected to bring in a legislative package. I understand it is the government's prerogative, but the government has to bring bills in here so that opposition parties can have the first go at them. Then they go off to committee. We propose amendments. We hear from experts and other witnesses. We call people before us. We go through the whole process. That is how we devise good legislation.

Following the best legislation that can be created in committee, it comes back to the House for report stage. The report stage allows us to go through it section by section. If it needs improvements we propose amendments. We say ''This is how it can be made better. This is a part that is not clear enough or is too ambiguous. Let us delete it''. Collectively we through the whole process. It goes to committee of the whole. We debate. We fine tune. We try to make something better.

Even when we agree with a piece of legislation there is often something the government could say. There are very few perfect bills or perfect people. Mistakes are made and are corrected. We get things back on track and then we go to a vote. That having been done it is sent to the other place and the process is finished off.

However, when a bill originates in the Senate the official opposition is not there because the Prime Minister appoints senators. The Senate is not elected.

• (1945)

Alberta right now, Mr. Speaker, you will be happy to know is going through the Senate electoral process. Coming in this fall's municipal elections Albertans will be selecting a Senate nominee to put forward to the Prime Minister. The premier of Alberta will say, once the selection process is done, that the person the people of Alberta—I will not speak for all Albertans, they are going to speak at the polls, what a privilege—have selected is whoever it might be.

We think it carries the judgment of the people. It carries the judgment of the legislature. It carries the judgment of that region. We would like the Prime Minister, as a first step, to appoint that person to the Senate as the legitimate person to be in the other place.

If the Reform Party happened to be associated with that person then we would have at least some representation there. We would have some idea of what those guys are doing in their spare time. We could at least say when they introduce a bill in the Senate that we had a crack at it.

This bill is like the others. It is a backward process. It will never be legitimized in my mind to go to the other place first. It should come here. I think Canadians understand that. When it is explained at a public meeting, they are asked where they think it should go, to the Senate, where they do not have an inkling of who gets appointed there unless they have long Liberal coattails, or to the House of Commons?

People will invariably say ''Listen, I elected you guys to get that job done. It better go there first because that is what your job is''.

When it is sent to the Senate it is kicked around among the old boys' club there. They go off to see Mr. MacEachen, if he is kicking around. They get advice from him. Of course he is not supposed to be there but be that as it may, they will get some advice from him and they will talk about it. I do not know what all they do over there. Then it comes here and we are just supposed to rubber stamp it. I do not think so. It should come here first. Then it can go to the Senate and they can waste their time with it as they see fit.

This is the place for legitimate legislation. Bill S-3 is the third one. We just passed Bill S-9. It means that increasingly the government is using this tactic far more than it did in the last parliament. That is unfortunate and it is a bad trend. That is why I want to speak against that part of Bill S-3.

Mr. Jim Pankiw (Saskatoon—Humboldt, Ref.): Mr. Speaker, the hon. member for Fraser Valley said that the legislative agenda of the Liberal government is weak and lacks vision.

Would he be willing to share with the House what the legislative agenda of the Reform Party will be when it forms the government in 2001?

Mr. Chuck Strahl: Mr. Speaker, it is always a pleasure to talk about the vision of one's own party and to try to communicate to people in this forum and in public forums across the country the kind of things we think Canadians are going to rally around in the next election.

That is always a debate and it will be a debate for another election. Several themes can be found that Canadians will rally around. One increasingly is going to be the fiscal issue.

They will say ''What does the future hold? What are you going to offer me? Is there any prospect of tax relief down the road? Can I see that there is a package of ideas? What are you going to do with the surplus? Are you going to continue to create more new programs? Will you lower our taxes and reduce bureaucracy and pay down some of that debt while we have this surplus so that our children and our grandchildren will have some prospects of even lower taxes and less government interference?''

By the next election, people are going to be saying that a $15 billion or $20 billion UI surplus is too high. It is way too high. It entails job-killing payroll taxes. Increasingly parties on this side of the House are saying that that surplus is too high. It hurts jobs. It hurts families. It hurts entrepreneurs. It has to be cut back. There is the whole fiscal package.

Second, I have talked about some of the democratic and parliamentary reforms I think Canadians are more than willing to embrace. I talked earlier about the Senate and the fact that Canadians do not believe there is any legitimacy to that other place.

Besides Senate reform which is obvious, people are going to look for the democratic and parliamentary reforms that will give them the faith that change is possible. For a change they will hold the reins on the politicians they send to Ottawa.

● (1950)

That is going to involve things like the use of a referendum when people want to bring that forward so that they can have an actual say on these issues. It is going to mean freer votes in the House of Commons where people do not lose their jobs or lose their positions just because they happen to vote against the government or for a piece of legislation or defeat a bill. It does not have to defeat the government. There will be some democratic changes.

People are going to ask what is going to be done with the thousands of appointments. I looked through the *Gazette* the other day and I saw as bold as brass the name of the person I defeated in the 1993 election. He is now the chairman of the board of referees of the UI fund in my region. He was defeated in 1993. He is a Liberal. He was defeated. Of course all Liberals were defeated in my area. They get used to it. As a payoff for this fellow the Prime Minister says ''Who have we not looked after lately? That guy who was defeated back in 1993 has not done any work lately so how about we give him a job as chairman of the board of referees?'' And they just did it.

I think Canadians are right to ask why is it that all the defeated Liberal candidates get jobs at taxpayers' expense. ''I turfed that guy out. I did not give him a job. He did not have my confidence and now he has got a job''.

Third, when we talk about the vision of the country, people are going to ask what is it that we can offer to Canadians from coast to coast that they will rally round when it comes to the division of powers and the future of our country. How are we going to handle the provincial, federal, municipal power structure in this country. How are we going to handle that to help us to bring us together as a country yet not cause division between provinces like we have had too often over the last few years? That is a legitimate question.

One of the first things we would do is recognize municipal governments as one of the first levels of government closest to the people. We should bring those people in when we have federal-provincial talks. We should have representatives, not thousands, but representatives of municipal governments at those tables.

For example we say we are going to have this new interprovincial-federal agreement that has to do with some kind of distribution of some sort of services, maybe a CAPC program, some sort of program that has federal dollars involved, organized by the provinces and administered by local governments. The CAPC program is a perfect example.

Rather than give the late night phone call to the municipalities, somewhere along the line we should have them in at the start and ask ''How can we make this program work for you? How can we tailor it so that it has flexibility for you?'' Let us get the municipalities involved in the big picture as well as just in the administration of the local fire hydrants. They need to be part of that and I think we can help there.

The whole process of the division of powers between the provinces and the feds is a big issue that can unify the country. We can say we are going to make this place focus on a fewer number of chores but we are going to do them well. Then we will give over to them a whole bunch of other packages including control of culture, language and health care. All those things are going to be left with the provinces because constitutionally that is where they should be.

We are going to do fewer things but we are going to do them well. We are going to do national defence. We are going to make sure that interprovincial trade barriers are struck down. We are going to have international trade. We are going to have international agreements, WTO and GATT and their successors and so on. We are going to look after this, they are going to look after that. We will not tromp on their territory, but they should respect that ours is going to be held firmly as well.

Those are the kinds of things that when people ask if it will help them get a job, we can say yes it will. It will help to secure their future so that not every level of government is interfering with them. We will help them do that. It will lower their taxes so that they can look after their families, so that they can start and keep a business going. We will make it more democratically accountable so they can have confidence that the people they send to Ottawa will have a real impact and that they will be able to give them direction. They will not have to just salute the flag and obey the party line.

When I talk to people. those are the kinds of things they say they like. They ask to be convinced that we can pull it off, but at least it is a vision different from what we have now. In the next election, if we are able to get the discussion on to those big issues, the Reform Party will do perfectly well. More important, the country will do well because those issues need to be settled so that people can move forward with confidence in the future and not just say it has to be the same old way it has always been because that is just the way it has been and how could we ever change it. We can change it. It can be better. All political parties would do well to make those positive changes rather than say the status quo is the way it has to be.

• (1955)

[*Translation*]

Mr. André Harvey (Chicoutimi, PC): Mr. Speaker, I have two short, very objective questions for my colleague, for whom I have a great deal of respect and with whom I enjoy working, if he wants to return jurisdiction for certain matters, including language, to the provinces. I ask him whether it is not the federal government's role to protect minorities, because our track record on minorities in this country is not too wonderful.

That is the first point on which I would very honestly like his opinion. It does not seem to me that giving the provinces complete responsibility will be much of a guarantee for our minorities.

Second, and this is my final question, I would like to know which article in his party's new electoral platform has to do with its partnership with Quebec's separatists. What promise would he like to have in his party's next electoral platform? There does not seem to be much promise in this, in my view.

[*English*]

Mr. Chuck Strahl: Mr. Speaker, those are two issues which do not dominate the discussions out in the area where I live. The linguistic issues we deal with are somewhat different than the ones we deal with in parliament, but nonetheless I am happy to talk about them.

In my area the linguistic issues are how many people who speak Punjabi do we need in our local hospitals? That is a linguistic issue from Abbotsford. How can we provide services to the couple hundred thousand unilingual Chinese immigrants in the lower mainland? That is a linguistic issue in the lower mainland. When we talk about linguistic issues on the west coast it is a far different issue than it is here. The issues that dominate the national media so to speak do not dominate our local issues at all. They are just not commonly talked about.

I take it the member is talking specifically about the use of French and English, the two dominant languages in Canada and the role of the federal government in protecting minority rights. The Reform Party has always said that the federal government does have a role in the protection of rights of individuals but not in the promotion of the culture or language in a particular province.

For example, in the province of Quebec where the member comes from the role of the federal government under a Reform government would not be to promote the French language or culture. We think it is a dynamic language and culture and it is a great thing for Canada and for Quebec. However, the promotion of culture and language is a role of the provincial government.

The role of the federal government is restricted to the protection of minority rights. In other words if someone is using the heavy hand to steamroll over a minority right wherever it might be in the country, then the federal government does have a role to step in.

The promotion of language and culture is a provincial responsibility. There should not be an item in the federal government that

says it is going to spend *X* amount of dollars promoting culture in any of the provinces. It just will not happen. That is a job which should be left with the provinces and we are not going to interfere in that.

It gives the provinces the assurance that the money they spend and the efforts they make are going to be directed as they see fit. It means that people in all regions of the country are not going to have a policy that often makes no sense at all in the lower mainland of British Columbia be the same policy as that in Chicoutimi. It just does not mesh. One policy does not fit all.

● (2000)

In British Columbia, at least, I can say that the current government policy is a real puzzle which says that it is the one size fits all national policy on culture and language. In the lower mainland they just look at one another and say ''Where are these people coming from?'' It just does not make a lick of sense. We have all kinds of linguistic problems, but also linguistic opportunities because of the cultural diversity that we have in the lower mainland. We take advantage of that. We have a window on the world because of the diversity in the lower mainland.

The Official Languages Act, for example, is so irrelevant in the lower mainland that people really do not even know what it is that anybody could even be conceivably talking about. They just do not understand how that policy is relevant in the lower mainland, and it is not relevant.

There are some separatists in Quebec who are hopeless to deal with. They want to leave Canada for every real and imagined problem. They just say ''Everything is hopeless. Nobody loves me. I'm going out to the garden to eat worms''. That is their response to everything.

There are, however, other people in Quebec who over the last 20 years have said ''I am not really a separatist, but I am so frustrated with a federal government that says this is the way it has to be''. This is federal-provincial jurisdiction, and so on, and nothing can change. It has to remain so forever. Many of those people say ''Is there any other option but separatism?'' We say to those people ''Yes, there is. There is a troisième voie. There is a third vision, an option, that is not separatism, but it is not the status quo either. It is something better, but different than what we have now''. Those are the kinds of people we want to talk to. Those who say ''We are going to leave because we don't want to talk to anybody. We are not going to debate. We are never going to argue'', we cannot talk to them because their minds are made up.

Mr. John Williams (St. Albert, Ref.): Mr. Speaker, I am pleased to continue the debate on Bill S-3. I listened closely to the comments made by my colleague for Fraser Valley and of course the Reform Party endorses what he says, that we do not like this bill coming to us via the Senate. The bill should have been introduced here in the House of Commons. In that way the government could get the real views of the official opposition rather than the view of some senator who has been firmly entrenched down the hall for many years.

That being said, the bill does have some good points. The Reform Party is not unduly opposed to this particular bill. It will regularize and strengthen pension plan supervision by the Office of the Superintendent of Financial Institutions to ensure that the plan holder's funds are protected as best as possible and managed as best as possible.

In this day and age of small business wanting to provide better benefits to their employees, it will allow small business to set up pension plans at a much reduced cost by basically adopting a template that is laid out by the government, by administering it themselves rather than a trustee and so on.

These things of course we endorse in the Reform Party because we believe that strengthening the free enterprise system is beneficial. Strengthening benefits to employees is beneficial. To provide them with job security and real benefits in their employment is beneficial and this plan goes a long way in doing that.

It also deals with the issue of surpluses in plans. Some plans have done very well in the stock market of late. Of course, it is not just pension plans that have done well in the stock market these last number of years. Individuals, as well, have made all kinds of money.

Bill S-3 deals with distributing surpluses. It says that if there is a vote of two-thirds of the members in favour of a particular proposal then that proposal will take effect. If the proposal is to return the surplus to the employer, then that is exactly what will happen and the employer will have a refund of its contributions, or even have access to the surplus in the plan even though it did not contribute to it in the first place. That is done by vote of the membership and it is a reasonably democratic process which I do not think we would have fault with under most circumstances.

● (2005)

However, there is one particular circumstance that does come to my attention which is the conflict of interest for the Minister of Finance. The first thing we have to point out is that the motion introducing Bill S-3 in the House of Commons was a motion proposed by the Minister of Finance. That gives me a bit of concern because the Minister of Finance, as we know, is a very successful businessman, as well as being the Minister of Finance and a parliamentarian.

It is common knowledge that the minister was the president of the Canada Steamship Lines and is a major shareholder in that organization. Like many employers, Canada Steamship Lines has a pension plan for the benefit of its members which has a surplus that

I am sure most people would be proud of. It has a surplus in excess of $100 million. The question is: Where does that surplus belong?

Bill S-3 will create a process by which the ownership of the company can have access to the fund. I believe that the Minister of Finance has placed himself in a conflict of interest position by virtue of the fact that he proposed the bill. His company, and he personally as a major shareholder of that company, could potentially benefit from this bill once it passes the House of Commons.

We talked to the ethics commissioner and he felt that it really would not have any impact on the Minister of Finance because his pension was registered under a different act. We thought that if that was what the ethics commissioner told us, then perhaps that was the end of the story. We have faith in the ethics of the ethics commissioner, or I thought we had faith in the ethics of the ethics commissioner.

However, over the years we have raised some serious doubts about that very point right here as members of the opposition. I again raise the issue because the financial statements of the Pension Fund Society of Canada Steamship Lines Limited annual report, December 31, 1996, state that the plan is registered under the Pension Benefits Standards Act, 1985, registration No. 55006. Bill S-3 amends the Pension Benefits Standards Act.

Therefore, the ethics commissioner is absolutely wrong or he does not know his ethics. That is a serious point.

To further strengthen my argument, I took a look at the bulletins put out by the CSL pension fund. The October 1997 bulletin regarding the plan surplus states:

> We expect Bill S-3 to be passed as early as December but more likely in early 1998. The regulations which ultimately will accompany the bill are not likely to be submitted until after its passage. Until we see the regulations we cannot determine how the Society will be affected.

It goes on to state:

> We can only reiterate our previous advice that as yet there has been no decision to proceed with a surplus distribution proposal and no surplus distribution proposal will occur without advice to members and full consultation and agreement thereafter.

The bulletin is from the plan to its members and specifically refers to the fact that Bill S-3 is very much in control of their pension plan. Therefore, the ethics commissioner is quite wrong in advising us to the contrary. Also it quite specifically refers to the fact that they intend to have a distribution after the passage of Bill S-3.

I come back to my point that the motion to have the House deal with Bill S-3 was introduced by the Minister of Finance. I think the Minister of Finance should clarify his position regarding Bill S-3.

● (2010)

While he has brought down budgets and balanced the budget of the Government of Canada, which is a great achievement on his part, we would not want his reputation to be tarnished in any way, shape or form by the fact that he has allowed his office, his position and himself to be compromised by a small thing such as Bill S-3.

As I said, the Minister of Finance, first, owes this House an explanation as to why he introduced the bill and why it was not introduced by anyone else. I understand that the Minister of Industry introduced a bill in the previous parliament. It was virtually identical to this bill and it was introduced by the Minister of Industry. Why the change?

At the same time, I think that the Minister of Finance would not do anybody a service if he voted on this bill when it comes up for a vote. These are important issues.

In conclusion, the fact that it comes from the Senate is an affront to this place. The technical part of the bill has significant merit, but it also has dealings with Canada Steamship Lines of which, as we know, the Minister of Finance is a major shareholder.

By virtue of the documents that I have quoted from here today, there is no doubt whatsoever that the pension plan of Canada Steamship Lines is governed by the Pension Benefits Standards Act and the intent after this bill goes through is to introduce a motion to distribute the surplus which, as I mentioned, is in excess of $100 million and somebody stands to benefit a great deal.

That is why I would hope that the Minister of Finance would explain his position to this House.

Mr. Ivan Grose (Oshawa, Lib.): Mr. Speaker, a lot of what has been said here tonight I consider to be blather. To discuss it in this House at this time is my idea of having nothing to do. But the member opposite raised a point that I think should be addressed and that is the Minister of Finance's ownership of shares in Canada Steamship Lines.

As the member opposite knows, that ownership and those shares are in a blind trust. That is the law. If the member opposite wishes to challenge the validity of that blind trust, I would suggest he do it rather than doing it through the ethics commissioner, and I would also suggest that he do it outside this House.

Mr. John Williams: Mr. Speaker, first, I did not challenge the ethics of the ethics commissioner and, second, I asked the Minister of Finance to explain his position to this House. I did not accuse him of anything whatsoever.

We all know that prior to his career in politics the Minister of Finance was the president of Canada Steamship Lines and presumably placed his shares in a blind trust. If I were the Minister of Finance I would be very surprised to find that these shares were all gone when I left office, returned to private life and checked the blind trust to find out what was in there. I am sure if he finds that the shares of Canada Steamship Lines are gone he will be asking somebody for an explanation.

Perception is important and I ask that the Minister of Finance provide this House with an explanation.

Mr. Tony Valeri (Parliamentary Secretary to Minister of Finance, Lib.): Mr. Speaker, during debate on this legislation on Friday of last week the member for Elk Island put forward a series of questions concerning Bill S-3 and the Minister of Finance which were similar to the statements made by the hon. member for St. Albert.

The member asked, so I will reply, and I would like to reply on the record.

First of all, at no stage of the process was the Minister of Finance involved in the preparation of Bill S-3, nor did he have discussions with officials with respect to its content, nor did he receive representations on its impact. Indeed, the Minister of Finance specifically requested that the department not involve him in any aspect of this legislation whatsoever.

● (2015)

I would like to quote directly from a memorandum prepared on October 4, 1995 by then deputy minister of finance David Dodge. The memorandum was addressed to the Minister of Finance and copied to the then secretary of state for international financial institutions and read as follows:

> The purpose of this memorandum is to advise you that the Office of the Superintendent of Financial Institutions is dealing with a matter in which you are in a potential or apparent conflict of interest and therefore should not become involved.
>
> In your letter of March 3, 1994, you asked that you not be involved in any discussion or decision making process involving Passage Holdings Ltd. This matter involves the pension plan for members of the Canadian Maritime Officers Union; beneficiaries of the pension plan include persons employed on ships owned and operated by the CSL Group, a subsidiary of Passage Holdings, and the CSL Group is a contributor to the pension plan. OSFI has not as yet forwarded any documents to you and, after discussion with the office of the Ethics Counsellor, Departmental and OSFI officials have been instructed to ensure that you are not to be involved in this matter in any way.
>
> In this case this may not be sufficient, as the issues may become public, or the persons involved may seek your assistance. Mr. Peters (then secretary of state) is aware of this matter and has been briefed by OSFI officials as part of the responsibility you asked him to assume for the Pension Benefits Standards Act. Should you be asked any questions in the House, or receive any inquiries directly from the public, you should decline to become involved and allow Mr. Peters to respond on behalf of the government.
>
> I am forwarding a copy of this memorandum to the Ethics Counsellor and the Clerk of the Privy Council so that they are aware of this situation.

In keeping with the spirit of openness and transparency the finance minister has adhered to, I would certainly make the document available to other members of the House.

Accordingly Bill S-3 was first introduced into the House in 1995 under the sponsorship of the Minister of Industry. Following the 1997 general election it was reintroduced directly in the other place by the Leader of the Government in the Senate.

Throughout the process the Secretary of State for International Financial Institutions has taken responsibility for the management of the legislation within the Department of Finance and with the Office of the Superintendent for Financial Institutions.

I would simply reiterate that there is no basis whatsoever for any suggestion of conflict. The minister has remained entirely uninvolved with the handling of Bill S-3 and has taken every step necessary to remove himself from any aspect of the bill.

I trust this puts this matter to rest.

Mr. John Williams (St. Albert, Ref.): Mr. Speaker, the previous speaker made specific reference to the fact that the ethics counsellor had been consulted and had rendered his opinions and so on and so forth.

My notes state that we spoke to the ethics counsellor on January 30 about the minister's involvement or lack thereof with the legislation. The ethics counsellor answered that the Canada Steamship Lines pension fund was incorporated under the Pension Funds Societies Act under the auspices of the Department of Industry and would not therefore be directly affected by the Pension Benefits Standards Act.

That is why in my speech I made specific reference to the ethics of the ethics counsellor who obviously was quite willing to give us the wrong information, to mislead us in our assessment of the situation. Obviously he was involved in a much earlier situation and knew the problem related to the Minister of Finance. That demonstrates the lack of ethics of the ethics counsellor.

● (2020)

I reiterate that the motion was introduced in the House by the Minister of Finance. The parliamentary secretary tells us that the Minister of Finance did everything in his power to remove himself from the bill, yet he could have quite easily had another minister or even the secretary of state introduce the motion. Obviously he preferred to do it.

I am not sure—and I am talking about appearance and perception being very important in these matters—that the secretary of state would be sufficient. He is an assistant to the minister. The present secretary of state was appointed by cabinet proclamation pursuant section 11 of the Ministers of State Act first past by Prime Minister Trudeau in 1970.

Section 11 of the act tells us that the duty of the minister is to assist the minister or ministers having responsibility for any department and states that the secretary of state will make use of the services and facilities of the department. Therefore we know that the secretary of state has full access to Department of Finance officials and offices.

Further, on June 25, 1997, the *Gazette* states that the secretary of state was appointed pursuant to section 11 and the details of the duty of the secretary state are to assist the Minister of Finance in the carrying out of his responsibilities. Therefore the secretary of state is not removed from the Minister of Finance but is an assistant to the Minister of Finance.

I again raise the question and ask for confirmation of why the Minister of Finance introduced this motion in the House of Commons when it could have been introduced by the Minister of Industry, as it was previously, if the Minister of Finance specifically knew that he had a definite conflict in terms of the particular bill?

Mr. Tony Valeri: Mr. Speaker, it is misleading to say the minister sponsored the bill. This was deemed to have been finance moving the motion. Senator Graham sponsored the bill. The Minister of Finance did not sponsor the bill. It is deemed in the House that finance moved the bill. That is strictly procedure.

I go back to the point I made earlier with respect to perception, to use the hon. member's word. I read into the record that in a letter from the Minister of Finance on March 3, 1994 he asked that he not be involved in any discussion or the decision making process involving Passage Holdings Inc. It is very clear back in 1994 that request was made by the minister.

Back in October 1995 the then deputy minister in a memorandum to the minister essentially outlined the situation. He advised the ethics counsellor and the Clerk of the Privy Council so that they were aware of the situation. The department and OSFI officials have all be instructed to ensure that the Minister of Finance not be involved in this matter in any way.

The member can continue with the innuendo and all the rest of it. I guess that is the role of opposition. I am merely stating the facts very clearly and for the record. Hon. members asked for this and I am laying them on the table for everyone to scrutinize.

I tell the hon. member again that when he makes the point that the Minister of Finance sponsored this motion in the House I reiterate that the bill is sponsored by Senator Graham. It is deemed to have been finance moving the motion in the House. It is very clear. I restate that it is misleading to say that the minister sponsored this piece of legislation.

Mr. Ken Epp (Elk Island, Ref.): Mr. Speaker, we still have here another related and very substantial question. This pension fund, the CSL, has a huge surplus. As my colleague from St. Albert indicated it will be distributed imminently. In other words the surplus will be dealt with. According to the rules proposed under Bill S-3 and other regulations that affect it, the Superintendent of Financial Institutions oversees the distribution of the surplus.

● (2025)

The problem arises in that it requires a vote of the beneficiaries of the pension fund to agree to how the surplus is divided. If they do not agree the surplus will not be divided. It will stay with the company. However, if they agree by vote it can be distributed. Presumably some of it at least will go to the beneficiaries, the previous employees of the organization.

If two-thirds of them vote in favour the superintendent who is appointed by the Minister of Finance will oversee it. If fewer than two-thirds vote in favour of it but at least 50% do so it has to go to an arbitrator. Who appoints the arbitrator? Lo and behold, it is the Superintendent of Financial Institutions.

It is at times like this that I really miss the ability to use visual aids after my 31 years of teaching. I would love to draw this as a chart: finance minister appoints the superintendent who in turn appoints the arbitrator. This is a direct line to the Minister of Finance. Let us say the people decide they will split it 50:50. There is a pension surplus of over $110 million as I understand it, which means that he stands personally to gain $55 million if that happens. It is under the direct control of the Minister of Finance through the Superintendent of Financial Institutions.

That is a question which demands an answer. I sure would like to hear the response of the parliamentary secretary to that.

Mr. Tony Valeri: Mr. Speaker, I would go back to the comments made by the member for St. Albert in terms of this aspect of the bill. He indicated that if at least two-thirds of the members approve they would deal with the surpluses. I am paraphrasing but what he said was that it was tough to argue with democracy. It sounds like a pretty democratic process to give individuals an opportunity to vote on an issue that directly affects them so the condition of two-thirds was put forward.

The bill was consulted upon. Individuals from the department and other individuals who were involved consulted on the bill with the sectors involved to gain input into how certain changes that were being contemplated would be dealt with. The proposal in committee was deemed to be quite a positive step. It provides means whereby employers and employees can decide outside amending pension agreements what entitlements to surpluses are.

As we have said the bill includes some conditions to ensure fairness, that at least two-thirds of the members have to approve. If the two-thirds is not obtained the parties have the opportunity to go

to arbitration but it is up to them. It is up to the people directly involved.

I go back to the comment that it seems pretty democratic to me. The only thing I take exception to is the continual innuendo that the whole thing is being manipulated in some way. I only wish members could stick to the facts in front of them. I encourage whomever to go to one of these pension plans that are affected and ask a member of the plan if he or she feels that he or she should have the right within a process to decide what should be done.

I can only respond to the question by saying that the hon. member for St. Albert seems to feel it is quite democratic. I only wish the hon. member for Elk Island would also concur.

• (2030)

The Acting Speaker (Mr. McClelland): Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed

Some hon. members: On division.

(Motion agreed to, bill read the third time and passed)

* * *

CANADIAN WHEAT BOARD ACT

Hon. David Kilgour (Secretary of State (Latin America and Africa), Lib.) moved the second reading of, and concurrence in, amendments made by the Senate to Bill C-4, an act to amend the Canadian Wheat Board Act and to make consequential amendments to other acts.

He said: Mr. Speaker, everyone knows that Brandon was the wheat city of Canada and Mr. Speaker as a prairie resident knows that this bill is dealing with a subject matter that has theological undertones for a great many of the 5 million of us who live in the three prairie provinces.

I am very pleased on behalf of the minister responsible for the wheat board to speak on the amendments to Bill C-4, an act to amend the Canadian Wheat Board Act, put forward by the other place.

Before making some comments regarding the amendments may I acknowledge the diligence with which the committee has approached its work on this legislation. As we all know, the Senate committee held hearings in Brandon, Regina, Saskatoon, Calgary, Edmonton, Winnipeg and Ottawa over the course of several weeks. At those hearings there were 92 individual farmers, 34 farm organizations and three provincial ministers of agriculture who made presentations to the Minister responsible for the Canadian Wheat Board, officials from Agriculture and Agri-Food Canada and officials from the wheat board itself.

The result of those consultations is a set of amendments which the Government of Canada intends to support and I will comment briefly on the three amendments.

The first clarifies the conditions for the appointment of the president and it says that the Minister responsible for the Canadian Wheat Board must consult the Canadian Wheat Board's board of directors on the qualifications required for the president and the person whom the minister is proposing to recommend. It also directs that the board of directors must have set the remuneration for the president before the minister recommends an appointee. I think all members will understand why that is a good principle.

The Government of Canada has always intended that the formation of the governing structure of the new Canadian Wheat Board be a true partnership between western Canadian producers and the government. One of the ways this partnership would work is through the corporate governance structure of the board.

Under Bill C-4 western farmers would elect 10 of the 15 members of the new governing board of directors with the government appointing 4 as well as the president and chief executive officer, who would also serve as a board member.

It is felt that this role for the government is justified since the government continues to guarantee initial payments and borrowings, guarantees worth many billions of dollars, and Canadian taxpayers deserve as much accountability as is feasible.

To ensure that both prairie farmers and Canadian taxpayers are well served and protected, the committee has proposed strengthening and clarifying the requirement that the minister must consult the directors before recommending an appointee for president. No recommendation will be made before the board of directors has determined and informed the minister of the president's remuneration.

By clarifying the requirement to consult fully with the directors prior to the appointment of the president the amendment if passed will help ensure that the relationship between the president and other members of the board of directors is harmonious and productive from the outset.

It was always the intent of the government that the board of directors be consulted on the appointment of a president.

• (2035)

This amendment clarifies and enshrines that intent. The government is very pleased with the additional clarification.

The second area of Bill C-4 where the Senate has proposed amendments concerns the means by which the number of grains under the marketing mandate of the wheat board can be either expanded or reduced.

As originally drafted, western Canadian producers had a process for excluding any kind, type, class or grade of wheat or barley from the marketing authority of the board. Similarly, the bill also laid out an inclusion process for adding crops to the mandate of the wheat board.

The amendment filled a gap in the existing wheat board act. As it now stands under the Canadian Wheat Board, the process for changing the Canadian Wheat Board's mandate is unclear, as every member from prairie Canada I am sure knows.

There have been concerns expressed by producers and producer groups about the mechanism for inclusion and exclusion originally laid out in Bill C-4. Plenty of concerns have been expressed.

I am sure my colleagues from the opposition party are going to get up very shortly and tell me why the matter has not been set right yet.

The amendment responds to those concerns. The amendment would replace existing clauses related to the inclusion-exclusion of grains with the provision that would require the current and future ministers responsible for the board to consult the board of directors with its two-thirds majority of farmer chosen members and conduct a vote among producers before any grains are added or removed from the mandate of the board.

The outcome of that vote would have to be in favour of the proposal to add or exclude a grain before the minister could take any action. The government is committed to the democratic principle that producers should be in control of any future changes to the board's mandate.

What remains fundamental is that farmers, not government, would be in control of any future change to the board's marketing authority.

The third area in which the committee has made amendments concerns the financial accountability of the wheat board and the producers it serves.

The Senate has recommended that the Auditor General of Canada be permitted to conduct a one time audit of the accounts and financial transactions of the Canadian Wheat Board and report the findings to the board of directors and to the minister responsible.

As members of the board of directors, the 10 directors elected by farmers will have full access to the report. The board of directors will also control what information would be publicly available and what should remain confidential because of commercial considerations.

The government recognizes that producers are entitled to know how their marketing agency is working on their behalf. The wheat board works for them, not the other way around, and therefore how it conducts its business is very relevant to them.

Honourable members must bear in mind, however, that the wheat board is a major competitor in the international grain trade. With $6 billion a year in sales, it is Canada's fifth largest export earner.

It markets on behalf of Canadian grain producers wheat and barley to more than 70 countries around the world. Grain trading on this scale is a highly competitive business where information is king and confidentiality is of paramount importance.

Who is selling what to whom and for how much is highly regarded commercial intelligence that in the hands of its competitors could do grievous damage to the workings of the wheat board.

Obviously a balance is needed between transparency and accountability to producers in ensuring that the board's operations and records are not subject to significantly greater levels of public access and scrutiny than the private sector grain companies it competes against.

It is in the interest of striking this balance that the Canadian Wheat Board already is fully audited every year by respected private accounting firms. The audit report is public information available to anyone.

In addition to this public information under Bill C-4, 10 of the 15 members of the board of directors would be elected by producers and those directors would have access to all board operational information. This would include the prices at which grain was sold, the price premiums realized, all operating costs and whether the corporation is running efficiently.

• (2040)

As well, the government with this bill is very deliberately moving the Canadian Wheat Board further from its purview. Once this bill is passed, the board would cease to be an agent of Her Majesty and a crown corporation. Producers will finally control the future of the board.

All these factors mitigate the need for an ongoing role for the auditor general to audit the books of the board. Nevertheless, if this additional examination by the taxpayers' auditor can enhance the transparency and accountability of the agency and alleviate sincere concerns, the government is willing to support the amendment to authorize a one time audit of the accounts and financial transactions of the board by the auditor general.

The government continues to believe that with the full knowledge of the inner workings of the board the directors would be in the best position to assess what information in the auditor general's

report could be made public and what for commercial reasons should remain confidential.

I commend the other place on its work on this legislation. The amendments proposed are good ones and I am very pleased to support the motion to accept them. It is important that these amendments are passed by this House quickly to allow for the election of the 10 farmer elected directors to take place this fall to give control of the future of the board to producers.

The bill is a result of extensive consultation, the contents of which have been discussed, dissected, debated and deliberated on, some would say ad nauseam. It can be very truly said that this piece of legislation is probably one of the most thoroughly discussed in recent memory.

I strongly urge colleagues to support these very reasonable amendments so that western Canadian farmers can move forward with their new modern and accountable Canadian Wheat Board.

Mr. Jake E. Hoeppner (Portage—Lisgar, Ref.): Mr. Speaker, I really enjoyed the presentation by the minister. I was not quite sure whether he was talking about the Canadian Wheat Board or the Latin American wheat board. There seems to be some discrepancy in the way he described the wheat board.

I would like to enlighten members a bit on the history of why this bill is before the House. I must agree with the Liberal government. It finally did bring a bill forward where it really has consulted for about five years now, since I came to the House.

This wheat board bill was the result of farmers being unhappy when their frozen wheat could not be sold in 1992-93, when the fusarium wheat was not sold by the wheat board and farmers had to do that themselves and they found a market. They found better prices than the wheat board had ever offered them for it.

That is what created quite a stir in western Canada. All of a sudden farmers realized they can market their wheat and barley the same as they are marketing canola, flax, lentils and peas and get better prices. That is where the debate started.

I was encouraged in this House when after a lot of discussion at the agriculture committee meeting the wheat board minister said bring forward some legislation, let us see what we should be doing but first we should consult. That was not a bad idea. I must give the wheat board minister credit for that. I also must give him credit for establishing the Western Grain Marketing Panel which went across western Canada to see what farmers really wanted in the new legislation.

It was astounding when the marketing panel was finished after about a year of consultation and travelling and wrote its report. The majority of farmers said they can live with this, it is a pretty good piece of advice from the marketing panel. Farmers were going to have choices. They could decide whether to market some of their barley outside the board or within the board. They could designate up to 25% of their wheat to be marketed into the cash market. Some of the more extreme farmers who wanted total freedom to market their grain said they could live with this. They wanted to try it to see how it would work.

● (2045)

This is where the Liberal government went wrong. It did not like what the western grain marketing panel told the government and decided to start a letter writing campaign. It took four to five months before those letters were in and the farmers had given more advice. I do not think that advice was much different from what the western grain marketing panel had heard.

For some reason the government and the minister just did not seem to get it. Farmers were unhappy with the marketing system and wanted more choice. We finally did get some legislation.

I must give this government credit again. We made another tour across western Canada with Bill C-72 and heard the same thing from every part of the prairies. The farmers wanted more market choices. They wanted to have a say in how to market their grains. Farmers grow it and have become the most productive enterprise in the world as far as farming is concerned but they cannot survive on the prices that they are getting for their wheat board grains.

More and more farmers switched to special crops and were growing less and less wheat board grains every year. This is detrimental to our farming industry because we need a rotational system to keep our land in good stewardship and make sure there is a good future in farming for generations to come.

When we were finished with Bill C-72 the bill might have passed but there was one mistake made during the hearings. It was a very sad mistake because it created a lot of division. One of the members on the Liberal side introduced an amendment which he called an inclusion clause. It really caused division across western Canada. People did not want to hear about any more grains being put under the Canadian Wheat Board. They first wanted to see if they could change the wheat board enough that it became accountable and that it did a good job in marketing their grain.

I do not think it was ever put in a better perspective than by the *Globe and Mail* just before C-4. It stated that if the Canadian Wheat Board could not be made accountable, and if the Canadian Wheat Board was negligent in doing its duty of selling the grain for the best price, why would farmers then want a Canadian Wheat Board?

Mr. Speaker, I am sure if you were running a business and somebody was managing the business for you and did not get the best price for you, did not show on the bottom line that there was a profit and that you were always in the red and could not afford to run the business without a deficit, you would not have the guy

around very long or you would be gone. That is what farmers are fighting for today.

Farmers are disappearing from western Canada as quickly as the flies in fall. We are getting bigger and bigger farms and more farmers with bigger debt problems. We are losing our agriculture industry. That is why it is so important that we do not make another mistake in this bill.

I agree that these amendments are going in the right direction but they do not go far enough as far as western Canadian farmers are concerned. What should be in this bill is a preamble which states that the Canadian Wheat Board will have as its main mandate to sell grain for the best interests of the farmer.

To have the Canadian Wheat Board there, to have a mandate, to do an orderly marketing job and to move the grain is not sufficient for farmers. They have to show profit to remain viable.

● (2050)

Why is the government so hesitant to include that preamble or a clause that says the wheat board's main mandate should be to sell the grain at the best price available? It does not say it always has to be the highest; it says the best price available. That is what farmers were doing in 1992 and 1993. They found markets that were better than what the wheat board was giving them.

Is that a sin? That is what I would ask the minister. Is it a sin to provide a piece of legislation that would provide those benefits? That is why I find it kind of hard to pass this bill with the amendments that the Senate proposed. They are good amendments, but I do not think they go far enough.

I see in a few notes what the Senate said after they were finished with the hearings. It became very clear throughout the hearings that the majority of farmers were unhappy with this legislation.

The minor watered down amendments are not going to resolve the problems in western Canada. They are not going to create unity among farmers who have been debating for about 10 years whether we should have open markets or single desk selling or dual markets or a voluntary wheat board.

Those are the issues we will be addressing in the next day or so, as much time as the Liberal government will allow us to debate these amendments. I think it is very fitting that we do not leave this House before we pass this bill with amendments that will create more unity among western farmers.

If that is not what this bill does, we are going to get into a situation where we will lose more of the wheat board grain. Farmers will grow less of it and finally it will kill itself. There will be no need for a wheat board because there will be only special crops grown.

I want to ask you another question, Mr. Speaker. You are a wise man, I know, and you are a good businessman. I read in this amendment that is being proposed by the Senate that the minister will not appoint the president unless the board has fixed the remuneration to be paid to the president and has informed the minister of the remuneration.

The minister can appoint the president. He can pick whoever he wants. He can pick probably his son-in-law or his wife if he wants to, but the board has the right to set the remuneration. Mr. Speaker, if you had a person in your business and somebody made you hire him and you knew already that he had been fired by the last five businesses where he worked, what kind of compensation would you give him? Would you give him a high priced job? Would you set him right up at the top with all the rest of the CEOs or would you give him nothing so this guy would take off before he was ever hired?

I can see what is going to happen. There is going to be a fight between the board and the directors. If the directors do not think the president or the CEO is capable or will fill the job, the remuneration is going to be such that he will not be able to stay around very long. They will be changing CEOs quite regularly. The farmers will demand that this man do his job.

That is one big problem I see with this amendment. The minister can like the guy. The minister can say that the guy carries a Liberal membership card, but by cracky the directors are going to set the remuneration and that is where the problem is. I as a farmer would say ''Make him pay you something for working for you if he does not have the qualifications because we are going to get rid of him anyhow. Why spend money on him?'' That is one of the very big faults with this amendment.

The other fault I see is when it comes to the auditing of the board by the auditor general. We put in an amendment that said the audit should be done by the auditor general because most farmers show a lot of respect and have a lot of confidence in the auditor general. That is one piece of paper farmers would read. Whenever the auditor general came out with a report, they did not read much, but that they would read. Farmers know what a good job means to an industry and what a good audit does to a business.

● (2055)

In my area it was the talk of the town in the coffee shop when the auditor general said that the government had again wasted hundreds of millions of dollars on overpayments on welfare, on foreign junkets or on whatever. They would have very willingly accepted the auditor general auditing the books.

This amendment says that there will be a one time audit and the auditor general can do that within two years of this bill becoming law. He can pick the years he wants to audit. I am sure the auditor

general will be wise enough to pick the years that are closest to the termination of the board so he has an idea.

However if there is enough political pressure on him he could be made to audit the 1943 wheat board books which would not do us much good, would it? There is another problem. It should be specified what years are audited and when the audit is brought back. We should be given a value for money audit so we can know whether or not the board has done a half decent job in the past two or three years. That is another big problem I find with these amendments.

The third one is doing away with the inclusion and exclusion clause. It is kind of vague. According to the amendment, the minister has some kind of manipulative power to bring forward a vote but if he does not want to, there is nobody who can force him to call for a plebiscite among the farmers. There is no mechanism that you can do it or not. This could be a disputatious type of clause where farmers could be divided.

I do not think farmers will accept this bill the way it is. It will be forced on them. We know that after so much of the situation where people have no say in what they do or in what they want to do, eventually there will come a time when the system will destroy itself.

The first time I talked on the Canadian Wheat Board was in 1994. I heard all the comments of farmers about the unaccountability of the board and the suspicions of the board. If the board is not going to become more open and accountable, just the mistrust will eventually destroy it, even if it has done a fairly good job. But when people see a closed entity that is unable or unwilling to give the people involved, in this case farmers, the opportunity to see what it does, those people will refuse it whether it is good or bad. We have seen that in other industries. Openness, competition and fairness give us the entity and competition needed to make a board function properly and do a good job for the farmers.

It is imperative that we do not pass this legislation if we are not able to include in this legislation the preamble that the board has to be accountable and open to farmers. If it is only going to be open and accountable to the corporation or the minister, the mistrust will stay there and the board will never function properly or at least not to its fullest capacity.

We have to have a system that can be trusted the same as government is. The Liberals will realize the more mistrust, the worse the situation is. I would bet my bottom dollar that in 1993 when the Conservative government lost its mandate, it was probably not for the terrible job it did but because of the mistrust that it was not doing a proper job.

They always say a government is not elected; a government is defeated. It is the same thing with the Canadian Wheat Board. The Canadian Wheat Board will destroy itself if it does not become accountable and give farmers the opportunity to trust it.

● (2100)

That is why I maintain that a voluntary wheat board will make the board function better. It will probably do more business because it will have to compete. It is in the position to do the best job. With its mandate and with the amount of grain that it can access it should be able to do a better job than any individual farmer.

I can see the point that if the trust is put back in the board and it does a good job there is a future for the board marketing other grains. If that trust is not put back into the board farmers will see that and experience it. The bottom line is that they have to put food on their table. They have to pay machinery expenses and input costs. It has to work. If the system is not in a position to make farming viable it will fail.

One point I want to make clear is that in 1935 the Canadian Wheat Board was not a monopoly wheat board. It was a dual marketing system. The wheat board was put in place to provide competition for grain companies that were probably doing a lousy job.

In 1943 the wheat board was given its monopoly not to increase prices for farmers but to control prices and to allow the government to sell grain at a lower price to our allies. I do not think that any farmer in western Canada objected to helping with the war effort, to taking a lower price so that they could help the allies in their battle against the Nazis, the imperialists or whatever they were called.

I just thought the minister would want to know that it was not a monopoly at one time and it functioned very well in a competitive arena. That is the direction we should go in. I hope the Liberals are wise enough to add that amendment and take the credit for it instead of having Reform do it for them.

The Acting Speaker (Mr. McClelland): We will now revert to 20 minutes maximum with 10 minutes for questions and comments

Mr. Dick Proctor (Palliser, NDP): Mr. Speaker, it is a pleasure to take part in the debate this evening on Bill C-4. My recollection, and I only go back in this place to last September, is that Bill C-4 was the first out of the shoot. We referred it immediately to committee. It is appropriate now in what appears to be the dying the days of this session that we are still at it.

In the time allotted to me tonight I want to briefly review the history of the bill and to explain why the NDP caucus will not and cannot support it. In particular, we cannot support the amendments that have been sent back to the House by the Senate.

This wheat board legislation has followed a long, winding and torturous road that predates my arrival. In December 1996 the government introduced Bill C-72 to amend the Canadian Wheat

Board Act. Our smaller caucus opposed that bill for reasons that I will describe a bit later. The bill was then sent on to the agriculture committee. Our party and other parties worked hard in committee proposing useful amendments, but we were overtaken by events and the bill died on the order paper when the 1997 federal election was called last April.

Following the election in September the wheat board legislation, as I noted, was reintroduced as Bill C-4. Our caucus had serious initial concerns about it but we wanted to hear what the government had in mind and to enter the debate with an open mind. Speaking in the debate last fall I recall saying that if those concerns could be sorted out by the Standing Committee on Agriculture and Agri-Food we would be able to support the bill.

• (2105)

It was sent off to the standing committee but my optimism went unrewarded. I found the committee experience to be a largely hollow exercise. The Liberals were not really interested in any give and take and the committee's deliberations were unduly rushed. How rushed?

I recall very well the day that Lorne Hehn, chair of the Canadian Wheat Board, came before the Standing Committee on Agriculture and Agri-Food. We had to have as an opposition party our amendments submitted, the ones we wanted to propose. We had to have the changes we wished to introduce even before the Canadian Wheat Board had made its presentation to the standing committee. We did not think then and we do not think now that it was much of a way to run it.

The bill came back to the House in February. Our caucus could not support it despite our desires to see an end to the uncertainty surrounding the Canadian Wheat Board. As we all know, the bill then went off to the Senate and the agriculture committee of that place decided to hold public hearings. The senators proposed three amendments and made several recommendations. I will describe these amendments in a minute and explain again why we cannot support them.

First I want to summarize what it is about Bill C-4 that has concerned us most. Fundamentally New Democrats have always supported the Canadian Wheat Board because it works in the best interest of western grain farmers. However Bill C-4 undermines the board and that is why we oppose it.

How does it undermine the board? For one thing Bill C-4 proposes cash buying. We believe this will destroy a fundamental pillar of the wheat board and undermine farmers' confidence in it. Under the terms of Bill C-4 the wheat board will buy grains from anyone, anywhere, anytime, at any price. This disrupts the board's long practice of buying grain from farmers at announced prices and distributing profits to all on an equitable basis.

Second, Bill C-4 proposes a contingency fund which will cost farmers millions in check-offs. The fund is not needed. Farmers cannot afford it and do not want it. The minister says that this fund can now be capped at $30 million which is a grand improvement over the $575 million or $600 million contingency fund that was being talked about last fall when it was before the Senate committee. Whether it is $30 million or $575 million we still believe it is too much and not required.

This proposal follows from the bill's provisions which would allow cash buying. The contingency fund would not be necessary if Ottawa continued to provide financial guarantees to the board as it has always done. Whether it was 1935 or 1943 that has been the pattern of the history of the Canadian Wheat Board. These guarantees have seldom been used and as a result cost the Canadian taxpayers virtually nothing over six decades.

We want the Canadian government to continue to provide guarantees to farmers on both initial and final price payments. That is the gist of an NDP amendment that the government has consistently refused to accept.

Finally there is the question of governance. For 60 years the wheat board as a crown agency has done an admirable job for farmers. Now the government is suggesting that the board cease to be a crown agency and says that Bill C-4 will put farmers in control of the wheat board's destiny.

Bill C-4 proposes a 15 member board of directors with 10 elected by producers and 5 appointed by the federal government, by Ottawa. If there is to be a board of directors we have no problem with the government naming some members to it. If the government is to have a financial exposure, and it does, it is only reasonable that it have some window into the board's operations.

Under Bill C-4 the minister maintains the authority to choose the president of the board of directors, a person who will also double as chief executive officer of the Canadian Wheat Board. Our caucus is opposed to this.

We believe it gives the government too much control over a board of directors that should be accountable to farmers. The government consistently says that it is turning it over to farmers or to producers. However any time it gets into a narrow corner it seems to me that it reverts to the government that will have the hammer. I think of the fact that the auditor general, for example, will have the power to look into and review the balance sheets of the wheat board. We believe that Deloitte & Touche which has been its accounting company of practice has done an admirable job over the years. We do not see why, particularly when the board is supposed to be going to the producers, this is necessary.

● (2110)

We believe that the board of directors should have the authority to choose the president and the chief executive officer. We have consistently urged the minister responsible for the wheat board to make this amendment.

If the wheat board is to have a board of directors elections must be fair. They should be elections by and for farmers. We do not believe it is in anyone's interest to have outside interests interfering in this process.

The amendments we proposed at report stage call for one producer, one vote. I note that the senators agree with us on this point and suggest exactly that, one producer, one vote. However they did not go so far as to make it an actual amendment.

Fair elections also mean a limit on the campaign spending of candidates just as there are in our federal and provincial elections so that wealthy individuals, in this case perhaps wealthy producers, do not have an unfair or undue advantage. This was another of our amendments and again the senators suggested that as well.

Fair elections also mean strict and transparent limits as to what third parties can spend. The wheat board is after all a $6 billion industry and certain corporate interests would love to get their hands on it. We do not believe in seeing them use their deep pockets to influence unduly elections to the board of directors.

On the inclusion clause we have always held in this caucus to the point that one of the few things to cheer about in Bill C-4, at least until the Senate got a hold of it, was that it made provision for inclusion of additional grains under wheat board jurisdiction.

Bill C-4 would have allowed farmers to decide to add extra grains to the board's authority as well to remove or delete them. Such an inclusion or exclusion clause would have occurred only after a vote of producers. Our caucus strongly supports and supported the inclusion clause. We thought that it was a sensible, moderate and democratic proposal.

I remember very well when the Saskatchewan minister of agriculture appeared before the committee last November and made it quite clear that in his opinion it would be tying the hands of the future Canadian Wheat Board to restrict to the limit we see in the legislation the inclusion and exclusion clause. Mr. Upshall asked who could forecast in 10 years time the future needs of the Canadian Wheat Board and why would we go to those particular lengths. I agreed with him in November and I agree even more so now in view of the changes that we see coming from the other place.

We are opposed to that and we recognize that on exclusion we went through a little vote in 1997 by western farmers when 63% of them voted in favour of keeping barley under board jurisdiction. The corporate coalition and some of its partners are demanding that the inclusion clause be dropped from Bill C-4. I have explained why we are opposed to that.

We fundamentally believe that the future of the wheat board is a debate for farmers and not for corporations. Frankly we thought we heard the minister responsible for the Canadian Wheat Board saying much the same thing last fall and earlier in 1998.

One can imagine our surprise when at the 11th hour of debate on third reading the wheat board minister caved in to this corporate lobby by proposing to the House that we accept an amendment that would do away with both the inclusion and exclusion clauses, exactly what the anti-Bill C-4 lobby had been demanding all along. The minister's amendment would have allowed him to choose when there would be vote to include or exclude a grain.

It is yet again another example of they want to give more control to the producers except when they get into a tough corner. This caucus said no. The minister claims that the board of directors of the wheat board is for real, that it has real power. If that is the case why did he grab power back from the directors even before handing it over? If he is really a democrat why did he not accept the amendment which would have allowed the board of directors to decide exactly when a vote should be taken?

It was in this content that Bill C-4 was sent to the Senate.

● (2115)

The senators held their hearings, which were alluded to earlier, and have now pronounced. The senators have proposed three amendments and made two recommendations.

The most important of these amendments is that the existing inclusion and exclusion clauses be deleted. This is essentially a capitulation to the corporate farm lobby which so desperately wanted the inclusion clause out that it was willing to bite the bullet and accept the exclusion clause as well. It had to go too.

This unfortunately may well have been in concert with the minister responsible for the board, who attempted to do just that with his eleventh hour amendment moments before we voted on third reading last February.

We believe that the Senate amendment leaves the initial decision about the inclusion or exclusion of a grain to the minister rather than to the board of directors. Only after the minister decides will there be a vote amongst producers on whether a grain should be included or excluded.

To set the bar even higher, following such a vote by farmers parliament would have to legislate the inclusion or exclusion of a grain.

The senators offer an alternative that would make it almost impossible to ever add a grain or delete one from the board's mandate.

The inclusion clause, as I have mentioned, was one of the few redeeming features of Bill C-4 and now senators, apparently at the urging of the minister responsible for the board, have gutted it.

We in the NDP oppose the bill, which effectively removes the inclusion clause and does so in an anti-democratic fashion. It is our understanding that we either accept or reject the Senate amendments as a package and, because of our serious concerns regarding the inclusion clause, we oppose the package.

We believe that farmers support the wheat board because it works and has worked consistently in their best interests. New Democrats join them in that support. The Canadian Wheat Board has 60 years of international experience and is one of the best grain marketing organizations in the world.

I had the opportunity a couple of months ago to speak with an expert in agriculture in Chile. He noted in our conversation that grains are the single largest commodity that flow from this country to that South American country. I asked him about the wheat board. He said he had talked to his millers in Santiago to inquire of them why they would pay an extra 8% or 10% premium on Canadian Wheat Board grains as opposed to buying them from the Americans or on the international market.

The answer he received was that they could be consistently relied on. They knew they would be getting exactly what they were told they would be getting by the wheat board. In contrast, if they purchased through the Americans, it would be about *x* percentage of this or that and around that amount. He was quite impressed that the miller said it was not worth it for 8% or 10%. They could sleep securely at night knowing they were going to receive exactly what it was they ordered. I think that is a very important point that is not lost on a lot of Canadian grain farmers in western Canada.

We cannot support Bill C-4 because it undermines the Canadian Wheat Board and in doing so it undermines any secure future for Canadian grain farmers.

Mr. Jake E. Hoeppner (Portage—Lisgar, Ref.): Mr. Speaker, I enjoyed the speech of my colleague from the NDP. I would like to ask him a couple of questions. One is whether he would favour putting something in the preamble which would give the board the mandate to work in the interests of farmers rather than the corporation.

I must compliment the member, first of all, on his statement that foreign buyers are buying our grain because of its quality. I have heard so often from the member for Malpeque that it was the wheat board that got the premiums for our grain and I have always maintained that it was the quality of the grain. It was the farmers who were producing the grain that brought in the extra money.

What I would like the member to address is the latest poll in Saskatchewan. As we know, those farmers have always been more or less very strong supporters of the Canadian Wheat Board, but the Liberal MLA in the Yorkton—Melville area did a poll in his constituency and he found that 62% of his farmers would now vote for a dual marketing system. It was really surprising.

● (2120)

I wonder what the member would say about this drastic change. It used to be the philosophy that farmers could not grow grain without the Canadian Wheat Board.

Mr. Dick Proctor: Mr. Speaker, with regard to the first point of the member for Portage—Lisgar on the preamble, we do not have a problem with that. We indicated our support for such a proposal when the bill was last before the House. This evening I am happy to articulate a similar position.

With regard to the poll, we are all politicians and we all know that there are polls and there are polls. We all know that polls can be terribly scientific or not very scientific at all. Without knowing the details of the poll that was completed by the MLA for Yorkton—Melville, I would say that it would probably not fall into one of those polls that was accurate 19 times out of 20 on a plus or minus 3% basis.

Mr. Ken Epp (Elk Island, Ref.): Mr. Speaker, I also listened with interest to the NDP member.

One of phrases that he used was that the wheat board has served farmers well. Of course the wheat board applies only to western farmers. I have two questions for the member based on the statement that it has served the farmers well.

First, if it is good for western Canada why do other farmers in the country not have access to the same plan or a similar plan?

Second, how do we answer a farmer in the prairies who says that while the Farm Credit Corporation, a federal agency, is closing in on him, demanding payments on his loans, he cannot sell his grain because the wheat board is not calling for it? That farmer tells me he could sell it by putting it on a truck and driving it across the border. He not only could sell it and get cash for his grain right now, but he could get between two and three times as much as the wheat board will give him in the end. How can we equate that with the farmers being well served by the wheat board in its present form?

It is obvious that the wheat board can serve a great function, but in situations like that a farmer should have the right, legally, in this country that is supposed to be so free, to sell the grain where he can get the best price.

In my business I was never forced to take a job at the lowest rates. I could take my choice and so it should be for farmers. I would like the member's comments on those points.

Mr. Dick Proctor: Mr. Speaker, as the member well knows, this country developed at different stages and at different rates. We might all get some historical advice from the member for Portage—Lisgar, but it is my understanding that there was a demand by western Canadian wheat growers and Canadian grain farmers several decades ago that they have a monopoly. As I heard the member say earlier this evening, the private grain companies were probably doing a poor job of marketing the grain, the prices were high and the freight rates were high. There was a demand that the problem be fixed and the wheat board resulted.

Indirectly the member is talking about the fact that the Ontario Wheat Board now has a system of dual marketing. We are really comparing apples and oranges because we are talking about a $6 billion a year industry in western Canada. I do not think we want to play around too much with that or make a rash move when we have that much exposure at stake.

• (2125)

With regard to the whole business about being closed in on by the Farm Credit Corporation, the need to market grain and the wheat board not handling the commodity, I guess my comment to the member for Elk Island would be that I honestly do not believe that in five years' time there will be a recognizable Canadian Wheat Board, regardless of what we do here this evening.

In the next round of the WTO, I believe that the Americans will insist on changes. The Europeans already have the wheat board in their gun sights. The Canadian Wheat Board, as we have known it, even tonight in its watered down form, will basically not survive the next round of the WTO.

We are tinkering around the edges here tonight, but the reality is that the Canadian Wheat Board is on life support as we know it.

[*Translation*]

Ms. Hélène Alarie (Louis-Hébert, BQ): Mr. Speaker, as I did during the debate on the grain legislation, I must start right out by admitting that, as a Quebecker, I have difficulty feeling concerned by this bill.

It is my impression that this is a bit like life in a big family, with its ups and downs, its squabbles, its unspoken words, its misunderstandings, and all the arrangements that are made between the members of a big family.

It is perfectly normal, because the Canadian Wheat Board and the bill to amend the Canadian Wheat Board Act and to make consequential amendments to other Acts mainly concerns the western provinces.

I have looked at this bill carefully from the economic point of view, as a representative of Quebec, to see where our interests lay and the points where we would have to defend ourselves, if there were any. Like many of my colleagues, I had problems with the inclusions and the exclusions, but overall, throughout the debate, I never felt totally concerned by it.

So what do I do under such circumstances? I look at whether all farmers or all agriculture can benefit from it and I try to direct the discussions toward that.

But since the debate has dragged on, I found myself obliged to broaden my horizons and I started to read the western newspapers in order to convince myself of how absolutely important this debate was for the western farmers and also how it was limited to that framework.

I have just heard one of my colleagues saying ''But how can the other provinces not be interested?'' I think it is a historical fact that a Canadian Wheat Board was created for the areas where there was wheat.

I remember, also, that during the 1970s—I can talk about the past—very little grain was produced in Quebec. It was only for farm use, and we produced traditional grains, mainly oats and barley. It was in the 1980s that the government of the time, formed by the Parti Quebecois, decided to increase farm consumption and to focus on export.

Obviously there is no comparison between western granaries and Quebec production, although we have made a considerable improvement in the range of grains we grow and we have even exported bread wheat.

That said, our marketing is naturally done in the free market, since we are not the same sort of player as the provinces whose prime agricultural production is grains.

• (2130)

We are in agreement generally with the bill, because we always agree with proposals for organized marketing of agricultural products. This is the focus of the debate, too, organized marketing versus the free market, with the advantages the Canadian Wheat Board has created over time, that is, a reliable product in terms of price, quality and delivery.

Importers needing to mix animal feed need to know who they are dealing with and to be sure of a uniform quality product. Over the years, the Canadian Wheat Board has earned such a reputation.

Today, we are to vote on the amendments the Senate has proposed to the bill. There are technical amendments, two of which are of interest to us because they are points we raised along the way. There is the new clause 8.1 and clause 36.

The following is added after the existing paragraph in clause 8.1:

8.1 Within two years after the day this section comes into force, the Auditor General of Canada may commence an audit of the accounts and financial transactions of the Corporation for such fiscal years as the Auditor General considers appropriate and a report of the audit shall be made to the Corporation and the Minister.

Many people wanted this addition, so that the accounts can be audited. This is an additional guarantee of good management, and will probably also reassure producers dealing with the board.

I will not linger over the deletion of lines 31 to 40 on page 17, because this has been debated extensively. This paragraph removes the exclusion of any class or grade of wheat, or wheat produced in any area in Canada. This clause may be questioned over the years.

Clause 47.1 of the bill, which was amended, reads as follows:

The Minister shall not cause to be introduced in Parliament a bill that would exclude any kind, type, class or grade of wheat or barley, or wheat or barley produced in any area in Canada, from the provisions of Part IV, either in whole or in part, or generally, or for any period, or that would extend the application of Part III or Part IV or both Parts III and IV to any other grain, unless

a) the Minister has consulted with the board about the exclusion or extension; and

b) the producers of the grain have voted in favour of the exclusion or extension, the voting process having been determined by the Minister.

Obviously, greater participation by producers is desired, and if this does not come about directly, these clauses will give bodies producing specialized grains, whether wheat or barley, a say.

The amendments introduced by the Senate do not pose a problem for the Bloc Quebecois. Some of them even reflect the wishes of the opposition and of certain producers.

I therefore do not feel I have the right to speak at greater length, since I said at the outset that this affected us little, if at all. We will therefore be voting in favour of the bill, as amended by the Senate.

[*English*]

Mr. Rick Borotsik (Brandon—Souris, PC): Mr. Speaker, it is nice to see that members of the government have waited around so long to hear some pearls of wisdom that will come from these benches as opposed to the wisdom from colleagues in the National Farmers Union.

● (2135)

It seems like ever since I came to the House it has been this piece of legislation that I have been most involved in. When the new 36th parliament was elected Bill C-4 was one of the first items on the order paper.

I had the opportunity as a rookie member of the House to follow this legislation through the whole process and I can say that there was not only process but there was politics that went along with the process obviously in the legislation of Bill C-4.

At second reading we in the Progressive Conservative Party voted in favour of sending it to committee with the understanding that at committee we would have the opportunity of actually listening to the issues coming forward from the producers, that we would actually listen to the people this piece of legislation was to affect not only individually but as their businesses depend on the ability to market the produce which they grow, in this case the product being wheat and barley by western Canadian producers.

As we sat in committee we heard these producers speak of all the issues and problems with the Canadian Wheat Board. A majority of us outside government listened to what we heard and suggested at that time that the legislation that was put forward by the Minister responsible for the Canadian Wheat Board was not going to solve the problems of western Canadian producers. In some cases with the legislation it would exacerbate the problems of western Canadian producers, particularly with a very objectionable clause that was put in by one of the members of government.

That was the exclusion and inclusion clause, particularly the inclusion clause suggested in Bill C-4 but which was not suggested in its sister legislation, Bill C-72 which came before members in the 35th parliamentary session.

At the committee level we put forward what we thought were well thought out logical amendments and lo and behold, none of those amendments passed in committee because government felt it was necessary to ramrod this shoddy piece of legislation through totally contrary to what the producers were telling us.

When we got back to the House after coming from committee, we thought perhaps at that time the government would again have a second opportunity to listen to good amendments. At that point the government invoked closure to debate in the House about this very important piece of legislation that affects the majority of people in my constituency.

At that time it went to the Senate. Before I discuss the Senate report further and some good amendments that have been sent back from the Senate, there are a couple of things I would like to say.

If the amendments are passed the Progressive Party will support the legislation. We will support it reluctantly because the legislation does not deal with the issue producers want to deal with, freedom of choice. That is choice in how they market and choice in how they can sell their produce outside of having a single desk marketing system like the Canadian Wheat Board. It does not deal with that. It does not deal with a number of other issues. However, the amendments do modify the legislation sufficiently that it can start the process of changing the Canadian Wheat Board and having it evolve in the 21st century.

When the legislation went to the Senate the Progressive Conservative Party and the Reform Party both asked the Senate to do another tour of western Canadian producers.

● (2140)

A number of Reform members signed a letter to the Senate asking it if it would not take it back on the road and to listen to those people who unfortunately the government would not allow us to listen to in committee.

The reason I mention the Reform Party is that after the Senate came back with the amendments, the critic for the Reform Party sent out a press release stating that the hearings were a pathetic attempt to justify the Senate's existence. After asking the Senate to take them out, after asking for these amendments to be discussed we had Reform saying that it was a pathetic attempt to justify the Senate's existence. The Reform Party seems to be contradicting itself once again. Not only does the Reform Party constantly contradict itself, these cheap partisan attacks to do nothing for trying to work together as legislators in both chambers to make better legislation for the western Canadian farmer.

When the Senate came back it came back with a number of amendments. I stood in this House on numerous occasions and spoke in opposition to the inclusion clause and the exclusion clause. I spoke because that is what people wanted us to hear and put forward in this package. What happened? The Senate effectively came forward with an amendment that would take out the inclusion clause. The minister does have the opportunity to go back to the producers, but it is this House that will ultimately decide whether any additional commodities will be included in the Canadian Wheat Board marketing system. That in itself is a very positive amendment.

The Senate also came back with a recommendation to cap the contingency fund to a level of $30 million. This was a concern raised to us constantly in committee where there was no parameters with respect to contingency. It was a check-off which producers are getting sick and tired of. It was dollars that would be coming out of their pockets. That contingency fund has been capped at $30 million, which is also acceptable.

I have received some correspondence from Saskatchewan canola growers. They are pleased with some of the Senate committee amendments and are glad that it listened. They are particularly happy with the inclusion clause change and amendment.

A key amendment, something Reform also put forward as an amendment, was the role of the auditor general with respect to the Canadian Wheat Board. We felt and heard the message from producers that if they were the owners of the Canadian Wheat Board why was it that they were unable to get information from the organization there to represent them. It did not make sense.

The Senate listened. It came back and said that for a period of two years the auditor general will have the right to look at the operation of the Canadian Wheat Board, not a balance sheet, not a financial statement submitted by the Canadian Wheat Board but an operation audit by the auditor general. It is good and it is bad. It did not go far enough. We would have like to see a full report from the auditor general to this House and to the actual owners of the Canadian Wheat Board, the producers. It does not go that far but it is a first good step. Again, it is an amendment that got through not by the opposition, not at the committee stage in the elected House but by the Senate.

There are a couple of things it did not deal with. To improve the legislation I wish it would have. All board members should be elected by the producers instead of the 10 out of 15 board members who will be elected, the others appointed by government. Unfortunately that was one amendment put forward by our party and by the Reform Party that was not accepted by the Senate.

The last and the most important change that was not included in the Senate amendments that came forward was the change and the amendment to dual marketing.

● (2145)

One of the major issues that we all heard at committee from the producers themselves was to give them the choice that the hon. members keep talking about across the bench. ''Give us a choice. Let us have the opportunity of a dual marketing system where we can choose either the Canadian Wheat Board or the open market to sell our commodities. Or at least give us the option for opting out. At the very least, give us an option of the portion of the commodity that we are producing so that we can market that in some other fashion outside of the Canadian Wheat Board''.

That did not happen. That in fact is the one area of which I say I have some reservations by supporting this amended piece of legislation. It has not dealt with nor has it solved the underlying problem of the Canadian Wheat Board.

The hon. member from the NDP, whom I have a lot of respect for and who I know listened intently at the committee hearings, has put a lot of thought into this. He and I differ ideologically on this particular issue. He feels that this legislation goes way too far, that in fact if the legislation is put into place with amendments, it is going to adversely affect the Canadian Wheat Board. I on the opposite side believe that it has not gone far enough. What it has done with the amendments is that it has allowed the Canadian Wheat Board now to at least evolve into the 21st century. It will give that opportunity.

The hon. member also said that the Canadian Wheat Board organization will be changed in the next few years. He is right. It is going to change because we as Canadians have to change with the global economy.

We recognize that when we negotiate in the WTO in 1999, this is one organization that is going to be on the table. There has to be transparency. There has to be openness. There has to be an opportunity for producers and our trading partners to see that it is indeed free trade, open trade and honest trade. That comes with the opportunity for choice and obviously the opportunity for the dual marketing system.

It has been a very interesting process that we walked this piece of legislation through from its beginning here about nine months ago in the 36th Parliament to where we have it right now. I can honestly state that this piece of legislation has been accepted by virtually no one. The minister responsible for the Canadian Wheat Board alienated just about everyone, those people such as the hon. member from the NDP who feel that it has gone too far and those people who feel it has not gone far enough.

It has pitted family against family, brother against brother, father against son and it still has not dealt with the issue. It is going to come back to this House. I hope that I am here long enough to be able to say I told you so and that we should have done the right thing with this piece of legislation when it came forward in 1997.

I said earlier, and I will repeat that if the amendments are approved in this legislation, we of the Progressive Conservative Party will support C-4 and the legislation but reluctantly. We know that it is not going to solve all if any of the problems that western Canadian producers have.

Thank you, Mr. Speaker, for giving me this opportunity. It is late this evening. I know there will be a lot of questions and comments, so I would be more than happy to close my speech.

Mr. Jake E. Hoeppner (Portage—Lisgar, Ref.): Mr. Speaker, it is always a pleasure to listen to the member for Brandon—Souris.

I was kind of surprised though that he was attacking the Reform Party because we are not the government. The other thing that the Reform has done for the hon. member for Brandon—Souris is to isolate him from the bad Liberals. We are all around him to the east, to the north, to the west and the Americans protect him from the south. So he is in pretty good shape. I thought once in a while he would give us a little bit of credit to keep him away from the hostile enemy.

I do not know whether I heard him right about the inclusion and exclusion clause. This House will decide whether grains will be added or deleted. That is good. I thought it would be up to farmers to decide that. I do not know whether he made a slip of the tongue or not.

• (2150)

I did not think that was Conservative policy so I would like to help him along. I would not want his constituents to hear that he was siding with the Liberals because that could spell trouble. I was wondering whether that was a slip and whether he had something nice to say about the Reform Party.

Mr. Rick Borotsik: Mr. Speaker, in speaking to being surrounded by Reformers as opposed to Liberals, and the hon. gentleman suggests that I am not surrounded by enemies, I should rethink that one. In either fashion if I did not have friends from my own caucus surrounding me, I would suspect that perhaps they would be enemies. However, I do thank the hon. member. The member for Portage—Lisgar was a valuable member on the committee.

With respect to the inclusion clause the best solution as the member knows is to simply have taken it out of the legislation totally, not to have inclusion, not to have exclusion. That was the argument of the member from Prince Edward Island, that if you have exclusion you should have inclusion. That did not happen.

We tried. We put amendments forward to do that and the best solution that could come from this came from the Senate where it will now go to the minister. There will be a plebiscite. There will be a vote of producers as the member has indicated. I suppose it is positive that producers do have the right and should have the right to say whether it will be included in the Canadian Wheat Board. It is another check and balance.

The final check and balance is that it comes to this House. There is a protection there even for those producers who may still not want to have any commodities included. We are talking about commodities that in my estimation should not be included in the Canadian Wheat Board. It is important that we have that other check and balance, as the hon. member has put forward.

The best solution was not to have any inclusion as was suggested many times to the member from Prince Edward Island who actually put this thought forward although it was not included in Bill C-72 in the last parliament.

Mr. Dick Proctor (Palliser, NDP): Mr. Speaker, I listened with interest as I always do to my colleague, the member for Brandon—Souris.

I am having trouble understanding this reference to the auditor general. Maybe it is my thick headedness or the lateness of the hour but I really fail to understand if as the minister has said so frequently, we are going to put the producers in the driver's seat on the Canadian Wheat Board, why then are we also agreeing with the Senate amendment that within two years of the bill coming into force, the auditor general should commence an audit of the corporation?

At the Standing Committee on Agriculture and Agri-Food we saw the annual reports from the auditing company of Deloitte & Touche. We know there is sensitive trading information that, if it were made available, it would have a deleterious effect on the wheat board's ability to trade in an open market.

For the life of me I do not understand the reference to the auditor general. Perhaps the member for Brandon—Souris could explain that to me.

Mr. Rick Borotsik: Mr. Speaker, the hon. member has been opposed to any type of outside transparency to the Canadian Wheat Board so I understand why he would not understand why it is important that the auditor general have access to the Canadian Wheat Board. Although 10 out of 15 members of the board of directors will be elected, it is still important that the board of directors has the professional opportunity to bring in someone like the auditor general to look at the operations, to perform an operational audit.

This would make sure that what the board says is happening is in fact happening, that it is the best marketing system in the world. The auditor general has the ability and the professionalism to be able to bring that talent forward and to either agree or disagree with the statement being made by the Canadian Wheat Board.

As for the opportunity for competitors to be given an unfair advantage, I find that to be a very loose argument of those who are supporters of the Canadian Wheat Board. Perhaps they have something to hide and they do not wish to have those comments brought forward. The fact of the matter is that in this amendment the auditor general will report to the board of directors and to the minister but not to this parliament.

• (2155)

The member also heard in my speech that it has not gone far enough. I would have liked to have had that auditor general's report come to this parliament so we could also see whether the Canadian Wheat Board was providing the proper services that the producers are paying for in marketing their particular commodity. I wish they would have gone that far.

As it is now it is better than it has ever been. In fact there will be a report from the auditor general within the first two years. It will give the board of directors another tool to be able to say that they are doing the job right or if they are not doing the job right, how to correct the problem. That is all it is. It is another tool and a very important tool. I am very pleased that the amendment came forward.

Mr. Wayne Easter (Parliamentary Secretary to Minister of Fisheries and Oceans, Lib.): Mr. Speaker, I want to pick up on a few points that the member for Brandon—Souris mentioned.

Mr. Rick Borotsik: How about potatoes?

Mr. Wayne Easter: How about potatoes? Listen, if we could have an agency like the Canadian Wheat Board marketing our potatoes, we would be happy.

The member for Brandon—Souris spoke about freedom of choice. The fact is when he spoke of freedom of choice he spoke against it. What a contradiction the member for Brandon—Souris is. The fact is the inclusion clause allowed the opportunity for a process to be set up for producers to decide whether or not they wanted a new crop included. It gave everybody the opportunity to be a part of that decision. That is what real freedom of choice is and the member for Brandon—Souris talked about it. As I said, what a contradiction.

The member for Portage—Lisgar I will admit did have it right when he said that the Senate amendments to this bill weaken that freedom of choice and they certainly do. The way the inclusion clause was proposed in Bill C-4 originally, it set up a system that gave the right to producers to make the decision to include new crops. It gave producers the right to control their own destiny in terms of what crops they would have under the Canadian Wheat Board in the future.

There is another point I want to take issue with. The member for Brandon—Souris said he was disappointed that there was no dual marketing amendment in this legislation brought back from the Senate. We cannot have a dual marketing system and a single desk selling agency operating at the same time. I do not know why it is so hard for the PC Party and the Reform Party to understand this. We either have a single marketing system or we do not. It is as simple as that.

If we have a dual marketing system, we really have the open market. Producers in western Canada have clearly decided that they do not want a dual marketing system. They want a single desk marketing system which maximizes returns back to producers.

In terms of debating this bill this may be the last time I have an opportunity to say anything on it so I want to say a few words on the Canadian Wheat Board advisory committee. Clearly in the last election the very strong majority of Canadian Wheat Board advisory members were pro Canadian Wheat Board producers. Though I differ strongly with the strategy they put in place in terms of dealing with this particular bill, I do want to thank them for their years of service and their strong support in terms of the Canadian Wheat Board. They did a very good service.

Members opposite constantly claim that producers do not have a say. Every three or four years there is an election of wheat board advisory committee members who advise the Canadian Wheat Board in terms of its operations.

● (2200)

Those producers stand for election and consistently pro-Canadian Wheat Board producers are elected to represent producers in terms of advising the Canadian Wheat Board.

One of the problems regarding this bill is that those producers felt that Bill C-72 and Bill C-4 would over time because of cash purchase and some other things in the bills weaken the board.

They were split in their position. As a result, when the Senate committee held its hearings it was divided and did not do the strategizing they should have done to go out there and show the pro-Canadian Wheat Board side. I will admit on this side of the House as a strong Canadian Wheat Board supporter that the pro-wheat board side was not active enough and the anti-wheat board side had more people at the hearings than we did.

That is too bad but that is the reality of the day. I still firmly believe there are still more out there who support the Canadian Wheat Board's single desk selling approach than who oppose it.

The Canadian Wheat Board has been and continues to be one of the superior marketing agencies anywhere in the world. It maximizes returns back to producers and has shown that consistently since 1935.

I had the privilege in the last House of serving on the standing committee on agriculture and doing a tour of western Canada as we held hearings on the previous bill leading up to Bill C-4.

I think it was a real opportunity to hear western producers as they came out clearly and told us that they wanted freedom of choice, the opportunity to include new crops in the bills and the opportunity to have a stronger say in the operations of the Canadian Wheat Board.

The Canadian Wheat Board operates on four major principles, government guarantees, single desk selling, maximizing returns back to producers and the pooling of returns.

That agency has meant a lot to western Canadian farmers and indeed farmers across Canada, even those outside the wheat board region, because it has meant upward pressure in the prices of Canadian grains.

Although I personally am a very strong supporter of wheat board commissionnaires and their appointment in terms of their expertise in marketing, I admit out of those hearings that we held across western Canada I conceded, based on hearing the arguments brought forth from farmers across the country, that maybe we had to move toward a majority of producers being elected to the board. I think we have that in this bill.

Let me indicate where the government comes from on this issue. The government has always intended that the governing structure of the new Canadian Wheat Board give western Canadian grain producers the power to chart the future of the wheat board.

Under Bill C-4, western farmers would elect 10 of the 15 members of a new governing board of directors with the government appointing 4 directors as well as a president and chief executive officer who would also serve as a board member.

Given that the government will continue to guarantee initial payments, credit sales and borrowings, guarantees that are worth billions of dollars, Canadian taxpayers warrant some accountability. We ensured that accountability in terms of Bill C-4.

On that basis, a continued role of government is justified because we guarantee the borrowings.

● (2205)

We guarantee the initial prices under this new bill and we are there backstopping western Canadian grain farmers in terms of the bill. Surely there has to be some accountability to the Canadian taxpayers and we ensure that through the appointment we would foster.

Bill C-4, as originally worded, required that the minister consult with the other directors before recommending a person be appointed president. This amendment brought forward by the Senate makes that legislative requirement to consult before appointing much stronger and clearer and requires that the board of directors must set the remuneration of the president before the appointment can be made.

I have no problem with that. We heard during the hearings in western Canada that if the board of directors, in terms of setting the remuneration, had a problem with the individual then it could set salary very low and then the individual would not stay on.

By clarifying the minister's requirement to fully consult with the board prior to the appointment of the president, this amendment would help ensure the creation of a harmonious and productive relationship between the president and the other members of the board. This supports what has been the government's intent all along. The government is very pleased to endorse this amendment.

The third area in which the Senate has proposed amendments relates to the financial accountability of the Canadian Wheat Board to the farmers it serves. The government is keenly aware of the comments made by many producer groups and other Canadian taxpayers about the need for some sort of role for the auditor general to help increase the level of trust in the Canadian Wheat Board.

While the government supports this amendment, I point out the reservation the government has had in the past. First, the Canadian Wheat Board already is fully audited every year by a respected

private accounting firm. The audit report is public information, available to anyone who wishes to obtain it.

Second, in addition to this public information under Bill C-4, 10 of the 15 members of the new Canadian Wheat Board's board of directors would be elected by the producers. These directors would be able to set up their own audit committee and request special audits as they consider appropriate. They would have access to all Canadian Wheat Board operating data. This would include the prices at which grain was sold, the price premiums realized and all operating costs. In short, the directors would be able to ensure farmers are getting value for their money.

The government, with Bill C-4, is very deliberately moving the Canadian Wheat Board away from its control toward control by western Canadian grain producers. It makes sense to us for the producers to gain more and more control.

I want to come back to my original point which was my concern with the amendments coming forward from the other place. I believe with this amendment that farmers will have less choice by the taking out of the exclusion and inclusion clauses than they had previously in Bill C-4 as it passed this House in its original form.

I am sure the member opposite would agree that the Canadian Wheat Board has proven over time that it is a superior marketing agency in terms of maximizing returns back to producers so they can try to be as prosperous in that difficult international market with the help of the Canadian Wheat Board as they can be in this difficult and challenging world.

Mr. Jake E. Hoeppner (Portage—Lisgar, Ref.): Mr. Speaker, I always enjoy the zealous comments of the hon. member for Malpeque. I consider him a real promoter of the Canadian Wheat Board. I would call him the Canadian Wheat Board's Stompin' Tom Connors because he believes in that thing. He would stomp everybody to death if they did not believe it. He has a strong view on this. I am wondering why because he has never sold a bushel to the board. The only reason I can think of that he would support the board is because he has purchased a lot of cheap feed grains from it for his dairy cows. I can see why he loves the wheat board.

● (2210)

The other question I would like to ask him is regarding the tremendous work he was talking about that the advisory board members have done. I am not going to argue against that because I do not think we can really judge it by the figures we see in the annual report.

Let us assume they did a tremendous job. Why would that not hold true also for the directors? If the advisory board members did such a good job, why not elect all 15 directors instead of appointing five? Is the member saying that western farmers only have 10 people in their constituency that could sit on the board, who have enough smarts to run the board, that they are short by five and that they have to pick them from somewhere out of a political system? To me that does not make sense.

As we know before the Senate hearings the Canadian Wheat Board finally admitted that it was one of the biggest players on the Minneapolis Grain Exchange. I have never seen that reported in any of their audits. I wrote the wheat board commissioner Mr. Hehn to see if I could have an annual audit of the trading activities to see whether it made me any money or lost some. I also requested that from the minister. It is very slow in coming. I do not know for what reason. Perhaps the first audit still has not been printed. Perhaps it has not been reported in the previous audits.

I would like the member to respond to that, to see why these trading activities do not show up in any other annual audits.

Mr. Wayne Easter: Mr. Speaker, there are quite a few questions there. Yes we love Stompin' Tom Connors, Bud the Spud from the bright red mud, and we are proud of him.

The member's first question relates to why I support the Canadian Wheat Board and it is certainly not because of cheap barley. In 1974 I am sorry to admit but I believe at the time it was the Hon. Otto Lang who weakened the Canadian Wheat Board when he took feed grains out from under the wheat board.

I have supported the wheat board in all sincerity. I went to western Canada as a youth president of the National Farmers Union. I spent 10 years as its national president. I was not like the opponents of the Canadian Wheat Board who have never been in the wheat board offices. I went to the office and I looked at how that system operated. I looked at how the Winnipeg Commodity Exchange operated. I looked at how the American system operated.

It is very clear when one goes to the Canadian Wheat Board and looks at what is called the war room with its market intelligence around the world and its system of transportation and how transportation is functional to marketing and how it tries to market that grain. It is in the business of maximizing returns to western Canadian farmers in the wheat board areas. It has proven it has done it.

Those people who say that it is not visible and transparent should compare the annual report of the Canadian Wheat Board where it is visible in terms of what it has for every price of grain, what the deductions are in terms of demurrage and transportation, what the administration costs are. They will see how efficient an operation it is. We do not get that type of report from Cargill Grain or others. We certainly do not.

Clearly if members had my experience and investigated the system and began to understand it, at the end of the day they could not help but be strong supporters of the Canadian Wheat Board.

There is accountability. The member asked the question in terms of 10 out of 15 directors. Why should it not be all 15? Why would it be all 15? The board is two-thirds producers.

● (2215)

Let us look at the government guarantees. No other agency in the country has the amount of government guarantees this system has. We need some accountability to taxpayers. There are guarantees on borrowings and initial, initial guarantees.

I cannot imagine the Reform Party saying that there should not be any taxpayer accountability. It should get with it. There has to be accountability. We will ensure the chief executive officer is accountable to taxpayers. At the same time we will appoint that individual to the agency for his expertise in marketing to ensure that the Canadian Wheat Board continues to maximize returns to grain producers and to be the kind of superior marketing agency it has been in the past.

The member's last point was audits, the bottom line. I believe he said they might have played the system a bit. The difference with the Canadian Wheat Board is it played the system with some market intelligence, with expertise in terms of the market, in terms of knowing the political situation around the world and in terms of knowing the weather situation around the world.

The bottom line of Canadian Wheat Board has proven to be true. It is maximizing returns to producers. If we look at the Canadian Wheat Board over the past 35 years and compare its prices to those of the open market, with the exception of maybe once out of that time the Canadian Wheat Board has always come out on top in terms of maximizing returns.

Members opposite who happen to live in Canadian Wheat Board areas should be thankful. They should be standing up in the House and thanking the Canadian Wheat Board for putting those dollars in their wallets over the years in terms of the marketing of grains.

The Acting Speaker (Mr. McClelland): We have two minutes left for questions and comments. Is it possible to have a 60 second question and a 60 second response?

Some hon. members: No.

Mr. Mike Scott (Skeena, Ref.): Mr. Speaker, I appreciate that the hour is late and that members want to leave. I have been waiting all evening to make a few remarks. As a matter of fact I have been waiting quite some time to make a couple of comments on Bill C-4. I will keep my comments short.

I come from northwest B.C. and I do not know very much about grain farming. I cannot drive by a field and tell the difference between wheat and barley. Some people say that I do not know the difference between corn and canola.

The parliamentary secretary was saying a few minutes ago that members on this side and grain farmers in western Canada should be thrilled with the wheat board and should be jumping up in support. Some of those farmers cannot jump up in support because they are in jail.

I give the example of Andy McMechan, a farmer from western Canada who had his equipment confiscated. He was thrown in jail. He was led away from his farm in shackles and chains because he had the audacity to smuggle his product across the border and sell it privately.

Was he growing marijuana? Was he growing opium? Was he growing cocaine? What product he was smuggling across the border in the middle of the night? It was wheat. It was grain.

He decided that he could get a better price for the grain he grew on his private property with his own seed that he purchased with his own money, with his own labour and with his own equipment. He had the audacity to bypass the Canadian Wheat Board to sell his grain privately. He wound up in jail and with untold costs. I am not sure what costs this man has faced as a result of defying the Canadian Wheat Board and defying the federal government in pursuit of obtaining the best price he could for his own private property.

We like to think that we live in a free country. As far as I am concerned this kind of action on the part of government in a free country is unacceptable.

● (2220)

I would like to ask the Liberal government whether it thinks this is fair, whether it thinks people in western Canada should jump up and be thrilled that they get thrown in jail if they do not sell their wheat through the Canadian Wheat Board.

It is a vivid example of the degree of intervention our big brother Liberal government has taken over the past two or three decades. It demonstrates a ''we know better than you'' attitude. It is nothing short of a power grab.

Not long ago a federal parliamentarian, and I will not name him, compared Canada to Cuba in the sense of attempting to say that Cuba was not such a bad place. He took some flak for that. A lot of people took umbrage with his remarks. I am not sure that he got it all wrong although I do not think it is in context of saying that Cuba is not all that bad. It is just that Canada ain't all that great when farmers cannot sell their own private property in a place they choose without being thrown in jail for doing it. We are not talking about banned substances. We are talking about wheat and grain.

The parliamentary secretary went on at great length talking about what a wonderful job the wheat board did. My question is for the government, the parliamentary secretary or anybody else who wants to defend the wheat board. I come at it from the perspective of somebody who knows very little about grain.

If the wheat board is doing such a wonderful job of marketing Canadian wheat, why do farmers who disagree and want to sell their grain on their own get thrown in jail? Why do they have to hear the jackboots of the government marching down the street to pull them out of their farms and throw them in jail because they have the audacity to sell their grain for the best price they can get? It is not a free country when this kind of thing happens. It is happening in the country today and Bill C-4 does nothing to address it.

The Acting Speaker (Mr. McClelland): There being no further members rising to speak to this matter tonight, pursuant to order made earlier this day the debate is adjourned. Accordingly the House stands adjourned until tomorrow at 10 a.m.

(The House adjourned at 10.21 p.m.)

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