



CANADA

# House of Commons Debates

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OFFICIAL REPORT  
(HANSARD)

**Wednesday, October 13, 2004**

—

**Speaker: The Honourable Peter Milliken**

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# HOUSE OF COMMONS

Wednesday, October 13, 2004

The House met at 2 p.m.

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*Prayers*

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• (1400)

[English]

**The Speaker:** As is our practice on Wednesday we will now sing O Canada, and we will be led by the hon. member for St. John's South—Mount Pearl.

*[Members sang the national anthem]*

• (1400)

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## STATEMENTS BY MEMBERS

[Translation]

### MILLENNIUM SCHOLARSHIPS

**Mr. David Smith (Pontiac, Lib.):** Mr. Speaker, when the 2004-05 millennium scholarships were awarded, we were in the midst of the election campaign, but I would like to take the opportunity today to congratulate three young scholarship recipients from my riding.

These three young women are Isabelle Arseneau-Bruneau, of the Conservatoire de musique de Gatineau, Cynthia Landriault-Dubois, of the Cité étudiante de la Haute-Gatineau and Véronique Thivierge, of the Collège Saint-Alexandre. Their awards were in recognition of their community involvement, demonstrated leadership abilities, innovativethinking and academic achievement.

The millennium scholarships, begun as an initiative of the Government of Canada, represent a major investment in our students' future and are an excellent means of promoting academic excellence. Congratulations again to these three young women. Canada has many precious resources and shining examples among its young people and you three are among them.

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[English]

### AGRICULTURE

**Mr. Bill Casey (Cumberland—Colchester—Musquodoboit Valley, CPC):** Mr. Speaker, Atlantic Canada farmers have suffered dramatic harm from the ban on Canadian beef by the U.S.A. and other countries. Government programs have been too little too late.

Government efforts to resolve the issue have totally failed. Atlantic farmers must now adapt to the possibility of the border never opening again, which means we must create slaughter capacity to process cattle that once were shipped to the United States.

The co-op organization on Prince Edward Island in conjunction with the P.E.I. government have invested almost \$20 million in a brand new plant that is almost finished. However, the current circumstances now require the plant to have two additional features not originally planned. First, in order to guarantee a quality product, traceability is absolutely essential. Second, it needs a federally inspected cull cow line in order to process and sell our own beef to Atlantic Canadians.

I urge the Minister of Agriculture to act quickly to help all Atlantic farmers in all four provinces by providing funding for both the traceability program and to help the cull cow line expansion, and to act now.

\* \* \*

### WOMEN ENTREPRENEURS

**Ms. Anita Neville (Winnipeg South Centre, Lib.):** Mr. Speaker, last week the Women's Enterprise Centre in Winnipeg celebrated its 10th anniversary. Since 1994 to March of this year, Western Economic Diversification Canada's Women's Enterprise Centre in Winnipeg has provided approximately \$6.2 million in loans to help start up or expand 193 women-owned small businesses. It is estimated that this investment has helped to create or maintain 527 jobs in Manitoba. It has also hosted more than 19,000 people in training sessions.

Last year the Prime Minister's task force on women entrepreneurs recognized the Women's Enterprise Initiative for its excellent work and recommended the program be adopted across the country.

Initiatives like the Women's Enterprise Centre build on the Speech from the Throne's priority to foster investment by attending to the conditions that encourage entrepreneurs and providers of risk capital.

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[Translation]

### LOUISE PARGETER

**Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ):** Mr. Speaker, Louise Pargeter had worked as a parole officer in Yellowknife since April 2001. Tragically, she lost her life on October 6, 2004. Her lifeless body was found in the home of one of the clients whose parole she supervised. She had sustained multiple stab wounds.

*S. O. 31*

Our thoughts go first to her family, her child in particular, and then to her colleagues and all who work in her field. I am very familiar with, and have the greatest respect for, that noble profession, because of my experience as a criminal lawyer and former minister of public safety in Quebec.

I know that most of those who work in this field consider it a real calling. The work is hard, sometimes risky, often frustrating. Yet this work is essential to any society that considers itself humane. I share the sorrow and horror they must all feel, but I also share their ideals, and will continue to do so.

To the family of Louise Pargeter first and foremost, and also to all those working in the same field, I extend my deepest condolences. I am sure I am joined by all the members of this House.

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● (1405)

[English]

**ARTS AND CULTURE**

**Hon. Sarmite Bulte (Parkdale—High Park, Lib.):** Mr. Speaker, I would like to inform the House of the launch of an exciting new cultural event, the first McLuhan International Festival of the Future. Thanks to the efforts of Mr. William Marshall, the executive director of the festival and also the co-founder of the Toronto International Film Festival, the organizers held a successful kickoff on October 8, 2004.

To honour the diverse fields that Marshall McLuhan has influenced, on Friday night the festival presented visionary awards for community, culture and commerce. As the Parliamentary Secretary to the Minister of Canadian Heritage, I had the honour of presenting the culture award to CHUM Ltd. Former Toronto mayor, David Crombie, received the community award and Roger Martin, dean of the Rotman School of Management at the University of Toronto, received the commerce award.

The McLuhan International Festival of the Future runs until October 17. It ambitiously attempts to cover the diverse areas of McLuhan's work with a 10 day festival that includes fora and performances in multimedia, new media, public arts, media literacy and sustainable living.

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**POST-SECONDARY EDUCATION**

**Mr. Rick Casson (Lethbridge, CPC):** Mr. Speaker, when fall returns to southern Alberta, students at the University of Lethbridge and Lethbridge Community College return as well. With 7,800 students at the university and over 5,000 at the college, these combined numbers have a huge positive impact on Lethbridge and southern Alberta, increasing the population of the city of Lethbridge by 10% to 15%.

These students contribute to the betterment of southern Alberta in many ways. The financial impact of these two institutions and the respective student bodies is substantial. Our community is also enriched by the incredible community involvement of these two respected and renowned venues of higher learning.

Both institutions are led by quality people. Dr. Donna Allen, president of the college, and Dr. Bill Cade, president of the university, have positioned their institutions well to serve their respective student bodies and the community at large.

To the U of L and LCC, I say keep up the good work, for the students from near and far who walk through those doors are the leaders, the movers and shakers of the not too distant future. We are in good hands.

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**WORLD SIGHT DAY**

**Hon. Hedy Fry (Vancouver Centre, Lib.):** Mr. Speaker, I put on my glasses to say that tomorrow is World Sight Day, held annually to highlight the problem of global blindness and to raise awareness about the prevention and treatment of vision loss.

According to the Canadian National Institute for the Blind, more than one in nine Canadians over 65 and one in four over 80 experience vision loss that cannot be corrected with lenses. Given these numbers, we must focus on ameliorating the condition of the blind in Canada.

The CNIB has made several recommendations in this regard. One of these is government support for the production and distribution of published print material for the blind or visually impaired.

The World Health Organization estimates that 80% of blindness could be prevented or cured. WHO's Vision 2020 campaign aims to eliminate avoidable blindness by the year 2020, by providing measles immunization, cataract surgery, eyeglasses and other needed services.

I urge all parliamentarians to visit the websites of Vision 2020 and CNIB to understand what must be done to prevent blindness, improve the participation in Canadian society of the visually impaired and treat vision loss in Canada and abroad.

\* \* \*

[Translation]

**RAMADAN**

**Mr. Richard Marceau (Charlesbourg—Haute-Saint-Charles, BQ):** Mr. Speaker, the month of Ramadan begins at sunset on Friday, October 15. In the Muslim lunar calendar, Ramadan is the ninth month and a strict fast is observed. Fasting during Ramadan is the fourth of the five pillars of Islam and is probably the most observed rite among Muslims.

More than a billion Muslims throughout the world, including nearly 110,000 Quebeckers, will devote this month to fasting, meditation, devotion to God and self-control. From dawn to dusk each day for 30 days, Muslims abstain completely from eating, drinking and smoking.

The last 10 days of Ramadan are considered especially sacred, culminating in the 27th night, Lailat al-Qadr or the night of power, when the Qur'an was revealed to Mohammed.

Ramadan will be followed by three days of festivities called Eid-al-Fitr, the feast at the end of the fast.

My Bloc Quebecois colleagues and I wish all Muslims in Quebec a very joyous Ramadan.

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#### RIDING OF HONORÉ-MERCIER

**Mr. Pablo Rodriguez (Honoré-Mercier, Lib.):** Mr. Speaker, it is with both pride and humility that I rise for the first time in this House. I must say that, for someone who arrived in Canada at the age of eight, speaking not a word of French or English, it is a particularly moving moment.

My first words will be to thank the men and women of Honoré-Mercier for giving me their confidence and support in the election.

In recent months I have travelled everywhere in the riding to meet people active in diverse economic and social areas. I met women and men who give the best of themselves every day in their respective fields.

There were a number of common threads in these discussions : the Government of Canada should allocate substantial resources to health, contribute to the revitalization of municipal infrastructure, and invest seriously in the environment.

These ideas expressed by people in my riding are certainly valid for the eastern part of Montreal, for other areas in Quebec and even all of Canada.

I am here to work on the realization of these priorities, with all my energy and to the best of my abilities.

\* \* \*

●(1410)

[English]

#### NEWFOUNDLAND AND LABRADOR

**Mr. Norman Doyle (St. John's East, CPC):** Mr. Speaker, I was disappointed that two issues of great importance to Newfoundland and Labrador during the recent federal election campaign were not even mentioned in the throne speech.

The equalization program claws back the lion's share of our provincial offshore oil revenues. In response to our Conservative Party policy to eliminate the clawback, the Prime Minister also guaranteed that Newfoundland and Labrador would be allowed to keep 100% of its offshore oil revenues.

The Prime Minister also promised tougher action on foreign overfishing on areas of the Grand Banks outside the 200 mile limit, including the imposition of Canadian custodial management of those areas if necessary.

These commitments were made in the pressure cooker of an election campaign and I had hoped that they would have been reconfirmed in the throne speech. The election is now over. The time for promises is over. Now it is time for action.

S. O. 31

#### DARTMOUTH NORTH ECHO

**Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.):** Mr. Speaker, today I want to address one of the most important community developments in Dartmouth—Cole Harbour.

For years a number of residents in the Dartmouth North area have been concerned, even angry, about how their community was being portrayed in the media, but rather than sit back and do nothing, a number of community leaders decided to address the need for better communication and the involvement of citizens. They started a community newspaper called the *Dartmouth North Echo* to tell the full story. These volunteers write the articles, run the office and sell the ads. They make this newspaper happen.

I congratulate Sylvia Anthony and her team for their foresight and dedication in bringing the community together to keep residents informed of the good news that is happening in their neighbourhoods.

Nova Scotia has a distinguished history in the field of journalistic empowerment, dating back to Joseph Howe. The *Dartmouth North Echo* is a worthy successor to that heritage and I salute all those who make it happen.

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#### LOUISE PARGETER

**Mrs. Bev Desjarlais (Churchill, NDP):** Mr. Speaker, I rise today to recognize Louise Pargeter, a parole officer with the Correctional Service of Canada.

Ms. Pargeter was killed in the line of duty in Yellowknife on October 6. She is only the second parole officer in Canada to die in the line of duty. The first was Mary Steinhäuser, who died in a prison hostage taking in New Westminster, B.C. in 1975.

Ms. Pargeter was on her eighth day back at work after her maternity leave. Our condolences go out to Louise's family, friends and co-workers in the correctional service.

\* \* \*

#### FINANCE

**Mr. Monte Solberg (Medicine Hat, CPC):** Mr. Speaker, once again this morning we were treated to the farce of the finance minister's forecasting. The Liberals' projected surplus of \$1.9 billion was \$9.1 billion. Perhaps the finance minister has dyslexia. Could it be that the finance minister is that legendary dyslexic agnostic insomniac who wakes up in the middle of the night and wonders if there really is a dog? Or more likely, the finance minister is deliberately lowballing numbers.

When the Liberals mislead about the size of the surplus, Canadians are denied the chance to have a say on what to do with that money. For example, low income and middle income Canadians would love to have some of that money to spend on extravagances like groceries. Or what about properly equipping our military?

The Conservative Party believes that the revenue, expenditure and surplus forecast should be set independent of the government and its politicized agenda.

### Oral Questions

That surplus money belongs to Canadians, and Canadians deserve the truth, the whole truth and nothing but the truth, so help them dog.

\* \* \*

[Translation]

### TOLÉRANCE ZÉRO

**Mr. André Bellavance (Richmond—Arthabaska, BQ):** Mr. Speaker, impaired driving is still a serious problem on our highways. The Société de l'assurance automobile du Québec reports that roughly 30% of highway fatalities involve impaired driving.

Since 2000, in the riding of Richmond—Arthabaska, a not-for-profit organization called Tolérance zéro has been providing a safe escort service all year round. In that time, this organization, which is located in Victoriaville just above my offices, has safely escorted more than 126,000 people to their destinations.

In the past four years, it has expanded its operations to seven regions in Quebec and it plans to keep on growing. It has 800 volunteers and 28 permanent staff.

In 2004, Tolérance zéro was awarded the Prix Hommage bénévolat-Québec in the direct service agency category, at an official ceremony at the Quebec National Assembly.

I would like to congratulate the entire team at Tolérance zéro for their commitment to the community and I wish them much success in their future expansion.

\* \* \*

• (1415)

[English]

### CANADIAN TELEVISION FUND

**Mr. Rahim Jaffer (Edmonton—Strathcona, CPC):** Mr. Speaker, on October 8 it was reported that a Toronto film company used classified ads to search for “the perfect penis”. The project received three separate grants totalling over \$133,000 from the Canadian Television Fund.

Why would the government fund such a project? The answer lies with the Prime Minister and the teachings of Freud. The hypothesis is that the Prime Minister related a search for a perfect penis to the search for the perfect caucus. Not only frustrated by having such a small caucus for a governing party, the Prime Minister suffers the humiliation of having a smaller caucus than his predecessor, Jean Chrétien.

The Prime Minister is distraught over the fact that he could not elect a majority. Worse, Jean Chrétien, a man older than he, brags that he did it three times. If the envy of the predecessor's parliamentary-hood was not enough, the challenges of the passage of the throne speech has created performance anxiety, causing the Prime Minister to order the first two votes of his new Parliament as confidence.

To avoid a crisis we would recommend that the Prime Minister stop popping Velotrin and just accept what he has: a minority.

### WORLD SIGHT DAY

**Hon. Bryon Wilfert (Richmond Hill, Lib.):** Mr. Speaker, I am happy to rise today to bring attention to a very important cause, one that often goes unnoticed but can change our lives dramatically. We should take the time to reflect on just how lucky we are to have the gift of sight.

Today the Canadian National Institute for the Blind is hosting its second annual World Sight Day. It is through the Vision 2020 initiative that the CNIB hopes to bring awareness to this highly preventable disease, find solutions and hopefully eliminate all preventable and treatable blindness by the year 2020.

It is worth paying close attention to the Vision 2020 plan, as its benefits are twofold. If Vision 2020 were to become a reality, not only would we prevent 100 million people from going blind but this would in turn amount to a savings of about \$150 billion U.S. on a global scale.

While this is a major undertaking, it can become a reality with our help. If not for ourselves, consider this cause important because of the children facing this fate of blindness at an alarming rate of one child per minute.

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### ORAL QUESTION PERIOD

[English]

### NATIONAL DEFENCE

**Mr. John Reynolds (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC):** Mr. Speaker, we have uncovered a British parliamentary report on the submarines and it is damning. It outlines a litany of problems that plagued the subs when they were still owned by the British. Perhaps that was what the British defence minister meant when he said that the purchase was buyer beware.

Was the government aware of this report?

**Hon. Keith Martin (Parliamentary Secretary to the Minister of National Defence, Lib.):** Mr. Speaker, the government purchased these subs which are excellent submarines. They met the operational demands and requirements of our navy and our country. I am pleased to say that these subs provide our navy and our military with superb capabilities that we have to engage in for the sovereignty of our nation.

**Mr. John Reynolds (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC):** Mr. Speaker, it was that parliamentary secretary for defence who said “For 10 years the Liberals underfunded and disrespected their military by not giving them the tools to do their job”.

This report details a host of problems, including design flaws, system failures and cable communications. The subs had to be made safe and operational and that cost money. This was at a time when the Prime Minister was systematically cutting the defence budget year after year.

How did the Prime Minister's \$54 million slash to the submarine program affect the improvements that were required to make these subs safe and operational?

**Hon. Keith Martin (Parliamentary Secretary to the Minister of National Defence, Lib.):** Mr. Speaker, on the issue of the subs, \$85 million extra was put into the subs over and beyond the purchase price.

However, on the member's premise, let us talk about the facts. We put in \$7 billion to purchase some important requirements: the search and rescue helicopters, the new gun systems and the new fixed wing search and rescue planes. Those are requirements that our military needs. Those are commitments the government has made and they will be fulfilled.

**Mr. John Reynolds (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC):** Mr. Speaker, the same parliamentary secretary of defence, who now has the gall to stand and defend the government, said “The government has been neglecting defence and as a result it is in absolute crisis”. That was then and this is now I guess.

Will the Deputy Prime Minister assure the House that any inquiry will ask the question: How did this defence budget slashing impact the submarine retrofit and safety and operations?

• (1420)

**Hon. Keith Martin (Parliamentary Secretary to the Minister of National Defence, Lib.):** Mr. Speaker, I would like to quote the head of the navy who is a submariner himself. He said that the ships were qualified and fully seaworthy to go out and that they perform a very important function.

On the costs that the member mentioned, \$85 million have gone into the sub program over and beyond what we have already put in. That is the investment into these subs that will do an excellent job and have done an excellent job for our navy and for our country.

**Mr. Bill Casey (Cumberland—Colchester—Musquodoboit Valley, CPC):** Mr. Speaker, last night the Minister of National Defence indicated that he had information from the team investigating the HMCS *Chicoutimi*.

What was the single issue that drove the minister to cancel the program when he heard about the details?

**Mr. Keith Martin (Parliamentary Secretary to the Minister of National Defence, Lib.):** Mr. Speaker, the member is incorrect in saying that the sub program has been cancelled. It has not been cancelled at all.

What we are doing is the responsible thing. We are allowing the navy to do its job and we are allowing the board of inquiry to do its job and get to the answers that we all require and are waiting for.

I would ask the members of the opposition to have patience and let the professionals do their job so we can get the answers that we are all waiting for.

**Mr. Bill Casey (Cumberland—Colchester—Musquodoboit Valley, CPC):** Mr. Speaker, the minister does have one answer to why he tied the boats up and we would like to know what it is.

Here is another question that we have asked a number of times. An urgent report on October 16, 2003 identified a dangerous situation that could jeopardize the lives of our sailors and our subs. It involved the initiating cartridges and it specifically made recom-

### Oral Questions

mendations to store them in a “fitted, approved and floodable compartment”.

Were these life and death changes made to the *Windsor*, the *Victoria* or the *Chicoutimi*? If the minister does not know the answer, will he agree to provide the answer as soon as he can get it?

**Hon. Keith Martin (Parliamentary Secretary to the Minister of National Defence, Lib.):** Mr. Speaker, all ammunition is certified and guaranteed and is stored in a safe place in all our subs.

There is no way that any submariner would go to sea in a situation that was unsafe with respect to the storage of their ammunition. All ammunition in all our subs is stored in a very secure way. All of those storage capabilities are certified before the ships go to sea.

\* \* \*

[Translation]

### TAXATION

**Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ):** Mr. Speaker, the Minister of Finance estimated the surplus to be \$1.9 billion, but it is more like \$9.1 billion—

**Some hon. members:** Oh, oh!

**The Speaker:** Order. The hon. member for Laurier—Sainte-Marie.

**Mr. Gilles Duceppe:** Mr. Speaker, this is Liberal style. They delight in cover-ups. It is not \$1.9 billion, but \$9.1 billion. This Minister of Finance suffers from financial dyslexia, and the government suffers from chronic under estimation. They are hiding the truth.

Enough is enough. Should the fiscal imbalance not be resolved by October 26?

[English]

**Hon. Ralph Goodale (Minister of Finance, Lib.):** Mr. Speaker, the truth is not hidden. Indeed, it is very good news for all Canadians.

The federal government's fiscal strength is an advantage to all Canadians. Our triple A credit rating keeps everyone's interest rates low, including those of citizens and the government of Quebec. Our average Canadian standard of living is constantly on the rise. Our fiscal performance helps to stimulate investment and employment, and it makes it possible for us to help our partners in the provinces with things like \$41 billion more for health care and \$33 billion more for—

• (1425)

**The Speaker:** The hon. member for Laurier—Sainte-Marie.

[Translation]

**Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ):** Mr. Speaker, when they say “more” they mean they want even more sponsorships for their friends. When they say “more” they mean they want even more cuts to the provinces. They did not eliminate the deficit, they had the provinces and the unemployed pay it and they stole from the employment insurance fund.

*Oral Questions*

On October 26, will the government resolve the fiscal imbalance instead of making someone else pay for it, as it did in the past purely hypocritically?

[*English*]

**Hon. Ralph Goodale (Minister of Finance, Lib.):** Mr. Speaker, I am sure the first ministers will have a very useful conversation on October 26. They intend to deal with serious matters in a serious way, just as they did a couple of weeks ago when they met here in Ottawa to deal with health care.

On health care we now have a long term plan that will shorten waiting lists, improve primary care and lead to better services and care for all Canadians everywhere in the country. The Government of Canada is contributing \$41 billion more to make that happen.

When we meet on October 26 we will confirm \$33 billion more for equalization.

[*Translation*]

**Mr. Yvan Loubier (Saint-Hyacinthe—Bagot, BQ):** Mr. Speaker, considering the means that the federal government has at its disposal, it is puzzling to see that its budget forecasts are so far off the mark, while at the same time the government is arrogantly dictating to the provinces how things will be run, by telling them, for instance, that, as regards equalization, it is going to be the federal government's way and no other way.

How can the government justify its arrogance toward the provinces when, year after year, it keeps demonstrating its inability to make credible budget forecasts, despite the arsenal of means at its disposal?

[*English*]

**Hon. Ralph Goodale (Minister of Finance, Lib.):** Mr. Speaker, in addition to health care and equalization, the Government of Canada assists provinces in many other ways. We have indicated in the throne speech, for example, that we will be helping with child care, communities and senior citizens.

We have ongoing support for post-secondary education, social services, infrastructure, the environment, agriculture, natural resources, immigration, regional development, housing, the alleviation of homelessness, innovation and research. In all these ways we work in close partnership with provincial governments.

[*Translation*]

**Mr. Yvan Loubier (Saint-Hyacinthe—Bagot, BQ):** How arrogant, Mr. Speaker. This is unbelievable. In a study commissioned by the federal government itself, the Conference Board said that federal surpluses will total at least \$166 billion over the next 11 years, and this is a conservative estimate, while the provinces could run deficits in excess of \$60 billion.

Is this not evidence of a major problem, namely that the provinces are truly suffering from a fiscal imbalance that needs to be corrected as quickly as possible, and not met with arrogance?

[*English*]

**Hon. Ralph Goodale (Minister of Finance, Lib.):** Mr. Speaker, contrary to the tone of the official opposition, when all the first ministers were around the table here a couple of weeks ago, they had a very positive discussion. Obviously they were candid and pointed

with each other but the end result was that they took major steps to solve an important problem to improve the health care of Canadians. I have no doubt that they will do the same on October 26.

However it should be noted on fiscal imbalance that both orders of government have access to the same major tax bases. The provinces have some bases that the federal government does not, in lotteries and royalties, and each government has total fiscal autonomy.

[*Translation*]

**Mr. Jack Layton (Toronto—Danforth, NDP):** Mr. Speaker, today we hear once again that the Liberals' budget figures are pure fiction. The budget surplus is four times higher than what was forecast. That is incredible. To date, a total of \$84 billion has been manipulated. Every cent of the surplus is put toward the Prime Minister's artificial target.

Will the Minister of Finance announce today that he will let this House decide of the use to be made of this surplus?

[*English*]

**Hon. Ralph Goodale (Minister of Finance, Lib.):** Mr. Speaker, in terms of where the money was dedicated at the end of the last fiscal year, I am pleased to tell the hon. gentleman that to the extent that we could measure the available flexibility at the time of the budget on March 23, that money went to health care, SARS, BSE and municipalities.

The amount of the surplus that became known in the statistics in September was dedicated to reducing the debt, which saves interest payments for all Canadians.

• (1430)

**Mr. Jack Layton (Toronto—Danforth, NDP):** Mr. Speaker, it is quite clear that the Liberal government is simply incapable of counting Canadians' money. That is how much the Liberals care about it. The money they found could have provided three child care programs.

We support balanced budgets and achieving good debt ratios but not an artificial target that the Prime Minister never talked about in the election.

It is time to end the Liberal mentality of Enron on the Rideau. It is time to put an end to it.

Will the minister support the NDP proposal for an independent budget office, yes or no?

**Hon. Ralph Goodale (Minister of Finance, Lib.):** Mr. Speaker, I would remind the hon. gentleman that our fiscal forecasting is not done in-house. It is not done on the basis of a single economist that we just pick because he might agree with our point of view. It is based on the independent professional judgment of 19 professional economists selected from across the country.



While I am interested in the proposal that the hon. gentleman makes for some kind of independent review, I would caution against following the American example too closely because the Americans have an annual budget deficit of very nearly the total.

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#### SPONSORSHIP PROGRAM

**Mr. James Moore (Port Moody—Westwood—Port Coquitlam, CPC):** Mr. Speaker, the Prime Minister has repeatedly said that he knew nothing of the sponsorship program and yet, to support a request by a Montreal sports organization and a group of Liberal friends, he actively looked for \$600,000 in sponsorship funds. He said that he was out of the loop but documents show that he was clearly trying to get into the loop to help his friends.

The Prime Minister has denied his involvement but documents clearly tell a different story. When will the Prime Minister come clean and tell the truth about his involvement in ad scam?

**Hon. Scott Brison (Minister of Public Works and Government Services, Lib.):** Mr. Speaker, the Prime Minister has said repeatedly that he was aware of the sponsorship program. All members of Parliament were aware of the sponsorship program. It was a national program of the Government of Canada.

When the Prime Minister became aware of alleged malfeasance, he acted immediately to cancel the sponsorship program and to start a judicial inquiry.

I would urge the hon. member to respect the independence of that judicial inquiry, allow Justice Gomery to do his work, to get the whole picture and learn the truth for Canadians.

**Mr. James Moore (Port Moody—Westwood—Port Coquitlam, CPC):** Mr. Speaker, we are not prejudging the inquiry. What we are judging is a Prime Minister who says one thing and yet clearly does another.

What we are asking for is clear accountability which the Prime Minister does not seem to have the ability to show to the House.

I want to know from the cabinet minister, the very cabinet minister who used to stand up in the House and call the Prime Minister a corrupt yesterday's man, what changed in his attitude when he used to say that he would get to the bottom of this issue and force the Prime Minister to come clean. What happened to the minister?

**Hon. Scott Brison (Minister of Public Works and Government Services, Lib.):** Mr. Speaker, there is a deputy leader over there who used to call the leader antagonistic and ill-informed.

The fact is all MPs were aware of this program. All MPs across Canada from all political parties received support from that program, including the member for Calgary West, including the ridings of Calgary Southeast, Wild Rose, St. John's East, St. Albert, South Shore, and the riding of Kings—Hants where I was proud as a member of Parliament when I sat in the opposition to have received support from that very good program for very good initiatives like the apple blossom festival and the pumpkin race.

**Mr. Michael Chong (Wellington—Halton Hills, CPC):** Mr. Speaker, according to reports in 1999 the sponsorship program turned down a \$600,000 application from Internationaux du Sport de Montréal headed by Serge Savard, a leadership fundraiser of the

#### Oral Questions

Prime Minister's. The office of the finance minister, now the Prime Minister, called Alfonso Gagliano's office to see why this group never received the \$600,000. Following that intervention this group received \$250,000.

Could the minister tell the House if the Prime Minister was aware of this political direction given by his office and when he was made aware of it?

• (1435)

**Hon. Scott Brison (Minister of Public Works and Government Services, Lib.):** Mr. Speaker, we are not going to discuss the day to day testimony of the Gomery commission here on the floor of the House of Commons because there is no reason why today's testimony would not be contradicted by next week's testimony. By the time Justice Gomery has completed his work, Canadians will have the whole truth, which they deserve, and the truth that we are committed to achieving in this government on behalf of Canadians.

**Mr. Michael Chong (Wellington—Halton Hills, CPC):** Mr. Speaker, the member for Kings—Hants said, and I quote from *Hansard*:

We are all familiar with the public works scandal and the millions of dollars that were wasted, misdirected and misappropriated.

Now as a minister he seems to be singing from a different song sheet.

We all know that the current Prime Minister intervened on behalf of a group which included his key leadership fundraiser and his principal secretary, Francis Fox. Does the Prime Minister expect us to believe that he knew nothing about the sponsorship scandal?

**Hon. Scott Brison (Minister of Public Works and Government Services, Lib.):** Mr. Speaker, the Prime Minister has been clear that he was aware of the sponsorship program. All members of Parliament were aware of the sponsorship program. When he became aware as a result of the Auditor General's report of alleged malfeasance, he acted immediately to cancel that program and to start the judicial inquiry that will lead us to the truth.

I would urge the hon. member not to prejudge the work of Justice Gomery. Allow him to do his work and to get to the bottom of this issue.

[*Translation*]

**Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ):** Mr. Speaker, during the last election campaign, the Prime Minister did the rounds of TV studios, in a state of indignation, to say that he knew nothing about the sponsorship program and how angry the whole thing was making him.

How could he not know and at the same time be so efficient that, with a single telephone call, in his capacity as the Minister of Finance and vice-chair of the Treasury Board, he was able to reverse an unfavourable decision and secure not only a \$250,000 sponsorship for his friends André Ouellet and Serge Savard, but also a generous contribution to Groupe Everest?

*Oral Questions*

**Hon. Scott Brison (Minister of Public Works and Government Services, Lib.):** Mr. Speaker, it would be very important not to prejudge the work being done by Justice Gomery. We must wait for his report. I am looking forward to the report and its findings.

**Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ):** Mr. Speaker, on the one hand, we have the Prime Minister, who is going around in high dudgeon, and, on the other hand, Justice Gomery, who is not scheduled to release his report until December 2005. Is all this not starting to look a lot like Jean Chrétien's attitude about the Business Development Bank in the Auberge Grand-Mère issue?

[English]

**Hon. Scott Brison (Minister of Public Works and Government Services, Lib.):** Mr. Speaker, I cannot understand why the opposition that demanded a judicial inquiry is now actually questioning the independence of a judicial inquiry. We ought to allow Justice Gomery to do his work and not prejudge his work or interfere or in fact comment on the day to day testimony when that testimony will vary throughout the entire inquiry.

\* \* \*

[Translation]

**CHILD CARE**

**Ms. Christiane Gagnon (Québec, BQ):** Mr. Speaker, in June, when the Liberals announced that they would commit \$5 billion over a five-year period to create a Canada-wide child care network, the Prime Minister said that Quebec would receive its share of this \$5 billion without having to be accountable to the federal government. However, yesterday, the Minister of Social Development said the opposite.

Who is telling the truth? Is it the Prime Minister, who, in the spring, said that Quebec would continue to have full jurisdiction over its child care centres, or is it the Minister of Social Development, who alluded yesterday to the implementation of Canada-wide standards for all the provinces, including Quebec?

[English]

**Hon. Ken Dryden (Minister of Social Development, Lib.):** Mr. Speaker, yesterday I talked about the national child care program and the work that we are doing with all the provinces and territories. In the work that we are doing now and in the work that we will continue to do, we will be respectful of each other's jurisdictions.

[Translation]

**Ms. Christiane Gagnon (Québec, BQ):** Mr. Speaker, my question is very simple. Will the minister correct the statement he made yesterday and clearly say that Quebec will have the right to opt out, unconditionally and with full compensation, from the future Canada-wide child care program? That is the question.

• (1440)

[English]

**Hon. Ken Dryden (Minister of Social Development, Lib.):** Mr. Speaker, what I said yesterday was not what was said. As I said just a moment ago, in the work that we are doing and the work we will continue to do, we will respect each other's jurisdictions.

[Translation]

**SPONSORSHIP PROGRAM**

**Mr. Pierre Poilievre (Nepean—Carleton, CPC):** Mr. Speaker, yesterday, the Gomery commission once again linked the Prime Minister to the sponsorship scandal. His office intervened to help his friends get up to \$250,000. However, this did not prevent the Prime Minister, later on, from pretending to be outraged and suggesting that everyone condemn such practices.

When will the Prime Minister admit to the commission that these millions were used for partisan purposes?

**Hon. Scott Brison (Minister of Public Works and Government Services, Lib.):** Mr. Speaker, it is very important to respect the independence of Mr. Justice Gomery. We should not prejudge his work. I am anxious to read his report, but we must wait for it.

[English]

**Mr. Pierre Poilievre (Nepean—Carleton, CPC):** Mr. Speaker, the Prime Minister does not need to wait for the commission to go further before he reveals what he already knows. When he was mad as hell, he called on anyone with information to “come forward and not wait to be compelled to do so”.

Yesterday the Gomery commission learned that the Prime Minister's office was fully involved in the sponsorship program. He knew what happened. Why will he not turn himself in to the Gomery commission without a subpoena and tell Canadians what he did with the missing millions?

**Hon. Scott Brison (Minister of Public Works and Government Services, Lib.):** Mr. Speaker, not only has the Prime Minister called a full judicial inquiry on this issue, we have actually made available cabinet documents back to 1994, which is almost unprecedented in terms of openness and transparency. Beyond that, the government has provided over 10 million pages of documents to Justice Gomery.

The government is committed to getting to the truth. I do not know what the hon. member or that party has against getting to the bottom of this issue.

**Mr. John Williams (Edmonton—St. Albert, CPC):** Mr. Speaker, last spring the public accounts committee demanded all documents related to the sponsorship scandal, but we only received a few thousand pages. Now the minister is telling us how he has delivered 10 million pages to the Gomery commission.

My question for the Minister of Public Works is, why is he treating the committee of Parliament with contempt when it comes to the sponsorship scandal?

**Hon. Scott Brison (Minister of Public Works and Government Services, Lib.):** Mr. Speaker, I am delighted that the hon. member has brought to the attention of the House the extraordinary commitment to transparency that the government has demonstrated by providing thousands and in fact millions of pages of documents to both committees.

We responded to requests from the public accounts committee and to the requests from the Gomery commission. Based on the questions asked, we provided the documents requested. That is what we are doing. We are cooperating with both the public accounts committee and the Gomery commission to get to the truth. We are committed to getting to the truth in the government.

**Mr. John Williams (Edmonton—St. Albert, CPC):** Mr. Speaker, there is no transparency when he keeps the documents back from the public accounts committee. Yesterday Joanne Bouvier indicated just how familiar the Prime Minister is and has been with the Liberal slush funds.

Days before the election, the Liberals on the committee prevented Joanne Bouvier from coming to the public accounts committee and appearing as a witness.

Why did the Prime Minister instruct his Liberal MPs at the committee to prevent a key witness from coming forward to tell the whole truth about the sponsorship scandal days before the election?

**Hon. Scott Brison (Minister of Public Works and Government Services, Lib.):** Mr. Speaker, further to the hon. member's question about openness, transparency and information being provided by the Government of Canada, the information commissioner recently lauded the Prime Minister for his early moves in the government to boost transparency. He said that the Prime Minister has confronted head on this whole issue of secrecy in governments across the country. Further, he has said that the government will be sufficiently self-confident, courageous and honest to beat the secrecy addiction to which other governments fall victim.

That is what the information commissioner is saying about the Prime Minister's commitment to openness, honesty and transparency.

\* \* \*

#### UKRAINE

**Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.):** Mr. Speaker, my question is for the Minister of Foreign Affairs.

Ukrainian officials recently summoned Canada's ambassador to Ukraine for publicly raising alarms about the possibility of an undemocratic election in the country's upcoming presidential election. As well, there has been an attempt, by poisoning, on the life of the frontrunner, Mr. Victor Yushchenko.

What is Canada doing to make it clear to Ukrainian authorities that a genuinely democratic political system is a prerequisite for the country's full integration into the western community of nations?

• (1445)

**Hon. Pierre Pettigrew (Minister of Foreign Affairs, Lib.):** Mr. Speaker, on September 21 our ambassador in Kiev declared publicly Canada's serious concern that the elections may fail to meet democratic standards.

The Government of Canada is sending about 40 observers, one of the largest contingents ever to observe the election. Our embassy is also leading an informal group of 25 diplomatic missions working together in Ukraine to monitor electoral developments.

Canada is actively engaged in efforts to encourage a free and fair election in Ukraine.

#### Oral Questions

#### NATIONAL DEFENCE

**Hon. Bill Blaikie (Elmwood—Transcona, NDP):** Mr. Speaker, my question is for the Parliamentary Secretary to the Minister of National Defence, who was asked a question by his former House leader about a report on the subs that existed prior to the purchase. The question was whether or not the government was aware of that report and whether or not it had presumably read it.

The parliamentary secretary remembers when he was in the opposition the frustration he experienced at not getting answers to his questions. Will he either answer the question or tell us if he was made to drink some kind of potion before becoming a Liberal which certainly disabled him from recognizing a question and knowing how to answer it?

**Hon. Keith Martin (Parliamentary Secretary to the Minister of National Defence, Lib.):** Mr. Speaker, if there was a potion, I would be happy to share it with the hon. member.

The real issue with the subs and what everybody in the House wants is to get to the bottom of the tragedy of what happened on the *Chicoutimi*. We are letting the navy do its job. The board of inquiry is doing its job right now. It is in Faslane. It is going through the *Chicoutimi* from top to bottom and will come out with the answers in the very near future.

\* \* \*

#### NORANDA INC.

**Mr. Brian Masse (Windsor West, NDP):** Mr. Speaker, some members' potions are another's poison.

Many Canadians are concerned about the sale of Noranda Inc. to a foreign government that has human rights abuses and environmental and labour practices which are susceptible to all kinds of conditions that are not favourable to Canadian competitors. There are significant employment sovereignty issues with this particular case.

Parliamentary business has finally resumed and committees are meeting. Will the Minister of Industry commit to the House and the Canadian public that he will review or delay the sale of Noranda Inc. until the industry committee has had a chance to study this and also the current Investment Canada process?

**Hon. David Emerson (Minister of Industry, Lib.):** Mr. Speaker, no, I will not make that commitment. The government has an unassailable record of human rights. We will defend it against anyone.

The Investment Canada Act requires that we review foreign acquisitions of Canadian companies according to whether it creates net benefits for Canada. We will do that.

*Oral Questions***CANADIAN HERITAGE**

**Ms. Bev Oda (Durham, CPC):** Mr. Speaker, yesterday the heritage minister said that her predecessor attended the Banff festival in her role as the minister. Her speech was an 800 word scaremongering attack, including direct quotes from the Conservative Party policy statement. This is not the role of a minister.

When will the government pay back the taxpayers for the \$50,000 spent on that election speech?

**Hon. Liza Frulla (Minister of Canadian Heritage and Minister responsible for Status of Women, Lib.):** Mr. Speaker, I will repeat what I said yesterday, but I will say it in French for the purpose of variety.

[Translation]

The minister attended the Banff festival, delivered a ministerial speech and simply came back to Quebec City to carry on with her campaign.

[English]

**Ms. Bev Oda (Durham, CPC):** Mr. Minister, Canadians expect—

**The Speaker:** I appreciate the nomination, but I am sure the hon. member meant Mr. Speaker.

**Ms. Bev Oda:** Mr. Speaker, my apologies.

Canadians expect responsible leadership. In the Banff festival speech the minister said not one word in what the government has done, was doing or is planning to do for the Canadian television industry in Canada. Instead, abuse of her role as the minister was rewarded by a plum appointment as the principal secretary to the Prime Minister.

When will the government stop abusing the trust of Canadians, and admit when it is wrong and pay back the taxpayers?

• (1450)

**Hon. Liza Frulla (Minister of Canadian Heritage and Minister responsible for Status of Women, Lib.):** Mr. Speaker, the minister made a speech and said that culture was the vital link that brings Canadians together. Culture also gives us our unique voice in the world. Ensuring the relevance, vitality and excellence of a cultural life must remain one of Canada's priorities. It is beautiful.

\* \* \*

[Translation]

**HEALTH**

**Ms. Rona Ambrose (Edmonton—Spruce Grove, CPC):** Mr. Speaker, in the pre-election euphoria, the Prime Minister pretended to be the great defender of the public health system, stating that there was no room for a pay as you go health care system. Yesterday, a private clinic opened its doors in the Prime Minister's adopted city. All of a sudden, it is as if pay as you go clinics were not such a bad idea after all.

Could the minister tell us honestly the Liberal policy on private clinics?

[English]

**Hon. Ujjal Dosanjh (Minister of Health, Lib.):** Mr. Speaker, we are the defenders and protectors of public health care—

**Some hon. members:** Oh, oh!

**The Speaker:** Order, please. The Minister of Health has the floor. We will want to hear his response.

**Hon. Ujjal Dosanjh:** Mr. Speaker, it is that side that wants private health care in Canada. We are the defenders of public health care in Canada.

I want to tell those on the opposite side that in the upcoming election this is going to be an issue again. They will be on that side again after the next election.

**Ms. Rona Ambrose (Edmonton—Spruce Grove, CPC):** Mr. Speaker, this is another case of say one thing and do another. This is hypocrisy on health care. During the election the Prime Minister said:

To break your promises in terms of health care...is really a terrible thing.

I could not agree more. Breaking promises is a terrible thing. When it comes to private clinics, why do Liberals make promises during the election campaign that they know they will not keep?

**Hon. Ujjal Dosanjh (Minister of Health, Lib.):** Mr. Speaker, we have poured \$41 billion into health care for the next 10 years. We are going to have national benchmarks. We are going to have comparable indicators. We are going to have reduced wait times. We are defending, enhancing and improving public health care. If there is any violation, we shall enforce the Canada Health Act.

\* \* \*

[Translation]

**NATIONAL DEFENCE**

**Mr. Claude Bachand (Saint-Jean, BQ):** Mr. Speaker, yesterday the Minister of National Defence gave in to our arguments and at last announced that all of the submarines will remain docked until the inquiry is completed. There are contradictory reports suggesting that another submarine may have experienced a fire as well.

Can the minister set us straight on this?

[English]

**Hon. Keith Martin (Parliamentary Secretary to the Minister of National Defence, Lib.):** Mr. Speaker, the subs were put dockside as a precautionary measure. While we are going through the board of inquiry, the navy thought that it was prudent to keep all the subs in dock. We do not micromanage the navy. The navy makes these operational decisions itself. We leave it up to the professionals.

[Translation]

**Mr. Claude Bachand (Saint-Jean, BQ):** Mr. Speaker, the very people involved in acquiring and retrofitting the used British subs are now being mandated to investigate themselves. This makes no sense at all.

Why does the minister not order an independent inquiry into the general state of the submarines instead and clear the air once and for all?

[English]

**Hon. Keith Martin (Parliamentary Secretary to the Minister of National Defence, Lib.):** Mr. Speaker, following the tragedy which occurred with the *Chicoutimi*, the standard operating procedure is that an inquiry takes place. The people who have the expertise to do that are those who are in the navy. They are the professionals. They are the experts. This government is going to leave that very important investigation to the experts.

\* \* \*

#### CHILD PORNOGRAPHY

**Mr. Rob Moore (Fundy Royal, CPC):** Mr. Speaker, last Friday when the Minister of Justice reintroduced so-called child protection legislation, he once again failed to address the most fundamental issue. Instead of eliminating the notorious artistic merit defence for possession of child pornography, the minister has simply given it a new name.

Why does the government continue to provide loopholes for the possession of child pornography?

• (1455)

**Hon. Irwin Cotler (Minister of Justice and Attorney General of Canada, Lib.):** Mr. Speaker, the government does not continue to provide loopholes. The government has introduced the most comprehensive child protection legislation in the world because we protect the Canadian Charter of Rights and Freedoms as well.

**Mr. Rob Moore (Fundy Royal, CPC):** Mr. Speaker, Canadian children deserve better. Rather than listening to Canadians, the minister has simply revived old legislation that child advocates and front line police officers have already said will not be effective.

First it was artistic merit, then it was public good. Now it is legitimate purpose. I ask the minister, why will he not close all loopholes for child pornographers?

**Hon. Irwin Cotler (Minister of Justice and Attorney General of Canada, Lib.):** Mr. Speaker, child pornography is child pornography and remains so under this legislation.

The only defence is one that has been set down by the Supreme Court of Canada, which is for legitimate purpose. For example, if police possess materials for the purposes of an investigation, that is a legitimate purpose defence.

\* \* \*

#### HOUSING

**Mr. David McGuinty (Ottawa South, Lib.):** Mr. Speaker, many Canadians still face the challenge of finding safe and affordable housing. In last week's Speech from the Throne the government has rightly pointed to the affordable housing initiative as one of the tools it uses to meet these needs.

Can the minister responsible for Canada Mortgage and Housing Corporation inform the House of the status of this program?

**Hon. Joe Fontana (Minister of Labour and Housing, Lib.):** Mr. Speaker, I want to thank the member, and most members in the House and the caucus in terms of supporting housing.

As members know, the throne speech indicated that shelter is the foundation upon which healthy communities and individual dignity

#### Oral Questions

are built. The \$1 billion affordable housing initiative is an important goal toward that commitment. Thousands of units have been built across this country under phase one.

I am in negotiations with the provinces on phase two. I am happy to report that Quebec is the first province to sign on to phase two and will create thousands of units in Quebec.

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#### FOREIGN AFFAIRS

**Mr. Stockwell Day (Okanagan—Coquihalla, CPC):** Mr. Speaker, the UN is currently facing a serious challenge to its credibility. The Iraqi oil for food scandal investigation is reaching into the highest levels of power in France and Russia, even into the hierarchy of the United Nations itself.

As the Prime Minister meets with these very leaders, is he urging them and their ministers to be totally transparent and co-operative with the UN investigation, so that this dark cloud that is presently hanging over the Security Council may be lifted?

**Hon. Pierre Pettigrew (Minister of Foreign Affairs, Lib.):** Mr. Speaker, the Prime Minister uses all opportunities that he has with leaders whether in Paris or Moscow. We think the Prime Minister had a very good visit yesterday in Moscow, where he brought certain elements to the attention of President Putin.

On Iraq and the other subjects that the member is raising, we are of course always promoting full support for the work of the United Nations and for transparency on these issues.

[Translation]

**Mr. Stockwell Day (Okanagan—Coquihalla, CPC):** Mr. Speaker, it is a serious matter to be suspected of accepting bribes from Saddam Hussein. It is a well known fact that certain Canadian companies invested in French and Russian oil companies. Did anyone take the trouble to inform the Prime Minister of these companies' possible involvement in the scandal the UN has exposed?

**Hon. Pierre Pettigrew (Minister of Foreign Affairs, Lib.):** Mr. Speaker, there is an investigation underway at this time. Let us allow it to come to an end before pointing the finger at any Canadian companies. The United Nations is looking into it, and we will keep close tabs on the outcome. At this time, however, it is important not to sully the reputation of the Canadian companies.

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#### TEXTILE INDUSTRY

**Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ):** Mr. Speaker, the elimination of quotas in the textile industry, scheduled for 2005, will cause a disastrous loss of 12,000 to 24,000 jobs in Quebec alone, thereby weakening the textile and clothing industry just a little more.

Will the federal government make public, and quickly, for time is of the essence, an action plan to stop this massive loss of employment? The government's current inaction is leading directly to catastrophe.

*Routine Proceedings*

● (1500)

[English]

**Hon. David Emerson (Minister of Industry, Lib.):** Mr. Speaker, to meet the needs of the apparel and textiles industries, the government launched in 2003 a three year \$33 million Canadian apparel and textile industries program, and provided \$10.9 million to enhance Canada Border Services Agency efforts against the illegal transshipment of textile and apparel products into Canada.

At that time the government also created the joint government-industry working group on textiles and apparel to examine the longer term issues affecting the competitiveness of these two industries.

\* \* \*

**CHILD CARE**

**Mr. Tony Martin (Sault Ste. Marie, NDP):** Mr. Speaker, my question is for the Minister of Social Development.

We now have a commitment in the throne speech to a national child care program. This is a benchmark after years of promises by Conservatives and Liberals in election campaigns. I just crossed the country meeting with and listening to the child care community. There is great expectation out there.

Can the minister assure us that this new program will be enshrined in legislation, and be publicly funded and publicly delivered?

**Hon. Ken Dryden (Minister of Social Development, Lib.):** Mr. Speaker, we have meetings scheduled for November 1 and November 2 with the provinces and the territories where these matters that the hon. member has raised will be discussed.

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[Translation]

**PORT SECURITY**

**Ms. Caroline St-Hilaire (Longueuil—Pierre-Boucher, BQ):** Mr. Speaker, the Minister of Transport has expressed his intent to introduce a new policy on security in Canadian ports, including potential invasion of the privacy of longshoremen and other workers. There is talk of an investigation and even digging into their pasts.

Does the Minister of Transport not think it would be wiser, during the first phase of his policy, to return the RCMP to its previous strength in the ports, especially the port of Montreal, in order to attack criminal activity more effectively?

**Hon. Jean Lapierre (Minister of Transport, Lib.):** Mr. Speaker, I am very surprised to hear the hon. member for Longueuil—Pierre-Boucher make excuses for the events of last week. In my opinion, investigation of workers' backgrounds is essential. We only need look at the court appearance last week of the port of Montreal worker who pleaded guilty to a charge of conspiracy to import drugs valued at \$2.1 billion. I think these background checks are essential.

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[English]

**HOUSE OF COMMONS**

**The Speaker:** Pursuant to Standing Order 28(2)(b), I have the honour to lay upon the table the House of Commons calendar for the year 2005.

**POINTS OF ORDER**

## ORAL QUESTION PERIOD

**Mr. Gerald Keddy (South Shore—St. Margaret's, CPC):** Mr. Speaker, during question period, the Minister of Public Works stated in his answer to a question from the member for Wellington—Halton Hills that the members of Parliament of all parties lobbied for sponsorship moneys. The Minister of Public Works would know that this is incorrect because he used to be in the same party at one time. He then went on to mention a number of members of Parliament by riding. He specifically included the member for South Shore, which would be my old riding in the 37th Parliament.

This was a deliberate attempt, a scandalous attempt to mislead the Canadian public, and I insist that the minister retract his statement because at no time did I ever lobby for any sponsorship moneys, nor was I aware that they even came into the riding.

● (1505)

**Hon. Scott Brison (Minister of Public Works and Government Services, Lib.):** Mr. Speaker, I urge the hon. member to check the blues. I did not say that he lobbied. I said that organizations within his riding did receive sponsorship money, which is the case of the Lunenburg Folk Harbour Festival. I am sure it was more than appreciative. It is a good organization that received money from the sponsorship program.

**The Speaker:** I am sure both hon. members will want to have a look at the blues. If there is continuing disagreement, I am sure we will hear about it at another time.

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**ROUTINE PROCEEDINGS**

[English]

**ORDER IN COUNCIL APPOINTMENTS**

**Hon. Dominic LeBlanc (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, I have the honour to table, in both official languages, a number of orders in council made recently by the government.

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**VIA RAIL COMMERCIALIZATION ACT**

**Mr. Jim Gouk (British Columbia Southern Interior, CPC)** moved for leave to introduce Bill C-203, an act respecting the commercialization of VIA Rail Canada Inc..

He said: Mr. Speaker, there are only three viable reasons for rail: commuter rail wholly provided by the private sector far more cost effectively than VIA Rail; rail tourism provided without subsidy at all by the private sector; and in remote regions for transportation that can be provided far more effectively and studies have proved that.

My bill would move VIA Rail toward commercialization instead of continuing to get half a million dollars a day subsidy, which it has been getting ever since we came to this place in 1993.

If the government is serious about cutting wasteful programs, this would be a great place for it to start.

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

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#### CORRECTIONS AND CONDITIONAL RELEASE ACT

**Mr. Jim Gouk (British Columbia Southern Interior, CPC)** moved for leave to introduce Bill C-204, an act to amend the Corrections and Conditional Release Act (elimination of statutory release) and to make consequential amendments to other acts.

He said: Mr. Speaker, currently convicted criminals get out of jail automatically at two-thirds of their sentence, sometimes going from administrative segregation straight into the public sector. Even the Parole Board does not have the power to stop it.

Recently in Okanagan Valley we had yet another murder by one of these people who was released and who was known to have tendencies toward violence, but got out of jail automatically. Paroles should be earned, not given automatically. Then they would be taken more seriously.

This is long overdue and I hope the government will support the bill.

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

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#### CRIMINAL CODE

**Mr. Jim Gouk (British Columbia Southern Interior, CPC)** moved for leave to introduce Bill C-205, an act to amend the Criminal Code (eliminating conditional sentencing for violent offenders).

He said: Mr. Speaker, when former justice minister Allan Rock introduced conditional sentencing, judges started giving it to violent offenders such as people who had committed crimes like rape. The public was outraged and we raised it in the House. The minister said that he never intended that it should apply to violent offenders, yet the government, after all these years, has still not made that correction. Schedule I and Schedule II offenders should not have access to conditional sentencing.

Surely the government will support this legislation. Its own minister who brought it in said that it was never intended to apply to violent offenders. This is the government's opportunity to correct that mistake.

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

#### Routine Proceedings

#### FOOD AND DRUGS ACT

**Mr. Paul Szabo (Mississauga South, Lib.)** moved for leave to introduce Bill C-206, an act to amend the Food and Drugs Act (warning labels regarding the consumption of alcohol).

He said: Mr. Speaker, fetal alcohol syndrome is 100% preventable and it is the leading known cause of mental retardation in Canada. In addition, alcohol consumption is also the cause of 45% of motor vehicle collisions, 30% of accidental fires, 30% of suicides and I could go on.

I am pleased to reintroduce a bill calling for health warning labels on alcoholic beverage containers. The bill passed at second reading two Parliaments ago. In the last Parliament a motion passed by a vote of 220 to 11, or 95% support for the motion.

It is my pleasure to reintroduce the bill and I look forward to it earning the support of the House.

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

\* \* \*

● (1510)

#### PUBLIC SAFETY OFFICERS COMPENSATION ACT

**Mr. Paul Szabo (Mississauga South, Lib.)** moved for leave to introduce Bill C-207, an act respecting the provision of compensation to public safety officers who lost their lives while on duty.

He said: Mr. Speaker, September 11 showed us that police officers and firefighters rush in to help while others flee for their safety.

Bill C-207 proposes the creation of a public safety officers compensation fund comparable to the one that exists in the United States. It would be for the benefit of families of police officers, firefighters and other public safety officers who lose their lives in the line of duty.

I look forward to discussing this matter with my colleagues. I hope my bill will earn the support of all hon. members.

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

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#### DIVORCE ACT

**Mr. Paul Szabo (Mississauga South, Lib.)** moved for leave to introduce Bill C-208, an act to amend the Divorce Act (marriage counselling required before divorce granted).

He said: Mr. Speaker, the Vanier Institute on the Family reported that one out of every two marriages in Canada ends up in divorce and that 50% of children will experience family breakdowns before their 18th birthday.

*Government Orders*

A joint Senate-Commons committee discussed custody and access issues, particularly in a report called "For the Sake of the Children", and one of its recommendations was to require mandatory counselling prior to the granting of a divorce.

I am pleased to introduce the bill to enact the committee's recommendation. I look forward to it earning the support of all hon. members.

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

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**PETITIONS**

## TAXATION

**Mr. Jay Hill (Prince George—Peace River, CPC):** Mr. Speaker, it is a pleasure for me to rise for a second day in a row to present another petition from the residents of Mackenzie, British Columbia, in my riding of Prince George—Peace River. The petitioners demand that Parliament restore their eligibility for the northern residence tax deduction.

As with many of Canada's northern and remote communities, it is difficult to attract and retain employees such as skilled trades people and health care professionals, without this tax deduction which is designed to counterbalance the higher cost of living.

The government's inexplicable decision to revoke Mackenzie's eligibility is blatant discrimination, and I call upon the government to reverse that.

## CANADIAN FORCES

**Mr. Jay Hill (Prince George—Peace River, CPC):** Mr. Speaker, my second petition is another one on behalf of the men and women in the Canadian armed forces who reside on base. This is from residents of Lakefield in Peterborough, Ontario.

The petition notes that the housing accommodations provided by the Canadian Forces Housing Agency in many incidents are substandard to acceptable living conditions. It notes that families of Canadian Forces soldiers living in accommodation provided by the Canadian Forces Housing Agency have seen dramatic increases in their rental charges.

Therefore, the petitioners call upon Parliament to immediately suspend any future rent increases for accommodation provided by the Canadian Forces Housing Agency until such time as the Government of Canada makes substantive improvements to the living conditions of housing provided for our military families.

\* \* \*

**QUESTIONS ON THE ORDER PAPER**

**Hon. Dominic LeBlanc (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, it is the first time that I rise with you in the chair. Let me congratulate you on becoming Deputy Speaker.

I ask that all questions be allowed to stand.

● (1515)

**The Deputy Speaker:** Is that agreed?

**Some hon. members:** Agreed.

[*Translation*]

**MOTIONS FOR PAPERS**

**Hon. Dominic LeBlanc (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, I ask that the notices of motion for the production of papers be allowed to stand.

**The Speaker:** Is it agreed?

**Some hon. members:** Agreed.

**GOVERNMENT ORDERS**

[*English*]

**CRIMINAL CODE**

(Bill C-2. On the Order: Government Orders)

October 8, 2004—The Minister of Justice—Second reading and reference to the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness of Bill C-2, an act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act.

**Hon. Lucienne Robillard (for the Minister of Justice and Attorney General of Canada):** Mr. Speaker, I move:

That Bill C-2, an act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act, be referred forthwith to the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness.

**Hon. Paul Harold Macklin (Parliamentary Secretary to the Minister of Justice and Attorney General of Canada, Lib.):** Mr. Speaker, I am pleased to speak to Bill C-2, an act to amend the Criminal Code concerning the protection of children and other vulnerable persons, and the Canada Evidence Act.

Bill C-2 addresses an issue that is foremost on the minds of many Canadians, mainly the protection of children against abuse, neglect and exploitation. It is also an issue that remains a priority of the government, a commitment that was reflected again in the recent Speech from the Throne, as well as by the fact that this is the first legislative item introduced in this Parliament.

Bill C-2 proposes much welcomed criminal law reforms and addresses five main issues.

[*Translation*]

First, it strengthens current provisions banning child pornography.

Second, it further protects children from sexual exploitation by people who take advantage of their vulnerability.

Third, it amends certain provisions on sentencing for offences against children, including violence and negligence, in order for the sentences to better reflect the seriousness of the offence.



*Government Orders*

Fourth, it will make testifying easier on the child victim or witness and other vulnerable persons through certain measures, by ensuring coherence and clarity in the rules for using testimonial aids and by making sure from the outset that the child is competent to testify.

Finally, it creates two new voyeurism offences prohibiting anyone from surreptitiously observing or making a recording of a person who is in circumstances that give rise to a reasonable expectation of privacy.

[*English*]

Canada's criminal laws against child pornography are already among the toughest in the world. Bill C-2 proposes further reforms that will make these laws even tougher.

Bill C-2 proposes the following child pornography reforms. It will broaden the definition of child pornography to include audio formats as well as written material that has as its dominant characteristic the description of unlawful sexual activity with children, where that description is provided for a sexual purpose.

[*Translation*]

Any advertising using child pornography is prohibited. The maximum sentence for any child pornography offence punishable on summary conviction is tripled from six to eighteen months.

• (1520)

[*English*]

It will make the commission of any child pornography offence with intent to profit an aggravating factor for sentencing purposes, and it replaces the existing defences of artistic merit, education, scientific or medical purpose, and public good with a two-part, harm-based, legitimate purpose defence.

Under this proposed reform, a defence would only be available for an act that has a legitimate purpose related to the administration of justice, science, medicine, education or art and does not pose an undue risk of harm to children.

Bill C-2 also proposes to provide greater protection to young persons against sexual exploitation from persons who would prey upon their vulnerability. Under the proposed reform, courts would be directed to infer that a relationship with a young person is exploitive of that young person by looking at the nature and circumstances of that relationship, including the age of the young person, any difference in age, the evolution of the relationship, and the degree of control or influence exerted over the young person.

[*Translation*]

Bill C-2 forces the court to consider the accused's conduct toward the child and not whether or not the child or victim consented to the conduct.

[*English*]

We often hear complaints about current sentencing results in cases involving child victims. Bill C-2 directly responds to these concerns and proposes numerous amendments.

In addition to the sentencing reforms related to child pornography, Bill C-2 also proposes to triple the maximum penalties on summary conviction from six to 18 months for child-specific sexual offences,

as well as for child abandonment and the failure to provide necessities of life, and to increase the maximum penalty on indictment from five to 10 years for sexual exploitation of a young person, and from two to five years for child abandonment and failure to provide the necessities of life.

In all cases involving the abuse of a child, sentencing courts would be directed to give primary consideration to the objectives of denunciation and deterrence of such conduct and to consider such conduct an aggravating factor for sentencing purposes.

Bill C-2 also proposes criminal law reforms that will enhance the ability of child and other vulnerable victims or witnesses to provide clear, complete and accurate accounts of events, while at the same time respecting the rights and freedoms of the accused.

Bill C-2 will facilitate testimony through the use of testimonial aids in three categories of cases: in cases involving a child victim or witness under the age of 18, or a victim or witness with a disability; in cases involving victims of criminal harassment; and in cases involving other vulnerable adult victims and witnesses.

Bill C-2 proposes to amend the applicable test for the use of testimonial aids in cases involving all child victims. These aids would be available on application unless they interfere with the proper administration of justice. In cases involving victims of criminal harassment where the accused is self-represented, the Crown could apply for the appointment of counsel to conduct the cross-examination of the victim. In these cases, the court would be required to appoint counsel, unless doing so would interfere with the proper administration of justice.

In cases involving other vulnerable victims or witnesses, such as, for example, victims of spousal abuse or sexual assault, the Crown could apply for the use of any of the testimonial aids or the appointment of counsel to conduct the cross-examination for self-represented accused. In these cases, these adult witnesses would have to demonstrate that, based upon the surrounding circumstances, including the nature of the offence and any relationship between them and the accused, they would be unable to provide a full and candid account without a testimonial aid.

[*Translation*]

Bill C-2 also proposes amending the Canada Evidence Act to abolish the requirement for a competency hearing for the witness and to abolish the distinction between testifying under oath or not.

Under Bill C-2, the competence of a person under 14 years of age to testify will depend on that person's ability to understand and answer the questions, and not on their ability to explain what it means to them to swear an oath or tell the truth. It will be up to the judge, as in any other situation, to weigh the testimony.

• (1525)

[*English*]

Last, Bill C-2 proposes to modernize the criminal law's response to the new ways in which acts of voyeurism are being committed.

*Government Orders*

[Translation]

As I said at the beginning, Bill C-2 proposes many welcome changes to the Criminal Code. The House has already passed an earlier version of this bill. I hope this new and improved version will still receive the support of the hon. members.

[English]

**Mr. Rob Moore (Fundy Royal, CPC):** Mr. Speaker, I rise today to speak to Bill C-2, an act to amend the Criminal Code in regard to the protection of children and other vulnerable persons.

First, I want to be very clear that there are some aspects of this bill that are worthwhile. I applaud those measures. For example, Canada is in need of legislation to deal with voyeurism and the distribution of voyeuristic material. As a matter of fact, there is a lady from my home province of New Brunswick, Julia Buote, who has helped to lead the fight for tougher laws on voyeurism. I commend her on that effort. We also need legislation that helps to facilitate the testimony of child victims and witnesses and this bill provides a step in that direction.

Unfortunately, as we have seen in the House before, these worthwhile measures are thrown in with a bill that still falls far short of what Canadian children require from this government. In short, this legislation allows for the continuation of a dangerous loophole that will allow for child pornographers to continue to possess what should be illegal material.

Much of the controversy over Canada's child pornography laws dates back to the court case of John Sharpe. In the Sharpe decision, the Supreme Court of Canada said that the Criminal Code defence of "artistic merit" should be interpreted as broadly as possible. This helped shape the decision that allowed Sharpe to be acquitted on two counts of "possession of child pornography with the intent to distribute". The material in question contained violent writings targeting vulnerable children; however, the judge ultimately found that this material had artistic merit.

All across Canada, child pornography cases were put on hold while the Liberal government did nothing as the Sharpe case wound its way through the courts. For two years Canadian children effectively went without legal protection against child pornographers as police were compelled to put investigations on hold pending the appeals.

The Supreme Court held in Sharpe that artistic merit should be interpreted as including "any expression that may reasonably be viewed as art" and that "any objectively established artistic value, however small", would support the defence.

When the Liberal government finally reacted to public outrage over the Sharpe decision, the response was woefully inadequate. Three times now, first with Bill C-20, then Bill C-12, and finally Bill C-2, which is before us today, the government has attempted to appear tough on child protection, but in reality is not closing loopholes that threaten Canadian children.

Actually, the government has now come full circle and is still including a type of artistic merit defence for the possession of child pornography.

Under Bill C-12 from the 37th Parliament, the existing Criminal Code defences for child pornography, which included artistic merit or educational, scientific or medical purpose, were reduced to a single defence of "public good".

Despite the Liberals' attempt to sell the bill on the basis that the artistic merit defence had been eliminated, the former justice minister admitted in the justice committee that it was still included under the broader category of public good. He stated, "Artistic merit still exists in the sense that a piece of art will have to essentially go through the new defence of public good..."

Interestingly, in the Sharpe decision the Supreme Court also briefly considered the defence of public good. The court found that public good has been interpreted as "necessary or advantageous to... the pursuit of, among other things... art or other objects of general interest". Again, when Canadians discovered this loophole they were rightly outraged.

The Liberals are now proposing, in Bill C-2, another brand new loophole. This time it is called "legitimate purpose". The new legislation replaces the term public good with legitimate purpose. The defence would be available if the act in question has a legitimate purpose related to, among other things, art, and if the act does not pose an undue risk of harm to children. The loophole for artistic merit has therefore not been closed and what constitutes "undue risk of harm to children" remains open to interpretation by judges.

• (1530)

In its 2001 Sharpe decision, the Supreme Court of Canada stated that artistic merit should be given as broad an interpretation as possible, a strong signal of how the courts view these defences.

I feel the question that Canadians are asking is why the government is contorting itself to leave open loopholes for the possession of child pornography. I believe the problem is that the government's focus is not on doing all it can to protect children but on what the courts might say if we passed effective legislation.

In my opinion, establishing a test of undue risk is an insult to Canadians. Any risk to the safety of children should be met with the strongest response possible.

I ask the government to listen to the people who work on the front lines of child protection. Listen to police officers who have to deal with the tragedy of child abuse. I will quote from Scott Newark, vice chair and special counsel for the Office for Victims of Crime. He said:

Almost invariably, as in the Sharpe case, it gets down to a section 1 interpretation by the courts; and frankly, rather than having the courts determine Parliament's intent, in every single piece of legislation, in my experience, you should be expressing it, particularly where what's involved is choices between priorities.

Again, the Sharpe case is an example of that. There was an absolute recognition in the Sharpe case that child pornography in all forms represents a risk of harm to children.

*Government Orders*

Sergeant Paul Gillespie of the Toronto Police Service said:

We've seen what happens when police are left to define what is or isn't artistic merit. We'll be fighting about this one for years.

Now police will be left to determine whether something serves a legitimate purpose or poses an undue risk before proceeding further.

I also want to talk about some other changes in the bill, one being maximum sentences. Again there is an appearance to the Canadian public that the Liberal government is being tough on people who commit offences against children. However increasing maximum sentences is meaningless if the courts do not impose these increased sentences. We know by experience that when maximum sentences are raised there is no corresponding pattern in the actual sentencing practices. What is needed are mandatory minimum sentences, truth in sentencing, eliminating statutory release and no conditional sentences for child predators.

All across the country child pornographers are given conditional sentences for their crimes. These people are serving no jail time. Canadians may not be aware of that. How then is raising the maximum sentence going to help when the courts are not even approaching sentencing beyond the minimum sentences? Higher maximum sentences for child pornography will not be effective unless the courts enforce them.

The bill also fails to prohibit conditional sentences and child predators should serve their sentences in prison and not in the community.

I want to touch on the age of consent. The bill ignores the pleas of police groups, child advocacy groups and the provinces by failing to increase the age of consent. The age of consent for adult-child sex must be raised from 14 to 16. On this issue, 80% of Canadians polled have said that they want to increase the age of consent to at least 16 years.

In 2001, provincial ministers unanimously passed a resolution calling on the federal government to increase the age of consent to at least 16.

Like Bill C-12 before it, Bill C-2 fails to raise the age of consent. Instead, the bill creates the category of exploitive relationships. It was already against the law for a person in a position of trust or authority or with whom a young person was in a relationship of dependency to be sexually involved. It is unclear then how adding people who are in a relationship with a young person that is exploitive in nature will add legal protection for young people.

I believe all Canadians care very deeply about our children. I believe that all members of this House sincerely want to protect children. However the Liberal approach to protecting children consistently fails to put the needs of children ahead of the rights of criminals. This needs to change.

We must act in the best interest for Canada's children and close all loopholes that allow for the possession of child pornography.

• (1535)

[*Translation*]

**Mr. Réal Ménard (Hochelaga, BQ):** Mr. Speaker, allow me to begin by congratulating you on your appointment as Deputy Speaker of this House. I know you have always shown great concern for parliamentary freedom and the quality of debate in this House and will protect that freedom.

My congratulations as well to all the new MPs, my new Bloc Québécois colleagues in particular of course. We are well aware of the extremely clear and strong mandate with which we, and our new colleagues over the way, have been entrusted by our fellow citizens.

Bill C-2 to amend the Criminal Code is an extremely important bill. Important, first of all because it is vital to follow up on the Supreme Court decision relating to child pornography in the Sharpe case, and second because child pornography is such a sensitive issue.

This is an extremely sensitive subject, and of course all members of Parliament are sensitive to anything that might possibly involve the exploitation of children. We do, however, also not want to put a system in that might inhibit artistic freedom, for example. A balance must be struck between the two, and we feel that the initial version of Bill C-2 does this successfully.

To begin at the beginning, the definition of child pornography is quite clear. There have, of course, been provisions in the Criminal Code for a very long time relating to child pornography. What makes this up to date and new is the variety of forms such pornography can now take, through new technologies like the Internet in particular.

For the purpose of this debate, then, we need to keep in mind the definition of child pornography. Clause 7 of the bill is intended as an amendment to section 163.1(1) of the Criminal Code which reads as follows:

163.1(1)(a) a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means:

Electronic here being an innovation. Continuing:

(i) that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity

The first component of the definition of child pornography involves the depiction of a child under the age of 18 engaged in sexual activity. The expression "sexual activity" is key here.

The second component of the definition is as follows:

(ii) the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years;

This definition is important since it must ensure that when judges—a judge in an ordinary court of law, but especially a judge in a criminal court—have appearing before them people charged with child pornography, the main component of the charge must be depictions of sexual activity of a person under the age of 18 years.

*Government Orders*

Does that mean that any depiction of sexual activity of a person under the age of 18 years will prompt the Crown to lay charges under the bill before the House? No, because there will be the same defences as the ones that already exist in the Criminal Code. In this case, there will be a defence that could be raised.

Thus, a charge will be laid if the definition I just read applies. However, the accused might not be found guilty of the charge. There could be situations or depictions of children under the age of 18 engaged in sexual activity that will not be prosecutable. This is the legitimate purpose defence the bill proposes.

● (1540)

What is a legitimate purpose? I will give the exact definition from the bill. The bill creates one defence in cases of child pornography, which only applies if the act has:

—a legitimate purpose related to the administration of justice or to science, medicine, education or art—

Why is this second element important? It is because in the Sharpe case it was possible to introduce two grounds for defence in court. I understand that this bill removes one of them.

It is certain that if a broadcaster regulated by the CRTC showed an advertisement on public television promoting a personal hygiene product such as soap or baby powder or such, and the public saw a child in a bath with another child, such a thing would not of course be subject to prosecution under the bill before the House. It is important to recognize this nuance.

When the Supreme Court handed down its decision in the Sharpe case, concerns were raised about the balance necessary between vigorous protection for those who want to exploit children for the purposes of child pornography and the rights of artists and professionals, such as psychiatrists and those in related fields, to have material that could be used for artistic or professional purposes, but not for the exploitation of children.

The bill also provides other means that may be somewhat less important but which are still justified. For instance, it allows testimony by children under 14. It is not customary for children under 14 to appear in court. Usually there would be an inquiry or a preliminary hearing first. The bill makes it possible to hear the testimony of children under 14. We believe it is completely proper to do so in a context where, considering the circumstances or facts that might lead to a decision that children were exploited for the purpose of child pornography, their testimony could incriminate or clear a person.

In addition, there are various methods of hearing testimony from persons significant to the child, using videoconferences or other such technology.

We in the Bloc Québécois are in favour of this bill, in principle, but we do have certain concerns. I have not heard any response from the Parliamentary Secretary to the Minister of Justice to the following, which is our first concern. We understand that the bill will set maximum penalties that depend on the offence involved. For the main one I have referred to already, it will go up from 5 years to 10. We understand that sentencing will be affected by certain circumstances judged to be aggravating factors. We do, however, find it hard to understand why no minimum sentences are specified.

I know that some degree of discretion is afforded to the courts and the judges in determining sentences. The member for Charlesbourg—Haute-Saint-Charles will be bringing in an amendment in committee that will, I hope, be supported by all members. The purpose of that amendment will be to ensure that, when a case is heard relating to the new offence created by Bill C-2, there is a minimum sentence depending on whether a criminal prosecution or summary conviction is involved. We feel it is important to have both a lower limit, the minimum sentence, and an upper limit, the maximum sentence.

In short, we are in favour of this bill because it protects our children better. We do want to bring in one or two amendments relating to sentencing. I am sure that all members of the Bloc Québécois will have a serious contribution to make when the Standing Committee on Justice meets.

● (1545)

[English]

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** Mr. Speaker, this is my first opportunity to be here up on my feet since the election. There are so many of my colleagues I want to acknowledge, and I want to thank the constituents of Windsor—Tecumseh for re-electing me, I have to say with some pride, with a substantially larger plurality than in the last election.

It is actually not a pleasure standing here today to deal with this bill. It is not a pleasure because the topic around child pornography is just so difficult. As a parent or any adult looking to provide reasonable protection for the children of our society, most of us I think would find having to deal with this issue regrettable.

But it is a reality and it is one that has been with us for a long time. It is one, however, that we have to recognize. In particular, the reason we have to deal with it is that it has become much worse for our society and for the entire globe because of the advent of new technologies and, in particular, the use that pornographers are making of the Internet.

Looking back to 10 or 20 years ago, the production of child pornography was minuscule in comparison to what it is today. It is a reality that it has grown so much and is being produced so much more now, because it can be made available to much larger audiences. Unfortunately, in a number of cases those audiences are young children themselves. Not only are they the victims, but oftentimes it is distributed to them over the Internet. We need to deal with that.

In addition, the new section that has come in with regard to voyeurism is badly behind in terms of the time scope in which we should have dealt with it. Again, because of the advance of technology, the availability and the means by which voyeurism can be pursued, it is much greater than it was a decade or two ago. I applaud the government for bringing in that section.

*Government Orders*

I have to say that I am glad we are doing this. I think we are using this format only because we do have a minority government. Normally we would be doing this after second reading and the government would be looking for support in principle. The government would not get that from our party at this time.

This is one of the sections that causes me some problems, that in spite of the methodology used, it would be clear intent to gather this material surreptitiously, whether it be by a recording or by any other fashion. I am not quite sure why we are providing an escape here and a defence around the use of the public good. This is something that needs to be explored much more extensively in committee and it needs to be justified by the government. It will be one section that my party will be looking very closely at, either by amending it or in any way improving it so that it does not provide a defence when one should not be available.

The other issue that has probably caused the greatest amount of difficulty in Bill C-20, the legislation prior to this bill, is around the whole issue of some defence regarding artistic merit. It is interesting to listen to the Conservatives in this regard, because the defence of artistic merit was put into the Criminal Code back in 1993 under one of the former Conservative administrations, just shortly before they were turfed out of office. It is interesting to listen to the current Conservative Party attack it with such vigour when this defence originally came from that party.

• (1550)

The reality is that because of the Sharpe case, the use of artistic merit as it is in the Criminal Code now is clearly not acceptable. The position that we take as a party, as I hear the Bloc has as well, is this. We recognize that because of the Charter of Rights and Freedoms in fact the courts are going to intervene when a person from the arts and cultural community comes forward and says, "This is not a crime. I have a right under my freedom of expression to pursue this". So a balance has to be found.

Again, the Conservative Party can take the position that it is going to close all the loopholes, but it is living in fantasyland if it thinks the courts are going to ignore the fact that we have a Charter of Rights and Freedoms.

Therefore, as responsible members of the House, we have to recognize that fact. We have to build in a structure within the legislation that will provide absolute maximum protection to our children but will survive any challenge under the Charter of Rights and Freedoms. That is the goal all members of the House should be striving for.

To simply stick our heads in the sand and say we are going to close all the loopholes and we are going to absolutely ban child pornography is too simple. We have a responsibility to take on a greater role and find the necessary wording that will protect our children absolutely as far as possible, and at the same time we must give direction to our courts, so that when the artist comes forward and shows it is appropriate for the material being produced, it does not offend the Charter of Rights and Freedoms and it still protects our children.

We know we have to do that. I think even the Conservatives agree with this. In the area of publication of material around legal

productions, legal textbooks, case reports within the medical field and the education field, psychologists, sociologists, social workers and psychiatrists all are going to have access to material and be producing material that would be child pornography if it were being produced for any intent other than an educational one. We recognize that.

However, we also recognize that we are going to be faced with that in the arts field as well. We have to find the proper framework within which the courts can guide themselves and be guided by us as the elected members of our society who are responsible for this area.

I do not believe we have accomplished that with this legislation. I do not believe the double-barrelled test of legitimate purpose and seeing that there is no risk of harm to the children is going to meet that. It simply does not go far enough in providing direction to the courts.

I practised criminal law for an extended period of time early in my professional career. I must admit that when I looked at this section I said, "This is ideal for the defence criminal bar". I practised in that area for seven or eight years.

We can do better than this. I believe that. We are going to have to do better than the legitimate purpose test that has been established here. If we do not, we are going to have litigation for the next five to ten years in front of our criminal courts, probably all the way to the Supreme Court of Canada again. We may not, and I believe will not, achieve the result of providing that maximum protection to our children and at the same time balancing off constitutional rights under the charter.

I want to move off that point to several others. It was interesting that *The Globe and Mail* this morning raised another issue. I believe there are several others like that which question the amount of discretion we are giving to the courts. Again, I believe it is our responsibility as the legislators responsible for this bill to get more into the bill, to give the judges in the country more direction and more guidelines. They would welcome that. It is our responsibility.

I will conclude by saying that there is a balance that has to be struck, where we are looking to protect our children as much as possible, but recognizing that in this country we do operate under the Charter of Rights and Freedoms, we have to balance it off in that regard.

• (1555)

**Hon. Bryon Wilfert (Parliamentary Secretary to the Minister of the Environment, Lib.):** Mr. Speaker, as a former educator it saddens and disturbs me to know that there are individuals in our society who exploit and take advantage of children. Therefore, Bill C-2 is important in terms of addressing issues that I think are of concern to all of us in the House, that is, issues involving the welfare of children.

Bill C-2, and in particular the part dealing with the protection of children and other vulnerable persons under the Evidence Act, is important legislation. It is also important that we move on this legislation as quickly as possible.

*Government Orders*

I believe that this legislation also reflects the importance of the issue for Canadians in general, because it is something that I think all of us can agree on. No one can tolerate or condone the exploitation of young children. Bill C-2 has a number of key elements that I believe do address that issue.

One is the strengthening of existing child pornography provisions. It would broaden the definition to include audio recordings as well as written material describing prohibited sexual activity with children where the description is the predominant characteristic of the material and pornography.

The legislation would create a new prohibition against advertising child pornography, which carries a maximum penalty of 10 years' imprisonment on indictment and would increase the maximum penalty for all child pornography offences, on summary conviction, from six to 18 months. As well, Bill C-2 would replace existing child pornography defences with a narrower, two-pronged legitimate purpose defence that incorporates a harm-based standard.

Bill C-2 would strengthen the protection for young persons against sexual exploitation. It would increase the penalties for offences against children. The legislation would also facilitate testimony by children and other vulnerable victims and witnesses. It also would create new voyeurism offences.

I want to clearly indicate my support for Bill C-2. The reforms that it proposes are all welcome indeed. However, I would like to focus the remainder of my remarks on the bill's proposals to better protect youth against sexual exploitation.

Bill C-2 proposes to create a new category of prohibited sexual exploitation of a young person who is over the age of consent for sexual activity, that is, who is 14 years of age or older and under 18. Under this offence, the courts would be directed to infer that a relationship with a young person is exploitive of that young person by looking to the nature and circumstances of that relationship.

The bill directs the court to consider specific indicators of exploitation. They include: the age of the young person; any difference in age between the young person and the other person; the evolution of the relationship; and the degree of control or influence exerted over the young person. Bill C-2 provides a clear definition to the courts to infer the relationship is exploitive of a young person after examining the nature and the circumstances of the relationship.

In my view, this direction recognizes that all young persons are vulnerable to sexual exploitation. It also recognizes that the particular circumstances of some youth might put them at a greater risk of being exploited. As a result, the bill directs the courts to consider the nature and circumstances of each relationship and includes a list of factors that I think reasonable people will readily acknowledge are typical indicators of exploitation.

We often hear concerns about youth being approached over the Internet by persons who would prey on their vulnerability. Let us take, for example, a case where the young person secretly and quickly enters into a relationship over the Internet. Bill C-2 tells the courts to take this into account as a possible indicator of exploitation.

Another example that we often hear concerns about is the one where a young person is in a relationship with another person who is

significantly older than the young person. Bill C-2 tells the courts very clearly to take this into account.

• (1600)

Bill C-2 would recognize that a young person can be sexually exploited not only by someone who is much older, but also by someone who is a peer and again close in age. Bill C-2 would apply to both situations because the government recognizes that both situations are wrong and should be prohibited.

I appreciate that there is a diversity of opinion as to whether and when young people should engage in a form of sexual activity. The reality is, though, that adolescents do engage in sexual activity. It is also a fact that the prohibitions against sexual activity with persons below the age of consent are very broad. They do not differentiate between sexual activity that consists of kissing and sexual activity that involves sexual intercourse. I do not think Canadians want to criminalize a 17 year old for kissing a 15 year old, but Bill C-2 would not do that.

I agree with the focus of Bill C-2. It focuses on the wrongful conduct of the offender and not on the consent of the young person. That is in fact the way the criminal law responds to sexual assault in general, namely, by focusing on the wrongdoing of the offender and not the victim. In my view, the focus of Bill C-2 on the exploitive conduct of the offender is both the right focus and the right response.

I would also note that Bill C-2 proposes to double the maximum penalty for sexual exploitation of a young person, including for this new proposed offence, from 5 to 10 years when preceded by indictment. Together, the creation of this new offence and the doubling of the maximum penalty underscore the seriousness of the form of sexual exploitation.

In addition, Bill C-2 would increase the maximum penalty on summary conviction for child specific sexual offences of sexual touching, invitation to sexual touching, and sexual exploitation from 6 to 18 months. These reforms were previously welcomed by the Canadian Bar Association as part of former Bill C-12 from the last session of Parliament.

Bill C-2 would require sentencing courts in cases involving the abuse of a child to give primary consideration to the objectives of denunciation and different proposals to consider such conduct an aggravating factor for sentencing purposes.

Bill C-2 is important because of the initiatives in it. There are welcomed reforms to the criminal law to protect the most vulnerable members of our society. The time has come to deal with this issue effectively. I believe that the minister, in proposing this legislation, is addressing the concerns that we have heard both in the last session of Parliament and in this one. The time for action has come.

*Government Orders*

•(1605)

**Mrs. Nina Grewal (Fleetwood—Port Kells, CPC):** Mr. Speaker, I am pleased to rise today on behalf of the constituents of Fleetwood—Port Kells to participate in the debate on Bill C-2, the child protection bill. This bill is almost identical to previous legislation, Bill C-12 and Bill C-20. They were primarily intended to address concerns regarding Canada's child pornography laws.

Canadian children deserve nothing less than total protection from child pornography. This legislation, however, is little more than smoke and mirrors. As lawmakers, we have the tough task of weighing the protection of children from sexual exploitation against the protection of free speech and free thought protected in the Charter of Rights and Freedoms.

On this question, I agree wholeheartedly with Cheryl Tobias, a lawyer from the Department of Justice, who said, when appearing before the Supreme Court during the John Robin Sharpe case that if pedophiles have a constitutional right to free expression, "it is dwarfed by the interests of children in our society...We ought not sacrifice children on the altar of the Charter".

What we need are laws with teeth. Toothless laws will only hamper police and crown attorneys as they try to catch producers of child pornography.

Children should not be sexually exploited, but it continues to happen thousands of times a day. There does not seem to be the political will to stop it by the weak and arrogant Liberal government.

The Department of Justice proposed Bill C-2 and its predecessors to expand the offence of sexual exploitation and the definition of pornography, and to eliminate the defence of artistic merit in child pornography proceedings.

As well, the bill would increase maximum sentences for people convicted of these crimes. If passed, the bill would create a new offence of voyeurism and the distribution of voyeuristic material.

Bill C-2 is a reaction to the case of John Robin Sharpe, a child pornographer charged with possession of child pornography. Sharpe was initially found guilty of possession of child pornography, but on appeal, two lower courts acquitted Sharpe citing the Charter of Rights and Freedoms.

Sharpe had as many as 400 images of boys younger than 14 engaged in sex and a collection of his own stories entitled "Kiddie Kink Classics". In March 2002 Sharpe's conviction concerning the images was upheld by the Supreme Court; however, he was ultimately acquitted of related charges that had been filed against him in connection with stories he had written, specifically because those writings were deemed to have artistic merit.

This ruling resulted in the current legal status of child pornography in Canada which is too permissive and threatens the safety of children. Earlier forms of Bill C-2 sought to close the loophole that allows people to create child pornography using artistic merit as a defence by establishing a standard of public good.

The Liberals have now been forced by public outrage to drop the term public good as a defence for the possession of child pornography. They have replaced public good with a new defence

of legitimate purpose. Legitimate purpose is defined to include, among other things, art.

The Conservative Party wants the elimination of all defences that justify the criminal possession of child pornography. There is nothing artistic about child pornography. It is wrong and has been shown to lead to the sexual abuse of children.

Police and prosecutors still do not have the tools to deal with child pornography cases effectively or efficiently. In the first three years that members of the Toronto child exploitation unit spent tracking child pornography, they made 27 arrests and seized 84 computers with millions of images, but the police have been frustrated in their attempts to get jail time for these offenders. Most get conditional sentences or house arrest. The police frequently spend more time investigating the cases than offenders will spend in jail. This is the case for other crimes as well.

•(1610)

In my riding of Fleetwood—Port Kells marijuana grow operations are a significant concern. The RCMP recently announced that there are 4,500 marijuana grow ops in the City of Surrey. That represents about 6% of the city's households.

There will be 2,000 to 3,000 grow ops raided and shut down this year in the Fraser Valley. Across the border in Whatcom County there will be less than 10. The difference can be explained by the tougher sentences handed out in Washington State. There, operators of a grow op with more than 100 plants face an automatic five years in jail. For the first offence it is three months in jail and seizure of assets. In B.C. a person can be charged seven or eight times and still not be incarcerated.

The judiciary must hand out tougher sentences that better reflect community values. The higher maximum sentences contained in Bill C-2 for child pornography and predation will not be effective unless the courts enforce them.

Increased maximum sentences are meaningless if the courts do not impose the sentences, and we know by experience that when maximum sentences are raised, there is no corresponding pattern in the actual sentencing practices. What is needed are mandatory sentences, truth in sentencing, and no conditional sentences for child predators.

Conditional sentences which allowed child sex offenders, murderers, rapists and impaired drivers the opportunity to serve their sentences at home rather than in prison must be eliminated for serious offenders.

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In 1999, 66,000 pornography images were found in the home of convicted pedophile Tony Marr. Police spent a year preparing the case against him, but Marr ended up with a conditional sentence and probation. One of the conditions of his probation was that he not use the Internet and computers except for medical purposes or work. Recent surveillance video showed him apparently working around a computer and exchanging CDs. This shows the absurdity of conditional sentences.

It is estimated that there are more than 100,000 child porn Web sites on the World Wide Web. A research group at the University of Cork in Ireland that studies child pornography is seeing an average of three to four new faces of abused children each month. About 40% of the girls and 55% of the boys are between the ages of 9 and 12. The rest are even younger. The group estimates that there are 50,000 new child abuse images being posted to newsgroups every month. Various studies have shown that about 35% to 50% of child porn collectors have a history of abusing children.

In the past three years 44% of the people arrested in Toronto for possessing child pornography have also been charged with or convicted with sexually abusing children.

The landslide child porn bust in the United States provided Canadian authorities with 2,329 Canadian leads, but almost 2,000 have never been looked at by police. That is because most communities simply do not have the will or resources or the officers who are trained to do the job.

Child killer Michael Briere admitted that he had been aroused by watching child porn on his computer just before he kidnapped, sexually molested and killed Holly Jones.

At present, the age of consent for sexual activity is set in the Criminal Code at 14 years of age. There have been recent reports that cross-border pedophiles are luring vulnerable children by way of the Internet. This cross-border pedophile activity into Canada has been enhanced by two factors: first, Canada's age of consent for sex is set at only 14 years, being one of the lowest of all western nations; and, second, Canada is one of the world's most wired countries; there are more than 10 million Internet users in this country.

According to a study by Microsoft, 80% of children in Canada have computers in their homes and 25% of them had already been invited to meet strangers that they had chatted with on-line.

●(1615)

The Internet has become a massive vehicle for criminals to lure and abuse Canadian children and to distribute illegal material. Research shows that pedophiles will often manipulate young children by showing them pictures on the Internet making them believe that sex with adults is acceptable.

Amendments were made to the Criminal Code in 2002 to make the luring of children through the Internet an offence. Although that was an important step to protect children—

**The Deputy Speaker:** The hon. member for Don Valley East.

**Ms. Yasmin Ratansi (Don Valley East, Lib.):** Mr. Speaker, I am pleased to speak today to Bill C-2, an act to amend the Criminal Code and the Canada Evidence Act.

In general, Bill C-2 supports a strong commitment in the Speech from the Throne to crackdown on child pornography. It would broaden the definition of child pornography and increase the maximum penalty for all child pornography offences. It would prohibit the sexual exploitation of youth and double the maximum penalty for the offence from 5 to 10 years.

The bill would also create two new voyeurism offences that would prohibit the distribution of voyeuristic material and enable police to seize pornographic material obtained in such a manner.

In particular, Bill C-2 contains a number of important reforms to our court system that I would like to bring to the attention of the House. The reforms proposed in Bill C-2 would change and improve the way in which a witness offers testimony in court. These improvements would effect three broad categories of witnesses: child victims or witnesses under the age of 18; victims of criminal harassment, commonly known as stalking; and witnesses with a disability that makes it difficult for them to communicate.

The courtroom can be a scary and intimidating place for anyone serving as a witness to crime. For victims who are providing their own testimony, the experience of appearing in court can be especially traumatic since they must essentially relive details of the crimes committed against them and most often they are required to do so in the presence of the accused.

For the victims of sexual abuses and other serious crimes, this process can cause extreme emotional upheaval and make it very difficult for a witness to provide a full and candid account. This is especially true for victims of child sexual abuse or those vulnerable with a disability since they are the least familiar with the justice system and may not fully understand or comprehend the court process.

While our current criminal law goes a long way in addressing the needs of young victims and witnesses in the courtroom, we need to do more to reduce the revictimization of all the vulnerable witnesses. At present, there are a number of tools available in the courtroom, known as testimonial aids, which include the following: the use of closed circuit television to prevent face to face encounters of the young victim with the accused; the setting up of a screen in the courtroom to avoid visual contact between the victim and the accused; the adoption of videotaped evidence; the exclusion of the public from the courtroom; publication bans; and the appointment of counsel to conduct cross-examination if the accused chooses to represent himself in court.

However the current laws require the crown or young witnesses to actually prove the need for such aids in court. This is problematic for two reasons: it requires child victims to provide additional court testimony and thereby increase their trauma; and crown attorneys are often discouraged by the extra court time it takes to process the application.

Bill C-2, therefore, would clarify the situation by making testimonial aids available upon request, rather than requiring young victims and witnesses to prove that such aids are necessary.



In addition, the reforms in Bill C-2 would make testimonial aids available to vulnerable adult victims and witnesses where they can demonstrate a need.

Perhaps most important, the bill addresses the situation where a child victim is exposed to hours and sometimes days of face to face cross-examination by the accused if the accused has chosen to represent himself or herself in court. By deliberately choosing to represent himself or herself in court, the accused is able to succeed in further intimidating the victim by cross-examination.

Bill C-2 would prevent the accused from using personal intimidation in the courtroom by the appointment, at the specific request of the victim, of a counsel to conduct any cross-examination. These reforms would also be made available to adult victims provided they can demonstrate the need for testimonial aids.

• (1620)

Victims of domestic and sexual assault, for example, are also at great risk of being revictimized through personal cross-examination by the accused.

I am sure many Canadians will recall the notorious Robin Sharpe case in which he chose to represent himself in court on charges of gross indecency. Mr. Sharpe was permitted to personally cross-examine his victim causing that person to experience tremendous emotional trauma and, in effect, revictimizing the witness.

Bill C-2 would prevent these types of situations from happening again in the future.

Victims of criminal harassment, commonly known as stalking, would also be able to request that a counsel be appointed to conduct cross-examination if the accused has elected to represent himself or herself in court. The court would be required to grant the order unless it interferes with the proper administration of justice.

Bill C-2 also includes amendments to publication ban provisions in the Criminal Code in order to ensure that those provisions remain effective as new communication technology emerges.

These reforms will be of interest to all members of the House who advocate for rights of victims of crime. I trust that all members will support them in order to further our collective goal of improving the experience of crime victims.

[*Translation*]

**Mr. Richard Marceau (Charlesbourg—Haute-Saint-Charles, BQ):** Mr. Speaker, it is a pleasure for me to rise in this debate on Bill C-2. First I want to offer my congratulations on your important position in this minority government Parliament.

This House will not see many bills as important as Bill C-2. There are a number of aspects to it, including the battle against child pornography. I believe, and this belief is shared by all members of the Bloc Québécois, that few of an MP's responsibilities are more important than protecting the most vulnerable people in our society, in this case, the children. All members will agree that children are our most important resource. They are our future. They deserve all our attention and more importantly, all our protection.

We could spend a long time debating this issue, but I believe you will find, beyond the partisan rhetoric in this House, that all

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members of Parliament want to fight sexual deviance—the attraction to minors. That is the attitude the Bloc Québécois will take in this debate. Since the beginning, we have maintained a responsible and rigorous attitude. This was our attitude in the previous legislature when we debated this bill in its previous form. Our attitude will be the same this time for Bill C-2.

There are three main elements to Bill C-2: fighting the sexual exploitation of minors; fighting voyeurism, particularly at a time of Internet accessibility and of cameras and technology that make it possible to miniaturize nearly everything; and fighting child pornography. Since I have only 10 minutes, I would like to proceed in reverse order and begin with the problem of child pornography.

When we examine a bill, especially one that amends the Criminal Code, it is important to look carefully at the words in the legislation and the definitions in it. Bill C-2 defines child pornography as follows, and I quote:

“child pornography” means

(a) a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means,

(i) that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity, or

(ii) the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years; or

(b) any written material, visual representation or audio recording that advocates or counsels sexual activity with a person under the age of eighteen years that would be an offence under this Act.

(c) any written material whose dominant characteristic is the description, for a sexual purpose, of sexual activity with a person under the age of eighteen years that would be an offence under this Act; or

(d) any audio recording that has as its dominant characteristic the description, presentation or representation, for a sexual purpose, of sexual activity with a person under the age of eighteen years that would be an offence under this Act.

For an individual to be found guilty of child pornography, their actions must fit within the definition I have just read.

A means of defence is created. This is a fairly basic difference between the Bloc Québécois and the Conservative Party.

• (1625)

The bill creates a single means of defence: that of legitimate purpose, unlike the previous bill. Thanks to our committee work, we were able to make a rather significant change, since the old defence was the public good.

That was a very nebulous concept. A number of people faulted it for that reason. It had been defined in the previous legislation. The definition of legitimate purpose in Bill C-2 repeats the one we had added in committee in place of public good. According to the definition, the legitimate purpose could be related to the administration of justice or to science, medicine or education.

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Certain individuals would therefore not be found guilty of child pornography, when their aim was in fact to fight it. They could be, for example, a psychiatrist treating sexual deviants who are child pornographers, a police officer investigating child pornography cases, or a university teaching future psychiatrists about child pornography.

The amendments to Bill C-2, the new definition of the means of defence, have tightened it up. The list of activities I have given is, moreover, all-inclusive, and will thus limit the means of defence.

Thus, for a person to be found guilty of child pornography, there are two tests. The first is to determine whether what the person did falls within the rather narrow definition of child pornography. If so, the second test is to determine—and this is a defence—whether the act alleged serves a legitimate purpose or not.

Several concerns were raised in committee, in particular about artists who might write a book in which they describe their first sexual experience. The first question is whether the book is written material whose dominant characteristic is the description of sexual activity for a sexual purpose.

Thus, the bar is already fairly high. Many legitimate artists would not have to worry about failing the first test. Indeed, in most cases, their written material does not fall within the definition. If by some misfortune it is considered child pornography, the defence would still be available.

Bill C-2 strikes a fair balance, allowing a fairly serious crackdown—a position the Bloc Québécois agrees with when it comes to child pornography—but leaving a degree of latitude for doctors, police, and some artists. For example, a nude painting or statue by Michelangelo will not be considered child pornography.

I would simply like to express my disappointment. I think the parliamentary secretary is aware of the fact that there is no minimum sentence for anyone found guilty of child pornography. What the minister wants to do—what members of his team have told me—is to send a strong message that we want to fight child pornography by increasing maximum sentences.

I think the argument can be made that a minimum sentence is also essential in ensuring that a person found guilty of child pornography gets a taste of penitentiary life.

We are talking about those dearest to us, about very fragile beings: our children. Anyone who touches our children in a sexual manner deserves a mandatory prison sentence to make sure he does not reoffend.

• (1630)

[*English*]

**Hon. Larry Bagnell (Parliamentary Secretary to the Minister of Natural Resources, Lib.):** Mr. Speaker, I am pleased to speak to Bill C-2, an act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act.

I share the view of the Minister of Justice that the bill would provide a comprehensive child protection regime to protect the most vulnerable members of our society. It would increase the criminal law's protection against child pornography, create a new sexual exploitation offence to protect children between 14 and 18 years of

age, increase the maximum sentences for child related offences, facilitate the testimony of child victims and witnesses, protect the other vulnerable victims and witnesses and create new offences of voyeurism.

It is the latter offences that I would like to address more particularly today.

The creation of new offences of voyeurism is an example of how the criminal law can be made to keep abreast of new developments. Voyeurism has probably existed since humankind started living in society. However, the means used in conducting voyeurism have evolved drastically in recent years. For centuries, the only way of observing a person without the knowledge of the person was to hide behind a curtain, look through a window in the dark or look through a hole in the wall. In those days a person who wanted to spy on another person had to get involved personally. One would have thought the risk of being found out would have been a deterrent.

This was still the case up until a few years ago. It was certainly the case when the Criminal Code was first enacted in 1892. Until recently, Canadians were sufficiently protected by prohibiting trespassing at night or mischief. Things have changed since then. The major changes were brought by the advent of the Internet and the miniaturization of cameras and recording devices. Nowadays a camera smaller than a pen can be hidden in a room and allow a person to view what happens in the room while sitting at a computer in another building.

I am not suggesting that we become paranoid, but it is something of which we should be aware. We believe the law should be made to cover the offences committed with new technologies. With Bill C-2, we are called upon to enact such an adaptation of the law to address the misuse of new technologies.

The bill would create new offences to address modern acts of voyeurism, acts committed through small hidden cameras that are hard to detect and acts that, when committed now, do not fall under the criminal law and leave the victims with no other remedy than trying on their own to obtain compensation in civil courts.

The offence of voyeurism has four elements. First, it requires an act of observation or recording. Second, the observation or recording must be conducted in a surreptitious manner, which means that the person observed cannot reasonably be expected to see the person or the means used for observing or recording. Third, the person must be in circumstances giving rise to a reasonable expectation of privacy. Fourth, the elements of one of these specific cases must exist.

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The first is a case when the person observed or recorded is in a place where one can reasonably expect a person to be in a state of nudity or engaged in sexual activity. I would think a bathroom, bedroom or fitting room would qualify as such a place. The second case is when a person is in a state of nudity or engaged in sexual activity and the purpose of the observation or recording is to observe or record a person in that state. The third case is when the observation or recording is done for a sexual purpose.

Bill C-2 would also prohibit the distribution of material obtained by the commission of an offence of voyeurism. Canadians value their privacy. In some situations there is a clear and reasonable expectation of privacy. This legislation has been designed with a view to protect this expectation of privacy.

Some may argue that the legislation will prevent the legitimate gathering of information when these techniques become prohibited. For cases where such techniques must be used to serve the public good, the legislation provides a public good defence to an offence of voyeurism. Outside of these extraordinary circumstances the message is clear: using these techniques is unacceptable behaviour now and it will become criminal behaviour when Bill C-2 becomes law.

• (1635)

**Mrs. Carol Skelton (Saskatoon—Rosetown—Biggar, CPC):** Mr. Speaker, while I am pleased to have this opportunity to speak to Bill C-2, I draw no pleasure from speaking to the child exploitation issue yet again. The Liberal government has failed to protect Canada's children in the past and the proposed legislation does little to correct that injustice.

Going door to door during the election, I was struck by the amount of people who raised the issue. The concern was broad. Parents, grandparents, teachers, police officers, neighbours and even teenagers brought the issue to my attention. All were unanimous in urging me to demand the toughest protections possible.

Recently, I sent out a community publication on the issue and the comments I got were revealing.

Dwight of Saskatoon was unequivocal when he stated, "All forms of child pornography are unacceptable". Brian, also of Saskatoon, said "I think people having child pornography material should be prosecuted and face severe consequences". Saskatoon resident Natasha said, "Child pornography should not be tolerated in any way, shape or form. These children are our future—this is not to be taken lightly. Child pornography made her "sick, sick, sick". I could not agree more.

Perhaps Tina identified the real problem. She said, "The time may come when an MP or government official's child is exploited, that will change people's minds". I sincerely hope that is not what it takes, and I do not understand why the government fails to send a better message to Canadians. The Liberal inaction and indifference to the protection of our children is inexcusable.

In a survey of my constituents the results were clear. When asked if they thought all types of child pornography were unacceptable, 92% said, yes. When asked if child pornography could be produced without causing harm to a child, 97% said, no. If 97% of the people say that pornography harms a child, why has the government done

nothing to stop it? When asked if they wanted the laws of Canada to ban all types of child pornography, 98% said, yes. When asked if those caught with child pornography should be included in the national sex offenders registry, 96% said, yes.

This is significant because it shows how much Canadians believe that child pornography has a direct correlation to sex offences. My constituents believe that this issue hits close to home because when they were asked if they thought child prostitution was a problem in their neighbourhoods, 83% said, yes.

The last two questions of the survey lead me to my next part of the debate involving child pornography and the Internet. My constituents were asked if they had accidentally encountered offensive pornography on the Internet and over half of them said, yes. This is important when we consider the final question they were asked. They were asked if Internet pornography increased the risk of child sexual exploitation and 89% of my constituents said, yes.

My constituents have been clear. They believe child pornography in all forms should be banned and also that its presence on the Internet is harmful.

In the last Parliament I introduced a private member's bill calling for mandatory installation of software on all public computers accessible by minors which would block offensive and dangerous material. Unfortunately, an early election call put an end to that important initiative.

A judge in my riding explained to me that this was a growing problem, as he witnessed on a recent visit to a local library. Crowded around a public access computer was a group of young children viewing pornographic websites.

If it is happening in such a public place, one can only imagine what is happening upstairs when a parent is busy making dinner. Even when children are supervised, the most unexpected things can happen at the worst possible moment.

• (1640)

A grade one teacher was excited to get Internet access in her classroom as it would allow her to enhance the learning experience for the children. As a fun exercise she suggested they name off a bunch of animals to research. Once she had the list on the board she asked the class to pick by vote. We must remember that this was a grade one class and, without any malicious intent, they picked the beaver.

One can imagine having to be a teacher and explaining to the children why they could not research such an animal. While the situation is funny to some, it is but one example of a growing problem of youth and an open Internet. They are being exposed to graphic and violent material by accident and without proper explanation or guidance.

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One can only imagine the warped view of sexuality many children will develop long before their parents get a chance to discuss the issue with them. This legislation does nothing to prevent these problems, and for the problems it intends to fix it does not.

I have a big problem with the artistic merit defence. A number of people in the arts community say that it is just art, that it has no negative effects and that it does not inspire anyone.

Well, when one goes to the computer and goes to Google and searches the term "art inspires", 250,000 references are found. Artists often speak of their desire to see their art inspire people for one reason or another. I am sorry but we cannot have it both ways. Either art has impact and influence or it does not. I suggest the arts community in Canada step forward and prevent a minority of perverts from using them as an excuse for their fetishes.

The hon. member for Wild Rose brought in a Toronto police officer to meet with MPs and he showed us child pornography images. They were sick and disgusting and they left a long lasting impression. It does not please me to say that I can still recall many of those images in detail. My heart goes out to our law enforcement officers who must work through this smut all day just to go home and interact with their young children. It must have a stressful impact on many of these young mothers and fathers.

The Liberal government knows the legislation is not the toughest it can put forward. It knows its legislation has too much room for interpretation and grey area. It knows it has not fulfilled its promise to Canadians. It knows too that raising the age of consent from 14 to 16 years of age would provide our police with an important new tool.

Our law enforcement officers are often powerless to prevent the exploitation of children, especially our street kids. As long as adults can get sexual access to children through weak laws, they will. We do not want Canada to become a sex trade tourism location any more than it already is.

On city streets we often see prostitutes barely past puberty selling their bodies to support one addiction or another. We see police forced to sit by and watch as they do not have the proper tools to target child hunting Johns. If we as a government do not provide them with the tools to fight this kind of crime, we cannot blame them when things go wrong.

In Toronto last year a child was abducted on her walk home and killed. Her killer says that his access to and viewing of child pornography was the main reason he committed this horrible crime against this innocent child. Police were blamed for the high amount of sex offenders in the community. They were blamed for the delay in finding the killer. They were blamed for not preventing access to child pornography in the first place.

Well I say shame on the Liberal government. The Liberals must be the ones to shoulder the blame for not providing the police with the legal tools and necessary funding to prevent and fight such crime. Now they have the opportunity and we see them skirting their responsibility.

I have some questions for every government member. When their young child or grandchild grows up will they be able to say that they did their absolute best? Will they be able to tell them honestly that

this was the best they could do? Are they proud of this flawed legislation? We need to fulfill our obligations to our electorate.

• (1645)

I sincerely hope the government plans to amend its legislation to reflect the wishes of the majority of the House and the majority of Canadians. Our children are counting on us even if they do not yet know it.

**Mr. Paul Szabo (Mississauga South, Lib.):** Mr. Speaker, I am pleased to participate in the debate on Bill C-2, the subject matter of child pornography. I think every member in this place would agree that the existence of child pornography necessarily means that a child has been abused.

Bill C-2 contains amendments to the Criminal Code but nowhere do we have the full definition of what constitutes pornography. In the Criminal Code, child pornography means:

(a) a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means,

(i) that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity; or

(ii) the dominant characteristic of which is the depiction, for sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years; or

Part (b) is now replaced in part by adding audio recording. Part (b) will now read:

any written material, visual representation or audio recording that advocates or counsels sexual activity with a person under the age of eighteen years that would be an offence under this Act.

The bill adds new paragraphs (c) and (d) referring to:

(c) any written material whose dominant characteristic is the description, for a sexual purpose, of sexual activity with a person under the age of eighteen years that would be an offence under this Act; or

(d) any audio recording that has as its dominant characteristic the description, presentation or representation, for a sexual purpose, of sexual activity with a person under the age of eighteen years that would be an offence under this Act.

Should Bill C-2 pass, that, in its totality, will be the definition in the Criminal Code of child pornography.

Bill C-2 does build on the constructive input of parliamentarians over the last couple of Parliaments. We have dealt with some very touchy subjects. Artistic merit was very problematic for the House. Another was public good. I am not sure many people at the time understood what public good meant. It is terminology that has tended to open up certain difficulties with members but with which I think we can still work.

I suggest that in this bill we have a new concept called legitimate purpose. I think we could use better language and maybe the committee will help us to understand what better language there might be. The important thing is that we have to communicate with Canadians about the essence of the bill and the essence of the government's approach to addressing this most serious issue of child pornography.

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I would suggest, as an example, that legitimate use might be replaced by authorized possession. That would mean that police officers who seize material in their role would be authorized to possess that material. A medical officer doing testing relating to a particular case would be an authorized possessor of child pornography. A scientist looking at some of the impacts, et cetera, could be one. Another, for educational purposes, could be for those who are training others to deal with the terrible situation of what happens to children when they are the victims of abuse relating to child pornography.

I want to comment on the fact that Bill C-2 contains the add on item of for art, which has been raised by other members in the House. The Robin Sharpe case really raised this. Sharpe had four charges laid against him. Two charges were clearly related to possession of pornography as defined under the Criminal Code and two were related to the possession of materials which Mr. Sharpe created himself, arguably, as he stated, for his own use. The Supreme Court ruled that the possession of these materials, written or pictures, did not constitute possession of child pornography.

•(1650)

I began to wonder whether this whole issue of art was in fact related to what the Supreme Court said about the possession of something that was created by oneself. Then I thought, and I am not a lawyer and I am not sure whether my case would ever hold up, but it would seem to me that the question would probably be moot. If I created something which clearly was for my own use, I would be the author and no other person would know about it. I would not show it to any other person. If I were to show it to someone then I would be distributing which would be contrary to the existing Criminal Code.

Therefore, if materials exist, which I have produced for my own purposes, and no evidence exists that they have gone beyond my own use, why would I need the protection of those who produce things for art? It really gets down to the fact that if it is for my own use then no one knows, and if someone does know then someone else must have it and therefore all of a sudden we have production and distribution of pornographic materials.

I think we will be dealing again with a matter that this place has dealt with so many times before and that is the whole issue of court made law. The Supreme Court of Canada often, it has been suggested, has had to take the initiative because Parliament has not.

I believe this is the time for us to take the initiative to make absolutely sure the legislation reflects the values of Canadians. I know we will get into these arguments about whether the rights of one party contradict the rights of others.

Let me review section 1 of the charter as interpreted by the Supreme Court with regard to the values underlying a free and democratic society. The Supreme Court describes it as follows:

—respect for the inherent dignity of the human person, commitment to social justice and equality, accommodation of a wide variety of beliefs, respect for cultural and group identity, and faith in social and political institutions which enhance the participation of individuals and groups in society.

It is a complicated statement but in my opinion this particular statement basically includes all, every belief, every practice, every action. I do not understand how we could possibly have laws that could be charter proof when in fact the Supreme Court of Canada

basically said that we had to protect everyone for all things at all times.

There has to be a point at which we say that the rights of children should be put first, ahead of the rights of others who may meander into areas which border on the abuse of children.

I think this is the fundamental essence. I think it is extremely important that Parliament will be sending the bill to committee after first reading, not at second. It means that substantive changes to the legislation are possible. It means that having witnesses on matters of concern can be brought forward. If the bill had been referred to committee after second reading it would not be possible. I think this is an important change in the way in which the House will be addressing legislation.

I am very hopeful that the members of the justice committee will seek to clarify the whole concept of court made law, particularly with regard to the interpretations related to the protection of individuals. The statement that the Supreme Court made with regard to how it interprets section 1 of the charter, quite frankly, is too broad. We have to understand this better.

Parliamentarians will do a better job when they know what they are up against but, quite frankly, unless we take the onus and the initiative to lay it out clearly for Canadians, then we will not be successful.

I am pleased to have participated in this brief debate on Bill C-2. I believe many in the House have indicated that if there were any issue on which they would want the notwithstanding clause to be invoked it would be with regard to the issue of child protection and child pornography.

I hope all parliamentarians will seize the day.

•(1655)

**Mr. John Maloney (Welland, Lib.):** Mr. Speaker, I am pleased today to rise to speak to Bill C-2, an act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act.

Bill C-2 proposes a broad package of criminal law reforms that would significantly improve the criminal justice system's protection of children and other vulnerable persons.

The key elements of Bill C-2 are: strengthening the existing child pornography provisions; providing increased protection to young persons against sexual exploitation; increasing penalties for offences against children; facilitating the receipt of testimony by children and other vulnerable victims and witnesses; and creating new voyeurism offences.

This is positive legislation which can be supported by all parties and I urge all members to do so.

I would like to focus my comments on the proposed amendments relating to child pornography, an issue that is very much in the minds of hon. members, my constituents in the Niagara region, including the Catholic Women's League and their White Ribbon campaign, and indeed all Canadians.

*Government Orders*

Child pornography is an issue on which we find almost daily accounts of new charges and prosecutions in Canadian newspapers as well as those around the world. To my mind this demonstrates two very important factors. On the positive side, our existing child pornography prohibitions are working. On the negative side, we need to do more to combat the sexual exploitation of children through child pornography. This is exactly what Bill C-2 does.

• (1700)

Bill C-2 proposes to broaden the existing definition of child pornography to include audio format. Specifically, it would include audio recordings that advocate or counsel unlawful sexual activity with a child as well as such recordings that have, as their dominant characteristic, the description, presentation or representation, for a sexual purpose, of unlawful sexual activity with a child.

The existing definition of written child pornography would also be expanded to include written material that describes prohibited sexual activity with children where that description is the predominant characteristic of the material and it is done for a sexual purpose.

Bill C-2 would also create a new prohibition against advertising and possession for the purpose of advertising child pornography. This new offence would be punishable on indictment by a maximum penalty of 10 years' imprisonment. This is a wake-up call for the predators that their criminal acts will be vigorously prosecuted and severe sentences imposed.

Bill C-2 also proposes significant reforms relating to sentencing in child pornography cases. First, it proposes that the maximum penalty for all child pornography offences, on summary conviction, be tripled from 6 to 18 months. Second, it would make the commission of any child pornography offence with intent to profit an aggravating factor for sentencing purposes. In other words, those who seek to profit by sexually exploiting children through child pornography will get a tougher sentence.

The intent and impact of these child pornography specific sentencing reforms are further underscored by the fact that Bill C-2 also proposes two amendments to the Criminal Code's sentencing principles.

In particular, in cases involving the abuse of a child, Bill C-2 directs courts to give primary consideration to denunciation and deterrence of such conduct in determining the appropriate sentence to be imposed. Bill C-2 also requires a court to consider the abuse of a child as an aggravating factor for sentencing purposes.

In addition, Bill C-2 proposes to replace the existing defences of artistic merit, education, scientific or medical purpose and public good with a two-part, harm-based legitimate purpose defence. This new defence narrows the existing defences and replaces what had previously been proposed as the public good defence in Bill C-12 in the last session of Parliament with a clear and more easily understood defence. This new defence incorporates the harm standard adopted by the Supreme Court of Canada when it upheld the constitutionality of the child pornography provisions in 2001.

Under Bill C-2, a defence for an act in relation to child pornography would only be available where the act in question has a legitimate purpose related to the administration of justice,

science, medicine, education or art and does not pose an undue risk of harm to children.

Under this new defence, the availability of a defence does not change the child pornographic nature of the material. Material that has been found to constitute child pornography as defined by the existing Criminal Code provisions or as expanded by Bill C-2 would remain child pornography.

Instead, Bill C-2 would require the court to consider whether the use made of the material in each instance is protected by the defence. For example, possession of child pornographic photographs by police for purposes associated with the investigation of a child pornography case would benefit from the defence, because the act of possession of the photographs is for a legitimate purpose related to the administration of justice and does not pose an undue risk of harm to children. Possession of the same photographs by a child pornographer for his personal use would not be protected by this defence.

As I said at the outset, Canadians want us to do more to combat child pornography and I am pleased to see that this is what Bill C-2 delivers. In addition to the new reforms proposed by Bill C-2 in May 2004, the government launched a national strategy to protect children from sexual exploitation on the Internet.

This new national strategy is providing just over \$42 million to expand the RCMP's national coordination centre against child sexual exploitation and provide law enforcement with enhanced resources to investigate Internet-based child sexual exploitation, including child pornography. Funding is also being used to enhance public education and to nationally expand [Cybertip.ca](http://Cybertip.ca), a 24/7 public tip line.

Together, Bill C-2 and the recently enhanced resources send a clear and strong message that we condemn the sexual exploitation, abuse and neglect of children and other vulnerable persons. It sends a message that we have declared war on child pornography. I call upon all members of the House to support the bill and I ask that it be given quick passage.

**Mr. Myron Thompson (Wild Rose, CPC):** Madam Speaker, usually we say we are pleased to rise and speak to a certain bill, but I will be perfectly honest with you. I am not pleased at all. For the last two Parliaments we have risen and spoken on protecting the children of our country. I cannot believe that we have spent month after month and year after year debating such an elemental thing that needs to be done, that is, to protect our kids, and I mean protect them fully.

*Government Orders*

We know this all started with the John Sharpe case when some judge declared that there was artistic merit involved in child pornography. We know all about that. Then the legislators worked hard and replaced the words “artistic merit” with the words “public good”, which did not really change a thing. Now we are looking at the words “legitimate purpose”. They include that old, famous three-letter word “art” in everything they propose.

It is hard to believe that in view of the numbers of children, the hundreds and thousands of children, who have been murdered, raped and pillaged because of child pornography, we as a House of Commons cannot come up with a piece of legislation that simply says there will be absolutely no tolerance for the possession, the distribution or the manufacturing of pornography that exploits our children.

That is not to say that a police officer is in danger because he has taken away some of this stuff from a predator. This does not say that at all. He is not out to exploit the children. He is out there trying to fight for the cause.

It absolutely blows my mind that grown-up men and women who are elected to this place cannot, after three years, come up with legislation that is solid and firm and says that we are going to have absolutely no tolerance of any exploitation of our children through child pornography. We would have 95% to 98% of the population behind us if we were to make that kind of move.

Yet we continually play word games and continually present legislation which leaves that little dab in there that makes it not worth voting for. We cannot vote for something that does not fully eliminate child pornography. There is no defence for it. I get so sick and tired of this word “art” being included as a defence for child pornography.

Let me tell the House what art is with children. I have seven grandchildren. I love every one of them dearly. I have a little girl who is my grandchild. Do members know what art is? Every time I look at her and I see how beautiful she is, what a nice smile she has and what a tremendous job God did in creating that child, that is the art of the Maker and the Creator, that is what I see. How dare someone kidnap that child or scoop her off a street, as has happened so many times very recently, done by predators to exploit them with their ugly, sick and what some people might think is a form of art.

For the life of me I cannot understand why there is any hesitation. If the charter of rights is interfering with coming up with the kind of legislation that will bring about positive effects and zero tolerance for this, then for Pete's sake let us use the notwithstanding clause. The people who wrote the charter had wisdom enough to know that sooner or later something might come up that would be difficult to handle because of other parts of the charter. That could be put in the notwithstanding clause and we could eliminate such things as child pornography. Oh, but what a dread thought.

I really do not understand. I do not understand how members are able to sit there with smiles on their face thinking they have accomplished something by allowing such wording in a bill: “a legitimate purpose”.

●(1705)

Everyone knows, and if they do not, they ought to know, that people who are caught in possession of child pornography will very likely hunt themselves up a lawyer and immediately their defence will be for legitimate purpose. They may not be successful, but I would almost guarantee that our courts would be clogged with people trying to defend themselves under those two words. It is automatic. Why would they not?

They defended themselves under artistic merit. I guarantee that they would try to defend themselves under public good. Why would they not under legitimate purpose? Somewhere there may be a judge who once again would agree that there is legitimate purpose, that there is some art there, or whatever.

There was a person recently taken off the streets of Toronto. What did the person who was taken off the streets and murdered one particular little girl say? He said when he was released from penitentiary, he got back into child pornography and it affected him so severely that he had to go out and react to his desires.

I have been to many penitentiaries, visiting with various offenders, particularly those who have been arrested, charged and convicted of child offences of this nature. Practically everyone of them confessed to me that it was child pornography that got them hooked on the idea. There are also the perverted minds out there that are trying to convince the population that it is a healthy activity to include our little children in sexual ventures. We know that goes on all the time.

I do not understand why grown up men and women who are elected to this place cannot jointly decide one day that we have a problem because we are losing too many of our children, they are being hurt severely and some are being murdered. There is a real problem out there. There are too many broken hearts and too many broken families, far more than we deserve.

Let us come into the House of Commons some morning and make a determination that this is the day that a group of people who are supposed to have a few brains are going to fix the problem. Are we going to allow it to go on and on until the next Parliament comes out with another piece of legislation with other kinds of words that try to protect whatever it is: freedom of expression, freedom of speech? We must be cautious there. Hog manure.

I do not know how in this country we ever got to the point where people dare not walk into an airport and shout “bomb”. They would be in real trouble. Nor would they go into a theatre and yell “fire”. They would be in real trouble. As far as I am concerned they should not have any child pornography in their possession either or they would be in real trouble, right now, no ifs, ands or buts.

I wonder what zero tolerance means to the people who make this legislation and present it? I have been told over and over again when I have asked officials what their policy is on drugs in penitentiaries, that it is zero tolerance. Well, it is not working. There are more drugs in the penitentiaries than there are on the streets of the cities. Zero tolerance. What the devil does it mean? Why are we continually trying to cover little details on such an elemental thing?

*Government Orders*

The protection of our children is something that we will fight tooth and nail for and we will accomplish it no matter what it takes. We will send the message to the courts that it is the decision of the highest court in the land, that it is the decision of the people of Canada who we represent.

While we are at it, we are going to raise the age of consent from 14 to 16. I think it should be raised to 25 but 14 to 16 would be sufficient. We have to get it up there. What are we doing allowing legislation to stay in place that says 14-year olds have the ability to deal with these kinds of problems when they are taken to the streets and asked to be prostitutes? Of course, we know what happens. In all the cities we are having 11 and 12-year olds being arrested.

We ought not to be a proud bunch that this is going on in this country. Actually, we ought to hang our heads in shame. I thought, after the first time we had a debate on this, that sooner or later there would be something that would really put an end to this and help our police fight this very tragic situation.

• (1710)

They should not have to sort through millions of pieces of garbage to determine if there is art, artist merit or whatever. Handfuls of police in Toronto must sift through all this junk because we have to ensure we protect the rights of the pedophile and the crazies that want to hurt our kids.

When are we going to get the nerve to stand in this place as a collective group of people? We are a minority government. We want to talk about cooperation. Let us cooperate today. Let us start today to make it safe for our kids and eliminate child pornography. Eliminate means eliminate. Let us get at it.

• (1715)

**Hon. Shawn Murphy (Parliamentary Secretary to the Minister of Fisheries and Oceans, Lib.):** Madam Speaker, I rise today to speak to Bill C-2, an act to amend the Criminal Code and the Canada Evidence Act. In particular, Bill C-2 enhances the protection of children and other vulnerable persons, those most in need of strong, effective and efficient legal protection.

Bill C-2 supports the commitment made in the Speech from the Throne to crack down on child pornography. Its proposed criminal law reforms will strengthen child pornography and sentencing provisions in the Criminal Code, create a new category of sexual exploitation, facilitate testimony by children and other vulnerable victims and, finally, create new voyeurism offences.

In the area of anti-child pornography legislation Bill C-2 builds on the Criminal Code's existing comprehensive prohibitions against child pornography and proposes several new components. These include broadening the definition of child pornography in terms of written material, as well as including audio formats.

Bill C-2 introduces prohibitions on advertising child pornography and will increase the maximum penalty for all child pornography offences on summary conviction from 6 to 18 months. This sends a strong message that no child pornography offence is considered to be a minor offence. I believe that message has to be clear, it has to be consistent, and it has to be enforced.

Bill C-2 addresses the very contentious issue—and we have just heard the passionate remarks of the hon. member for Wild Rose—about the existing defences such as artistic merit, education, scientific or medical purpose and public good, with a two-pronged, harm based legitimate purpose defence which puts the interests of the children at the forefront where it should be.

This proposed child pornography defence provides a much narrower and much clearer test, and incorporates the harm based standard used by the Supreme Court of Canada in upholding the existing child pornography provisions in 2001.

Bill C-2 proposes the creation of a new prohibition to better protect youth against sexual exploitation. Under the new prohibition courts will be looking to the nature and circumstances of the relationship, including specific indicators of exploitation, such as the age of the young person, the age of the accused, and the degree of control or influence exercised over that young person. In this way Bill C-2 focuses on the wrongful behaviour of the accused rather than the so-called consent of the young person.

Bill C-2 proposes significant reforms to ensure that sentencing in cases involving the abuse and sexual exploitation of children better reflects the serious nature of such crimes. The message we want to send and the message we must send is that these sorts of depraved actions will not be tolerated by Canadian society.

It is my view that the other factors that are normally considered in a sentencing application, such as the rehabilitation of the offender and retribution, have to give way. They have to give way to protection of the public and the compulsion of society to send a very clear message that this behaviour will not be tolerated.

In order to best investigate these sorts of crimes, Bill C-2 proposes reforms that will facilitate the receipt of testimony by providing greater clarity and consistency for witnesses under the age of 18 years, victims in criminal harassment cases and other vulnerable witnesses. This, as many court cases have set out, is a very difficult and contentious issue.

• (1720)

It is my submission that the rules have to be very clear and standardized, and the use of technology must also be implemented, especially in camera hearings for younger children.

At all times the reforms are aimed at aiding and protecting those witnesses who are deemed vulnerable, for example, broadening publication bans to include new technology such as the Internet. This is an important step to protect the identity of all victims.

I do not want to stand here and suggest for a minute that the new legislation will be able to weather its challenges. Technology is moving at a tremendous pace. When we were dealing with child pornography not that many years ago, we were dealing mainly with printed material. Now we are dealing mainly with the Internet.



*Government Orders*

When we were dealing with the offence of voyeurism, we were mainly dealing with the person who was normally referred to as a peeping Tom. We now have all kinds of technology and gadgets, such as hidden cameras and cameras half the size of a pen. These are items with which police and investigative authorities have to deal. We can appreciate the challenges that enforcement officials have every day in dealing with this type of behaviour.

Compounded with that is the whole area of the Internet servers, which are not, as everyone who has investigated this type of offence, generally located within this jurisdiction. They are in other jurisdictions around the world which adds a whole area of complexity to investigation, enforcement, prosecution and sanctions.

For all witnesses, and the measures taken to protect their well-being and identity, it has to be left to the court just like every other case to determine the weight that is to be given the evidence at the end of the day.

The proposed creation of two new voyeurism offences is also noteworthy. By setting up prohibiting factors for the secret observation and recording of a person, the bill sets up protection against a voyeuristic exploitation for all Canadians.

I have covered rather broadly some of the main proposals of Bill C-2. It is clear that these reforms are not only valuable, they are necessary. The bill will be referred to a committee. It is a topic that a lot of people in the House and a lot of Canadians from coast to coast to coast feel very strongly about. I have no question that the bill will be improved in committee and come back before the House.

I would like to join with my colleagues in the House who have spoken to voice my support for the reforms proposed by the bill. Children and other vulnerable persons are those who need the protection the most. Bill C-2 recognizes that and proposes solid legislation to provide the much needed protection.

**Mr. James Moore (Port Moody—Westwood—Port Coquitlam, CPC):** Madam Speaker, I appreciate the opportunity to speak to this issue. I actually rise to speak to the bill with a little bit of mixed feelings. It was about four years ago that I rose in the House to give my maiden speech as a member of Parliament on this very subject. It is unfortunate that four years have passed and we are still struggling with the issue. We are struggling with the issue not necessarily because of faults of the government, though certainly it should get some blame in that regard, but also because there are changing technologies and changing realities.

I appreciate the government bringing the legislation forward as one of its first bills to be debated in this House, because the is a bill of tremendous importance. Why is it important? This is why:

An Edmonton woman is facing multiple child pornography charges—including some related to her six-year-old son...And the investigation—which uncovered more than 100 images of children ranging from preschoolers to preteens in various poses or "explicit" sex act with adults—has led Ottawa cops to a male suspect in the nation's capital.

Another story reads:

At least eight Winnipeg children have been lured to the home of an alleged pedophile with promises of food, cash and porn, cops say..."We know this has been taking place for at least three months," said Winnipeg police...

Another story reads:

Members of the Ontario Provincial Police Child Pornography Section, Napanee OPP Detachment, and the Electronic Crime Section of the Ontario Provincial Police, have charged a 43-year-old [West] Napanee [Ontario] man following a child pornography investigation...with two counts of possession of child pornography, one count of distribution of child pornography and one count of luring.

Another is "100 discs full of child porn seized in B.C."

The stories go on and on. These are just summaries of stories. I have over 300 pages of stories dealing with children, child pornography, children being victimized and failure of laws all throughout North America, and all these happened in the last two weeks.

This is a serious problem. One of the worst things we do in our society is destroy the innocence of the young before their time. We do it through television, through language, through movies and through our social moral complacency. Now, sadly, we are doing it as well through our laws by not using every and all known measures possible to prevent the exploitation of kids.

In 1987 the Progressive Conservative government of the day reduced Canada's age of consent for sexual activity from 18 to 14 years of age. The stated reason for the change was that the government did not want to criminalize teens who were sexually active with other teens, not that any of those charges were ever laid. However, since no restriction on the second person's age was mentioned, the law gave legal permission for fully grown adults to engage in sexual activities with 14, 15 or 16 year old kids.

Both the provincial attorneys general in Canada and the Canadian Police Association are in favour of raising the age of consent to at least 16 years of age. If we were to raise the age of consent to 16, we could offer, according to Statistics Canada, legal protection to roughly one million Canadians between the ages of 14 and 16 years. It would cost the state treasury nothing. It is simply a one word change that could save people some tremendous trauma and abuse. However, to some Liberals, changing a single word to safeguard a million children seems just too hard, too politically incorrect and perhaps too obvious to grasp.

The new urgency in dealing with the subject of exploitation of children was created when, on March 26 a couple of years ago, John Robin Sharpe was found guilty of possessing about 400 photographs of boys engaging in sexually explicit activity, but was acquitted on the charges of making and distributing child pornography in the form of his own written work. Mr. Justice Duncan Shaw said that the written works describing sado-masochistic violence and sex with men and young kids was morally repugnant but still had some "artistic merit". What this means in application is that the writings are now legal and can be published. John Robin Sharpe and others of his perverted sort can now posture as artists and write and publish their most demented thoughts and desires about sexual acts with kids.

*Government Orders*

To successfully prosecute, the police and prosecutors now have to prove that the child pornography in question lacks John Robin Sharpian artistic merit. In other words, the best efforts of our law enforcement community to stop child pornography will be like cobwebs trying to lasso a locomotive; simply impossible.

The broad interpretation of artistic merit, which was in the John Robin Sharpe case, suggests that Canada's legislation has weaknesses that may not allow us to protect Canadian children to the best of our ability.

The demand for child pornography leads to its continued production and distribution. To suggest otherwise is naive and absurd. The idea that possession of one's own pornographic writing is harmless, especially in this electronic age of easy transmission or publication of material on the Internet is difficult if not impossible to control, simply ignores modern realities.

• (1725)

Some say we must be careful not to restrict freedom of expression. I say if there is any place that cries out for our society to say no, it is in the area of child pornography. I do not accept the concept that people should be free to defile children either physically or in writing. I do not accept the concept that there can be artistic merit in the victimization of children. I also do not accept the concept that the intention of exciting or arousing a passion that is perverted, illegal, immoral and in all fashion or form reprehensible to our society is acceptable in any form, even if it based on the rather far-fetched notion that the creators of such offensive material will not share with others and will only keep it for themselves.

The protection of society's most vulnerable members is our most important duty and responsibility, but unfortunately we are failing at this task. In November 2000 an international report on child abuse by an organization called, End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes, singled out Canada as a haven for sexual predators of children. The report stated that Canada had one of the youngest ages of consent for sexual activity at 14, whereas other countries were raising their to 16 and 18.

At one point Canada was considered a global leader in combating the sexual exploitation of children. Regressive age of consent laws, flawed legislation and an overall lack of planning at the federal government is now turning Canada into a venue for sexual exploitation of kids according to this report.

Our governments have failed our kids, the most vulnerable in our society. We have failed children. Having a debate about this legislation in the House is a step in the right direction, but much work does need to be done.

The Sharpe decision carved out two exemptions to the child pornography law: material such as diaries or drawings created privately and kept by that person for personal use; and visual recordings of a person by that person engaged in lawful sexual activity kept by the person for personal use. The latter exemption has the potential to expose children age 14 to 18 to further exploitation by child pornographers since they would be engaging in legal activity.

By the Liberals failure to prohibit all adult-child sex, children continue to be at an unacceptable risk. Only by raising the age of consent will young people be truly protected under the Criminal Code.

We are not advocating criminalizing sex between teenagers, as with other jurisdictions with a more reasonable age of consent laws, such as the U.K., Australia and the United States. A close-in-age exemption could easily ensure that teenagers are not criminalized.

Bill C-2 would increase maximum sentences for child related offences. These offences include sexual offences, failing to provide the necessities of life and abandoning a child. This is meaningless if the courts do not impose the sentences. We know by experience that when maximum sentences are raised, there is no corresponding pattern in the actual sentencing practices of the courts.

What is needed are mandatory sentences, truth in sentencing, eliminating statutory release and no conditional sentences for child predators. Modern technology has surpassed the legislative provisions that govern the use of evidence in these cases. The bill fails to address those shortcomings, and amendments are required to deal with child pornography cases effectively and efficiently in this regard.

We are concerned about the government's apparent unwillingness to entertain amendments aimed at improving the bill. In fact the justice minister today in question period indicated as much in his response to a question. We have received a different answer from the minister who spoke prior to myself.

However, if there is any subject on which all parties can agree, it must be on the protection of children. In this debate I applaud the government for bringing forward this legislation. However, this opposition party and I think all Canadians will condemn the government if it does not faithfully consider reasonable amendments to protect the most vulnerable in our society; our children.

• (1730)

[*Translation*]

**Hon. Dan McTeague (Parliamentary Secretary to the Minister of Foreign Affairs, Lib.):** Madam Speaker, I am pleased to see you in the chair. I congratulate you on your nomination to this position, for I know you thoroughly deserve it.

This is the first time I rise as the new member of Parliament for Pickering—Scarborough East. This is the second time my riding has changed its name. In 1993 the riding was called Ontario. Later it became Pickering—Ajax—Uxbridge. Now it has yet another name, Pickering—Scarborough East. It seems my riding is moving increasingly toward the west. If this continues, in 10 years I will be in Alberta.

*Government Orders*

[English]

I am pleased to speak today to Bill C-2. My colleagues on both sides of the House have spoken very eloquently and appropriately to the non-partisan nature with which the spirit of the bill is being proposed. There will be those who will always say that we have not done enough, but I am one of those who believes very heartily that we can and will do what is right to protect children.

Two years ago I joined and initiated a forum for colleagues in the House of Commons, attended thankfully by all members of the House, to probe the severity and the deep concerns that all normal Canadians had toward the issue of the growing frustration and proliferation of child pornography, particularly with the use of the Internet, much of it on the heels of the Sharpe decision.

It is clear to all here what can happen in an environment where the language we use to protect children from child exploitation is not clear. Above all, whatever legislation is proposed, amended and thrashed out in committee must be language that will serve to stand the test of time or we will be back at this debate, as so many members have said in a very frustrated way.

However, before putting some ideas forward, which the committees may want to consider, I want to talk about the last round of changes to legislation, which I believe were very successful.

One only has to speak to people in law enforcement. I know members on this side do and certainly members on that side will. When speaking to people from my child exploitation unit in the city of Toronto, Paul Gillespie, or Bruce Smollett or Frank Goldschmidt of the Ontario Provincial Police child pornography division, who is town, they tell me that something has changed in the past year.

In previous debates I have about the need for a coordinated strategy to ensure that we have training and perceptibility of our law enforcement agencies from coast to coast so when they receive information, they know how to process it to immediately address and tackle the issue. Time is of the essence.

We have established a National Child Exploitation Coordination Centre. The NCECC, as it is known here, has gone from four people last year to 26 this year. In speaking to the various agencies, and those I spoke to over the summer, this is one of the boldest and most successful routes that has been taken and is one for which the House of Commons must be applauded. It was something to which we all agreed. We have put money into it, and I understand the provincial government of Dalton McGuinty has put \$5 million toward it. There will be a coordinated effort to ensure that there is a sustainable financial future for this agency.

I also want to compliment Microsoft. This comes from a fellow who fought the Competition Act over the years and was concerned about dominant positions.

An element that has been touched on and one that we need to discuss in committee and in further debates is the purpose of lawful access. It is clear that those who are engaging in the violent and often degrading aspects of child exploitation need one element to be successful; the avoidance of detection. Avoidance is happening at an alarming rate. Our technology, certainly our means through lawful

access to the latest of technologies, allows by stealth people to continue to exploit children. It creates a market for people like Mr. Briere who said, "If it were not fact that I didn't see the stuff, I would not have been triggered to kill Holly Jones".

That was a tragedy which should be an indication to the House of Commons that the horses should not be spared in ensuring that the benefit of the doubt when it comes to privacy and the use of technology for lawful purposes be used in a way that we can protect children and give a modicum to that extent.

I heard the hon. member speak a little earlier about some of the concerns that he had about the age of consent. I note, and it is something that the committee will certainly want to look into, that England has raised its age of consent from 16 to 18. We also know that Canada has been on the forefront of trying to combat the international sex trade. We will see precedents in terms of our first case in the not too distant future. However, it is very clear to us that we need to ensure we have maximum information that is up to date and that presents the best opportunities that we have.

I understand all the fallout from the Sharpe decision. I have expressed my concerns on many occasions. We had consensus from our April 2002 meeting concerning the artistic merit, however small.

● (1735)

That was indeed a court sanctioned exemption which I believe was wrong. It must be worked on. We must ensure that there is no room for manoeuvrability and that child exploitation has no artistic merit at all. It must be seen as what it is and that is unlawful.

When it advocates and counsels is another condition that was written in by the Supreme Court of Canada. It is an exemption that in my belief will not help us further our desire of the necessity to ensure that no child is unduly exposed to people who intend to exploit them. It is for this reason that there is much to be said for and much to be learned from those who are on the leading edge of our debate today.

I would hope that a year from now we could come back to the House of Commons and say that rather than reacting to what has happened, we have been proactive. Nothing leads me to believe that more than in the insurance that we have in Canada, and I hate to use the term because it is sometimes a little trendy, of best practices. We must employ all of the facilities that are available to us nationally, internationally and regionally to ensure that optimum security and protection is given to our children.

There are a number of areas where this House of Commons can find consensus, where this House of Commons must find consensus.

● (1740)

[Translation]

In the meantime, I should point out that, even if this is still an issue the members want to discuss for political purposes, the people are imposing great constraints on us to ensure this situation is not exploited in a political way. The political issue should be eliminated when the stakes include protecting the interests of children—who are our future.

Our future is made up of young people, who, today, need the benefit of the doubt, doubt in their favour, especially when it involves a sentence handed down by a court.

*Government Orders**[English]*

I am hoping we might also avail ourselves of some of the people at the front end, those in psychology and psychiatry who understand what is involved with those who would assault and those who would exploit children. More important, there are people such as Dr. Peter Collins who has worked with the OPP for years. He was here at the House of Commons during that very interesting forum we had a few years ago on ways in which to combat child pornography. He warned the House of Commons and members who attended the forum that child pornography in the hands of people who are sick is the element which is the trigger for them and allows them to act out their fantasies and exploits children.

I would suggest that those who are in that position are sick and need medical help. They need treatment. They do not need expedient, trendy or obtuse legal reasoning. They certainly do not need us to say that the benefit of the doubt must always go to ensure that we are not convicting people who are innocent. We all understand that.

In this case what is needed is obvious to all who are in this business and who understand this business. Certainly with what happened this summer and which exploded during the midst of an election, Mr. Briere's admission, the time has come for Parliament to find all means necessary to ensure that it has optimal understanding of what is in essence a criminal mind and what it is going to take in these special circumstances.

Earlier I heard the hon. member for Wild Rose speak to the issue of using the notwithstanding clause. I was one at the time who voted for that resolution. Indeed, a number of us, the hon. member for Mississauga East, the members from Huron and London—Middlesex voted with the opposition because it was essentially an idea born out of frustration.

I can safely say that while that is an option, it is the last option we should be using. Right now I believe we have the means to do it. In my view if we are prepared to sit down and to work out and build on the legislation before us, as we did with the piece of legislation that produced the National Child Exploitation Coordination Centre, we will achieve next year results on issues that we think are so troubling this year. For the sake of our children we owe it to them.

**Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC):** Madam Speaker, at the beginning of my maiden speech in the House of Commons, I would like to acknowledge those who have made it possible for me to be here.

I would like to thank my constituents, the people of South Surrey—White Rock—Cloverdale, for their trust and confidence in me. I am greatly honoured to be their representative and I plan to do my best and hope that I can, in whatever modest way, meet their aspirations and expectations.

I would also like to recognize the hard work of my campaign team and the hundreds of volunteers who helped get me elected.

Finally, I would like to thank my wife Andrea and my family for being a part of the process that brought me here today.

I am here today to speak to Bill C-2, the protection of children and vulnerable persons act. I believe all right thinking Canadians would

agree that children deserve nothing less than total protection from child pornography. The devastating impact it has on its victims, their families and our society as a whole cannot be overstated.

It is with sincere disappointment that we must again address another Liberal bill that fails to provide children with the protection they deserve. While I am pleased that this new version also prohibits the advertising of child porn, something I proposed to the justice committee a year ago, this piece of legislation has serious problems. These problems include: the creation of the new legitimate purpose defence; the creation of the exploitive relationship category of offenders; the failure to raise the age of consent to at least 16 years of age; and the failure to adopt minimum sentences. I will now discuss each of these in more detail.

The first incarnation of the bill provided an artistic merit defence to the possession of child pornography. When the public outcry against such a defence became deafening, the Liberal government backed down and renamed it the public good defence. Let me be very clear. There is no such thing as public good when it comes to child pornography. If anything, the public good defence was a broader defence that incorporated all of the artistic merit defence and provided even more loopholes.

Now that it has become clear to Canadians that the public good defence is meaningless, the Liberals have introduced yet another defence, the legitimate purpose defence. The problem with this approach is the same as the others. It would still permit the courts to excuse child pornography on the basis of artistic merit.

As Conservatives we believe that all defences that justify the criminal possession of child pornography must be eliminated. All this new defence will do is make convictions harder to obtain by opening up a host of legal loopholes that could be used to justify the criminal possession of child pornography. This is because under criminal law, defences must be interpreted as broadly as possible. Under this new provision Eli Langer would still have had a defence for his pedophilic paintings.

Bill C-2 also fails to raise the age of consent for sexual contact between children and adults. Instead it creates the new category of exploitive relationships. This category is a vague provision that fails to create the certainty of protection that children require. It will therefore not serve as a real deterrent and will simply result in longer trials. It would be far more effective to drop the exploitive relationship category and simply raise the age of consent.

According to officers working at the Ontario Provincial Police porn unit, raising the age of consent is a matter of urgency. The current law prevents concerned parents, police and social service agencies from protecting or rescuing boys and girls who are coerced by older teens and adults. For example, whereas international protocol makes it possible to return a runaway 14-year-old Canadian girl from the U.S. or Mexico within 12 to 24 hours, according to Commander Ross MacInnes, who has 28 years with the Calgary vice unit, there is nothing they can do to get her back from another Canadian city because of the current age of consent law.

*Government Orders*

Eighty per cent of Canadians want it raised to at least 16 years of age. Only three years ago all provincial justice ministers unanimsly passed a resolution calling on the federal government to raise the age of consent to at least 16. As has been recognized in the House, most western democratic nations have a 16 years of age minimum and some are even at 18, like the United Kingdom.

• (1745)

The excuse that raising the age of consent may criminalize acts between teenagers is simply false. The Criminal Code already exempts from prosecution those closely related in age. This close in age exemption ensures that teenagers are not prosecuted. This exemption is also similar to what other jurisdictions like the United Kingdom, Australia and most U.S. states use while at the same time having a higher, more reasonable age of consent law. History shows that criminalizing teenagers was not an issue before the age of consent was lowered.

Considering that government legislation already acknowledges the inability of youth to be responsible with alcohol and cigarettes and seeks to protect them from their negative effects, why not raise the age of consent to protect youth from the detrimental physical and emotional consequences of early sexual activity? Raising the age of consent would send a clear message that Canadian society is committed to protecting our children, that we are opposed to the sexualization of children, and would provide parents and police with a valuable tool to rescue and protect children.

Finally, this legislation fails to address serious concerns regarding sentencing for child sexual offences. At present, the sentences given simply do not reflect the seriousness of the crime. According to Frank Goldsmith of the Ontario Provincial Police porn unit, one of their biggest concerns is the lenient sentencing coming from the courts. The harshest sentence he has ever seen for the possession of child pornography is two years less a day, which is house arrest, when the maximum for this offence is five years. He views house arrest for pedophiles as a slap on the wrist while their victims face a life sentence, something they will never forget.

Mr. Goldsmith believes that conditional sentences are a joke, since those under house arrest simply take the liberty to leave their homes as they wish, knowing they can always use the excuse that they are on their way to school or to work. In fact, Detective Constable Bruce Headridge, former head of the Vancouver Police vice unit, suggests that conditional sentences in this area have brought our justice system into disrepute.

Pedophiles know that our justice system does not view the possession and distribution of child pornography as a serious crime or concern. They read news articles like the one distributed by the Canadian Press entitled, "Possession of child porn rarely nets jail time".

I find it appalling that there are minimum sentences for drunk driving but none for child sex offences. Again, as Conservatives we therefore call upon the Liberal government to introduce mandatory minimum sentences and abolish conditional sentences for sexual offences involving children.

Incarcerating those who possess child pornography not only helps protect other children from harm, it also acts as a deterrent to those

considering exploiting children. According to Justice Michael Moldaver of the Ontario Court of Appeal:

Adult sexual predators who would put the lives of innocent children at risk to satisfy their deviant sexual needs must know that they will pay a heavy price.

Some have argued that the minimum sentencing simply helps criminals perfect their skills. I can say that this is certainly not true for convicted pedophiles. They are always held in protective custody and never allowed to mingle while in prison, because otherwise hardened criminals who are disgusted by their crimes against children would harm them.

This is not a petty crime. This is about real children being abused, and we need real minimum mandatory sentences to protect them.

In conclusion, a truly free and democratic society is one that protects its weakest members from the appetites of those who, in the name of freedom, would degrade and harm our children. It is my strongly held belief that eliminating criminal defences instead of allowing loopholes, that providing mandatory minimum sentences instead of conditional ones, that raising the age of consent instead of pandering to sexual libertarians, all of these things will foster and support the dignity of children and send the message that they are to be accorded equal respect within Canadian society.

• (1750)

**Mr. Brian Fitzpatrick (Prince Albert, CPC):** Madam Speaker, in regard to Bill C-2, it is fairly obvious that children need protection in this day and age. We live in an age that is much different from bygone years. Children are very vulnerable to sexual exploitation. Pedophiles and people who are bent on this and attempt to violate the rights of our children are very well organized.

However, in addition to the children, there is another group that needs help in this area. The people who need help are the parents.

Prior to 2000, I practised law in a general practice situation. I had a very difficult situation to deal with in the mid-1990s. A nice young couple in their mid-thirties came into my office. They had a 14 year old daughter who had taken up a relationship with a man in his late forties. They went to the police, who said there was nothing they could do.

I told those people at first blush that the law would provide parents with the means and ability to provide for their children and protect them. I told them to return at a prescribed time the next day and in the meantime I would do some research and would have answers to their difficulties. I spent a fair amount of time researching the topic and the Criminal Code and provincial family services legislation and so on. I thought surely parents would have the power to protect a 14 year old daughter from what was clearly an exploitive situation.

*Government Orders*

I am a parent myself and I think most people in this House have been parents at one time or another. As parents, we know that 14 year old people are not at a stage in life where they can make those sorts of decisions. They need more maturity and education before they embark on making those sorts of decisions. I think it is an area for parental control.

In any event, when those parents came back the next day to see me, it was a very troubling experience for me. I had to tell these folks that the House of Commons was not able to provide them with the relief or remedy to deal with this sort of situation. I was the messenger and quite often in that business the messenger is the one who takes the heat.

One of the reasons I am in the House is that this is where we create the laws of the land. We are letting down these folks by not dealing with that particular issue. It would take very minor changes to the existing law to protect children by changing the age from 14 to 16. Basically, to use a phrase, it would be the stroke of a pen and we would have a million children in the country who would be able to be protected by their parents. Parents would have the law on their side. Right now they do not have the law on their side. They have their hands behind their backs. The law has tied them. They are incapable of protecting those children, who are at a very vulnerable age.

I can assure members that people who are in the sex trade and exploit young people are very aware of this loophole. They exploit it for everything they can get. I think it is incumbent on Parliament to act on this matter and do something that I think can make a difference in that area.

Another area I wanted to address is the area of the defences. Any time Parliament creates a criminal offence or deals with a criminal offence and then decides to set out the defences in the Criminal Code for that offence, besides the normal common law defences, it had better be careful on the wording of those defences.

Anybody in the House who has graduated from a law school and knows anything about our court system will know what a good defence lawyer can do with ambiguous, loosely worded defences. "Art" is a mile wide and a mile deep; it is in the eye of the beholder. Good defence lawyers I know who are given that kind of leeway are going to have a heyday.

● (1755)

The accused does not have to prove that there is a legitimate purpose. The defence does not have to do that. Anybody who graduated from law school knows what the defence has to do. Even laymen would know that. I think even you, Madam Speaker, would know the answer to that question. All the defence has to do is raise one thing called reasonable doubt.

I am sure this is what happened in Robin Sharpe's case. He had a good lawyer, who took this artistic merit argument and said, "We do not have to prove that there is artistic merit here. All we have to do is prove that there could be. Look at this. There could be artistic merit here. If you find that, Mr. Judge, you have to acquit the accused. That is the law".

I am very troubled by this. There may be legitimate purposes and I am not going to deny it. The justice minister said that police are in

possession of child pornography for the purposes of investigation. I can accept that, but this concept of art is just way too wide. Surely we have some legal minds in this country who could tighten up this thing and close the door to defence counsel running roughshod over our court system and allowing pedophiles and sexual exploiters to walk out of the courtroom and carry out this sort of activity against our young people.

The population of young people in this country is getting smaller and smaller, but it is our future. They are the people who are going to carry our heritage into the future. It is incumbent on lawmakers in the House to take the bull by the horns and take the measures that will adequately protect our young people, so they can become people who can enjoy and optimize their God-given talents in this society and not have to live with some haunting nightmare for the rest of their lives if they manage to survive some of these ordeals with sexual predators.

I am amazed about something from the last session. We had a motion to change the age of consent from 14 to 16. It seemed to me an obvious thing for us to do in the House. Liberal members, by and large, refused to vote for that motion. Then they were appalled during the election campaign when it was said that Liberals were soft on child pornography. This was a very simple measure that would have provided some real protection and some real teeth for police and parents in protecting children at that vulnerable age. I was not the one who made the decision to vote against that motion, so let me say that if the shoe fits, wear it.

I am very disappointed, quite honestly, that some of the people in the gallery who report on our business here do not do a fairer job of trying to report these very serious issues to the public at large. They treat them as minor and insignificant issues. Children being exploited by sexual predators is a very, very serious matter. It will cause irreparable harm to those people. We should be protecting them.

Conditional sentencing is another area. I think that when people do very terrible things to other people the number one criteria of our criminal justice system should be providing protection to the public. Liberals do not understand that a legitimate purpose of our criminal justice system is to provide protection to our law-abiding citizens who want to carry on with their lives. These people have broken the social contract. We cannot live in a free and democratic society when people do not respect the rights of other people and children. When they break that law, there has to be a consequence. The consequence is that they are incarcerated and are not on the streets to bring mayhem and harm to our most vulnerable people.

I think Liberals watch too many Hollywood movies. They get taken up with the Hollywood culture. In fact, a lot of Hollywood is run by people with a small-l liberal philosophy. I think that in their minds there are a lot of Jean Valjeans in this society, that is, falsely accused people, but they do not look at the victims and casualties of these kinds of policies.

● (1800)

The scales have to tip back to protecting our most vulnerable people, especially our children. The government has seriously let us down on this matter.

*Government Orders*

I thank you very much for your attention, Madam Speaker. I think you were even nodding at some points and I very much appreciate that. I just wish I could get more of your colleagues to agree with me.

**Mrs. Betty Hinton (Kamloops—Thompson—Cariboo, CPC):** Madam Speaker, I would like to begin with just a moment of your time to congratulate you on becoming Chair. It is very nice to see you there and I am very pleased for you. I think you are going to enjoy the job very much. It makes my job tonight that much easier, because tonight I am going to speak not as a member of Parliament to the Chair but woman to woman.

This has been said many times before, but it bears repeating: Canada's children are our greatest natural resource. We take extreme measures to protect other natural resources and we should do no less for Canadian children. Bill C-2 falls far short in this regard. In fact, we can start right at the definition of a child. The government defines a child as anyone 14 and under when it should certainly be 16 and under.

Child pornography has become a multi-billion dollar industry and Canadian children should be protected from it. How do we do this? We must make every effort possible to shut down this industry, and that includes legislation making child pornography a very unattractive way to make money. We must make the punishment for producing or buying child pornography so tough that the risk of apprehension and prosecution is too high. It is simply unacceptable that these young people are robbed of their youth in order to fulfill the perverted desires of adults.

There is no defence for child pornography. This includes so-called art. Our courts routinely hand out slap-on-the-hand sentences for pedophiles. Karl Toft is an example of this exact thing. There was a man in a position of authority in a boys' training school. He molested hundreds of boys, did irreparable damage to these young men and received a 13 year sentence. To add insult to injury, this man now walks the streets of Edmonton in relative freedom, from a halfway house, and he collects his full government pension.

Can anyone call this justice when many of his victims have been incapable of making a living due to the psychological damage he inflicted on them?

In March 2002, B.C. superior court judge Duncan Shaw ruled that John Robin Sharpe was not guilty of possessing or distributing written child pornography because of the artistic merit of the work. Judge Duncan had no choice. This was included in the Criminal Code then and it will be again if Bill C-2 becomes law. Under the guise of legitimate purpose, we will find the word "art". How can anyone interpret the brutalization of a child as art? Let us ask a child who has been brutalized if she or he would have allowed this to happen to them for the public good. Let us ask an RCMP officer who deals with this repulsive material during the course of an investigation if he can work the word "art" into the description of the material.

I had the opportunity one or two years ago of listening to a delegation from the Toronto police force that had the horrible chore of dealing with child pornography on a daily basis. They took our caucus into their confidence. They showed us films and told us what it is they deal with on a day to day basis. I still to this day cannot

close my eyes without seeing those images. In this House of Parliament we are very careful not to offend the sensibilities of anyone, so I will spare members the details of what I saw. But I hope it is enough to say that I simply cannot allow this to continue.

I want to have a very strong law in this country. Bill C-2, in its current position, is not strong. The term "liable to a term not exceeding" should be replaced with "liable to a term of not less than". This would leave the judges no room for wrist-slapping sentences for child abusers. This would give this law teeth. I could support it if this were to happen.

If the government is sincere about getting child pornography under control, it must occupy itself with the rights of the child, give the authorities the tools they need to bring these perverts to justice and mandate the courts to carry out the full force of the law.

In the short time I have been here, just under four years, we have stood in the House and we have heard the government present arguments called artistic merit, public good, and now, legitimate purpose.

• (1805)

This is not difficult. Madam Speaker, you are a woman yourself and I am sure you understand as clearly as I do that there is no justification for child pornography. If we cannot stand up and protect our children then we fail miserably as a government.

In my riding of Kamloops—Thompson—Cariboo we have a wealth of natural resources, including a copper mine. If someone came in and stole the copper from that mine they would be prosecuted to the full extent of the law. There should be no less a consequence for stealing a childhood.

We as parliamentarians owe this assurance to the people we represent.

• (1810)

**Mr. Gurmant Grewal (Newton—North Delta, CPC):** Madam Speaker, I am pleased to rise on behalf of the constituents of Newton—North Delta to speak to Bill C-2.

Bill C-2 is a recycled bill. It was Bill C-12 and Bill C-20 in the past. I have spoken to this bill in the past and my colleagues have contributed quite a bit on the issue of the protection of children.

The Liberal government continues to recycle this bill but it has not taken the appropriate action. Much public pressure and public outrage made the Liberals drop the term "public good" as a defence for the possession of child pornography. They have now replaced "public good" with the new defence of "legitimate purpose". Legitimate purpose is defined to include, among other things, art.

The bill's criteria for evaluating whether a relationship is exploitive is vague and subjective, and by not raising the age of consent from 14 to 16, the Liberals have put Canada's children at risk.

*Government Orders*

Since 70% to 80% of Canadian prostitutes enter the trade as children, we as lawmakers have the moral responsibility to protect children. Children deserve nothing less than full protection from child pornography.

The legislation that is before us is simply smoke and mirrors. The Liberals ignored the evidence from child advocates and front line police officers who came before us with lots of information to make the legislation effective.

The important mechanism that should be in place to protect children is not there. One is in the definition part, and rather than public good or whatever the legitimate purpose or for the sake of art, that is not good enough.

The second component is the age of consent. Because the Liberals have failed to prohibit all adult-child sex, children will continue to be put at an unacceptable risk. Only by raising the age of consent will young people be truly protected under the Criminal Code.

As was the case with Bill C-12 and Bill C-20, Bill C-2 fails to raise the age of consent for sexual contact between children and adults. In all western democracies the age of consent is at least 16. In Denmark, France and Sweden the age of consent is 15. In many other countries, including Australia, Finland, Germany, Holland, Israel, New Zealand, Norway and the United Kingdom, the age is 16. Despite all the premiers agreeing unanimously that the age of consent should be raised from 14 to 16, the Liberal government failed to provide that protection to our children. The age of consent could have even been raised to 18.

The Liberals have simply ignored the mounds of evidence that came before the committee in the past demanding that children be protected from child predators. The Liberal government has failed to provide our children with that protection. Children are our future and they are vulnerable. They need and deserve nothing less than full protection from child predators. We, as lawmakers, should provide that protection to children, otherwise we are failing in our duty.

I have been here since 1997 and I have listened to the Liberal government dither and be indecisive when it comes to providing full protection for family values, whether it is age of consent or providing protection to children.

•(1815)

As lawmakers, we need to make laws with teeth, and increasing maximum sentences does not help. We need mandatory minimum

sentences for criminal offences, such as the possession of child pornography, so we can secure the protection of children. This is the place where we must do our best to provide protection to our children.

**The Acting Speaker (Ms. Jean Augustine):** It is my duty to interrupt the proceedings at this time and put forthwith all questions necessary to dispose of the motion now before the House.

The question is on the motion. Is it the pleasure of the House to adopt the motion?

**Some hon. members:** Agreed.

**Some hon. members:** No.

**The Acting Speaker (Ms. Jean Augustine):** All those in favour of the motion will please say yea.

**Some hon. members:** Yea.

**The Acting Speaker (Ms. Jean Augustine):** All those opposed will please say nay.

**Some hon. members:** Nay.

**The Acting Speaker (Ms. Jean Augustine):** In my opinion the yeas have it.

*And more than five members having risen:*

**The Acting Speaker (Ms. Jean Augustine):** Pursuant to order made on Tuesday, October 5, the division stands deferred until Monday, October 18, at 3 p.m.

**Hon. Karen Redman:** Madam Speaker, I believe you would find unanimous consent to see the clock at 6:30 p.m.

**The Acting Speaker (Ms. Jean Augustine):** Is it agreed?

**Some hon. members:** Agreed.

**The Acting Speaker (Ms. Jean Augustine):** Accordingly, the House stands adjourned until Thursday, October 14 at 10 a.m., pursuant to Standing Order 24(1).

(The House adjourned at 6:17 p.m.)







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