



CANADA

# House of Commons Debates

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OFFICIAL REPORT  
(HANSARD)

**Tuesday, June 28, 2005**  
**Part A**

—

**Speaker: The Honourable Peter Milliken**

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# HOUSE OF COMMONS

Tuesday, June 28, 2005

The House met at 10 a.m.

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*Prayers*

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## ROUTINE PROCEEDINGS

•(1000)

[*Translation*]

### COMMITTEES OF THE HOUSE

#### PUBLIC ACCOUNTS

**Mr. John Williams (Edmonton—St. Albert, CPC):** Mr. Speaker, I have the honour to present the 19th report of the Standing Committee on Public Accounts concerning chapter 5, “Management of Public Opinion Research”, of the November 2003 report of the Auditor General of Canada.

Pursuant to Standing Order 109, your committee requests a comprehensive government response within 120 days.

•(1005)

#### FOREIGN AFFAIRS AND INTERNATIONAL TRADE

**Mr. Bernard Patry (Pierrefonds—Dollard, Lib.):** Mr. Speaker, I have the honour to table, in both official languages, the 16th report of the Standing Committee on Foreign Affairs and International Trade concerning the participation of the state of Israel in the proceedings of United Nations organizations.

[*English*]

**Ms. Alexa McDonough (Halifax, NDP):** Mr. Speaker, I would like to seek unanimous consent for the following motion. I move that the 12th report of the Standing Committee on Foreign Affairs and International Trade, presented on Monday, June 13, be deemed concurred in without debate or amendment.

**The Speaker:** Does the hon. member for Halifax have the unanimous consent of the House to propose the motion?

**Some hon. members:** Agreed.

**Some hon. members:** No.

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### QUESTIONS ON THE ORDER PAPER

**Hon. Dominic LeBlanc (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.):**

Mr. Speaker, you may be distressed not to hear me ask this in the coming days, we do not know, but I will ask once again that all questions be allowed to stand.

**The Speaker:** Is it agreed?

**Some hon. members:** Agreed.

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## GOVERNMENT ORDERS

[*English*]

### CIVIL MARRIAGE ACT

**Hon. Irwin Cotler (Minister of Justice and Attorney General of Canada, Lib.)** moved that Bill C-38, An Act respecting certain aspects of legal capacity for marriage for civil purposes, be read the third time and passed.

He said: Mr. Speaker, Bill C-38, the civil marriage act, has now arrived at third reading stage. This journey has been a long one and, from my perspective, I would say that it started in 1982 when Parliament passed the Canadian Charter of Rights and Freedoms.

What is important to appreciate is that it was a parliamentary initiative to enact the Canadian Charter of Rights and Freedoms and to make it part of our Constitution. It was Parliament that then vested the courts with the role of protecting these fundamental rights and freedoms, including equality rights and religious freedoms on behalf of all Canadians.

It was the people of Canada, including minorities, gays and lesbians among them, who invoked the charter and sought remedy and redress from these courts.

It was the courts of Canada, including those in eight provinces and one territory, that held that the opposite sex requirement for marriage was an unconstitutional breach of the equality rights section in the charter.

It was the Supreme Court of Canada that unanimously held that the purpose of the government's legislation, “Far from violating the Charter, flows from it”. The court also held that no religious official can be compelled to perform a same sex marriage if it is contrary to his or her religion or beliefs.

Accordingly, the issue now returns to the place from where it all began, here in Parliament where the people of Canada are now speaking to their elected representatives.

*Government Orders*

On February 1, the government tabled Bill C-38 in order to fulfil Parliament's responsibilities to respect equality rights by extending access to marriage to same sex couples and to render uniform the definition of marriage across the country, as invited to do so in the unanimous judgment of the Supreme Court of Canada.

The essence of the legislation, anchored as it is in the two foundational principles under the charter, equality rights and religious freedom, involve the extension of equal access to civil marriage to same sex couples while, at the same time, respecting religious freedom.

This has been known to us for over two years. Indeed, it was in July 2002 that the government referred its draft bill to the Supreme Court of Canada. During this period, and it is important and bears recall, all aspects of the bill had been discussed in depth in the House during second reading earlier and in the predecessor standing committee that travelled across Canada, went to 12 cities, heard from over 500 witnesses and received over 300 written submissions, all of which has been incorporated by reference in the testimony and report of the present special legislative committee.

It has been before the courts in nine provinces and territories, before the Supreme Court of Canada in the reference hearing and, most recently, as I mentioned, before the special legislative committee established to examine Bill C-38. That committee met for 21 sessions over the last month and comprehensively examined each clause of the bill, hearing from over 70 witnesses and receiving submissions from many more.

During its comprehensive review, the committee considered 19 recommendations for amendment and, consistent with the principles with respect to amendments and to be consistent with the principles of the bill and within federal jurisdiction, accepted two of those amendments.

I have yet to mention the media, another public forum that has given this issue one of the longest and continuous high profiles in recent history. I am pleased that there has been so much involvement by so many on this important issue and would say that this has been an exemplary democratic discussion and debate.

I have had the opportunity myself to visit every region in this country to engage in that debate with the faith communities, with the cultural communities, with non-governmental organizations and with the whole expression of civil society in that regard.

However, with all this discussion, debate and detailed clause by clause examination, the opposition's main arguments against the bill rests on three assertions that are simply unfounded as a matter of law and unfounded as a matter of policy.

The first argument is that it is somehow open to the House to re-enact the opposite sex definition of civil marriage without using the notwithstanding clause.

[*Translation*]

That is what Mr. Harper reiterated yesterday.

● (1010)

[*English*]

The second argument is that Parliament can ensure that the equality guarantee is respected through some form of civil union.

The third argument is that the bill threatens religious freedoms.

I fully acknowledge that the legal and constitutional principles—

**Mr. Ed Komarnicki:** Is there a fourth question?

**Hon. Irwin Cotler:** I will get to the fourth question if I am not interrupted and the member allows me the democratic right to share my remarks with the people of Canada.

I fully acknowledge that the legal and constitutional principles involved here are complex. I understand there are strong feelings on all sides of the debate and that many Canadians are still struggling with the idea of change to one of Canadian society's central institutions.

[*Translation*]

I have seen for myself the diversity of answers.

[*English*]

There is a diversity of feelings, respect and expressions, all of which deserve respect, yet here we stand on the final day of debate in this House and the opposition continues to suggest that somehow there are alternatives to the present approach of Bill C-38, which are simply not available. I would like to use—

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

● (1015)

**The Acting Speaker (Mr. Marcel Proulx):** Order, please. I am having difficulty hearing the hon. minister's explanations.

**Hon. Irwin Cotler:** Thank you, Mr. Speaker.

As I indicated, here we stand on the final day of debate in this House, with the opposition suggesting alternatives to the present approach to Bill C-38 that are simply not founded as a matter of law and simply do not exist.

I would like to use some of my short time available to explain in as brief a way as possible what choices are and are not open to us, as well as the costs and implication of those choices, in particular for our values and for our future.

The opposition members have continued during their speeches in the House and in hearings of the legislative committee to suggest that there is a compromise available to us, which would mean legislating the traditional opposite sex definition of marriage once again, this repeated yesterday by Mr. Harper, and it would offer the same rights and privileges of marriage to same sex couples, but through civil union, not marriage.

This alleged compromise is based on two assumptions which involve occurrences that are so unlikely they cannot really be put forward as realistic options and which do not have any real legal grounding in law.

*Government Orders*

First, the alleged compromise, while technically possible, can be implemented only if Parliament is willing to use the notwithstanding clause, only if it is willing to use the clause to override the charter, court decisions, rule of law and the like.

Second, even if that were to be done, it is unlikely that the law the opposition proposes could survive a court challenge, as Parliament simply does not have the authority to bring about this compromise.

Let me begin with why the notwithstanding clause would have to be used to re-enact an opposite sex definition of civil marriage.

The opposition assertion that somehow it is still open to Parliament to re-enact the traditional definition of marriage, to override the equality rights provisions of the charter, to override the decisions of courts in nine jurisdictions, and to override the unanimous decision of the Supreme Court of Canada, without using the notwithstanding clause, is based on a leap of logic in law: that because the Supreme Court of Canada did not answer the fourth question put to them by the government in the marriage reference, Parliament is now free to decide the issue any way it wants.

I should add parenthetically that the fourth question that was put, and I added that question to the reference, as to whether the traditional definition of marriage is compatible with the charter, was included not because we intended to argue in support of that position, but to allow those who wished to argue in support of that position to be able to do so before the court. Indeed, the court admitted 28 interveners to provide as full and as fair and as comprehensive hearing as possible on this issue before the Supreme Court of Canada.

As to the question we put and supported as to whether extending access to civil marriage to gays and lesbians was compatible with the charter, the court answered, as I mentioned, and it is important to bear this in mind, that it was not only consistent with the charter but flowed from the principles and values of the charter.

As well, it is incorrect to say that the Supreme Court of Canada did not answer the question asked in the reference without stating that when the court came to question four, the answer, as the court itself acknowledged, was moot. For the court to have answered it at that point, as the court itself said, would have been unprecedented. This is particularly in light of the reason the Supreme Court gave us for not answering that question.

Simply put, the court said it was not necessary to answer question four because courts in six provinces and territories at that time had already come to this conclusion; that several thousand couples had already relied on these court decisions to get married and had acquired, as the court put it, protected rights; that the government had already indicated it would legislate to provide equal access to civil marriage to same sex couples in the reference itself; and, most important, something that is being ignored, that the Supreme Court of Canada had already effectively answered the question when it answered the earlier question on whether same sex marriage was constitutional and unanimously held it to be so.

Accordingly, what the opposition leaves out in its argument for alternatives is that the court, as I indicated, did not answer the question because it deemed the question to be moot, because, in effect, the court had already answered the question before. This does

not mean that the court said that whatever decision Parliament makes would be constitutional or that we have a blank slate here. Rather, nothing in the Supreme Court decision overruled the binding decisions in the now nine provinces and territories finding that the opposite sex definition of marriage is inconsistent with the fundamental guarantee of equality in the charter.

As well, the opposition referred to the nine decisions striking down the traditional definition of marriage as being “only lower court decisions”. Somehow it is being suggested that only a decision of the Supreme Court of Canada on this subject needs to be followed and so the House would only be required to exercise its power of the notwithstanding clause in the face of a Supreme Court of Canada decision.

● (1020)

This appreciation of the issue is not only wrong in fact, it is contrary to the rule of law. What needs to be appreciated is that where a law has been found to be unconstitutional, the only options open to Parliament are to either remedy the unconstitutionality, which is what we are doing with Bill C-38, or overrule that court decision by invoking the notwithstanding clause. Invoking the notwithstanding clause means that Parliament is publicly stating that it will pass the law despite the fact that it is knowingly unconstitutional.

The Supreme Court of Canada is not the only court in the country that governments are bound to respect under the rule of law. Courts in nine jurisdictions have declared that restricting civil marriage to opposite sex couples is unconstitutional. Their decisions stand as binding on us. They are constitutional law in this country. They are a law for making laws.

The opposition may wish to speculate on what the Supreme Court might have done under other circumstances. However, it cannot continue to state that the House can ignore those court decisions and re-enact the same law that has already been declared unconstitutional.

There is a Constitution in this country. The Charter of Rights and Freedoms is a centrepiece of that Constitution. This country is a constitutional democracy. We need to conduct ourselves with the full respect for this country as a constitutional democracy under the rule of law.

The opposition would also have us believe that changes to the definition of civil marriage can somehow come about because of an alleged lack of action on the part of Parliament. The problem with this theory is that Parliament had already legislated the opposite sex definition of civil marriage. It was this federal legislation that was considered by the courts in Quebec, not the common law definition of marriage, yet the statute, and I underline statute, was also found unconstitutional by those courts.

Yes, the government could have continued to appeal all of those decisions to the Supreme Court, but did that really make sense? Should more taxpayers' money be spent on appeals in the face of what were unanimous decisions in all jurisdictions and regions of this country? The government made a decision that it was the role of Parliament to craft a uniform Canada-wide solution based on the decisions of the courts and as invited to do by the Supreme Court.

*Government Orders*

The second mistaken assertion of the opposition is that it could create equality for same sex couples by legislating a form of civil union that would give them the same rights and privileges of marriage. The opposition describes this as a responsible compromise.

However, both the British Columbia and Ontario courts of appeal have already looked at the possibility of a civil union alternative and said that it would be less than equal and therefore unconstitutional and would stand as a pronouncement on the rule of constitutional law in this country.

Even if Parliament adopted this approach, civil unions are within provincial and territorial jurisdiction, as the opposition acknowledges, and leaving it to the provinces and territories to try to solve this question would inevitably result in a patchwork of 13 different civil union schemes that would not guarantee equality.

The compromise offered by the opposition may appear to have a superficial attraction to it but it is simply not possible in Canada's legal and constitutional framework.

Let me turn now to the important question of religious freedom. The government takes this question most seriously, so seriously, as I mentioned, that we took the additional time to refer the proposed legislation to the highest court in the land to make sure that religious freedom would not be threatened. This principle of religious freedom is now included in five separate places in the bill for greater certainty.

The opposition would have us believe that Bill C-38 imperils the exercise of freedom of religion. Freedom of religion is portrayed as the weaker sister to equality, and it is asserted that whenever courts and tribunals are faced with a clash between equality rights and religious rights, equality rights will always trump religious freedom.

Such an assertion ignores both the decision of the Supreme Court of Canada in the reference and any number of other charter decisions. The Supreme Court has consistently indicated that freedom of religion must be fully respected. Indeed, as the former Chief Justice of the Supreme Court of Canada, Brian Dickson, asserted, freedom of religion is the "firstness of our freedom", to which I referred in many articles that I was writing long before I ever became the Minister of Justice and Attorney General of Canada.

If additional specific protections are desired in terms of civic marriage officials, commercial provision of services or rentals of church halls, they admittedly would have to be added to provincial and territorial laws. I have raised this with my provincial and territorial colleagues.

• (1025)

Ontario has already responded, passing a new bill extending further protections for religious freedom. Quebec already has specific protection in the civil code for religious officials who refuse to marry a couple. Other provinces are now considering additional legislative protection. I brought it up in our meeting of the federal-provincial-territorial ministers of justice.

Bill C-38 fully respects the religious freedom guarantees of the charter, and this government has made a commitment to the importance of those religious freedom guarantees. Religious freedom

is not threatened here, no more than it was in earlier changes to allow civil divorce, which enabled first cousins to marry and so on, none of which affected religious practice. This is a bill with respect to civil marriage. It does not affect religious marriage, religious institutions or religious beliefs and in fact expressly protects them.

As I have outlined, the compromise offered by the opposition is not possible within Canada's legal and constitutional framework. There are before us today only two alternatives, not a blank slate. The Conservative compromise is not a responsible contribution to this debate in this regard.

Bill C-38 emerges as the only responsible and appropriate constitutional compromise, one that will preserve the important and central institution of civil marriage in our society for both opposite sex and same sex couples seeking that degree of commitment. It will also ensure at the same time that religious groups continue to have the freedom to make their own decisions about marriage, both those who wish to maintain the traditional definition of marriage and those who might wish to recognize marriage for same sex couples.

The charter is the expression and entrenchment of our rights and freedoms, the codification of the best of Canadian values and aspirations, and we are all its beneficiaries. It defines us as to who we are as a people and what we aspire to be. It is in that spirit that this legislation has been tabled and in which this democratic debate and exercise in democracy has been carried out. It is also in that spirit and in that hope for equality, for the rights of minorities and for the protection of religious freedom, that I trust this legislation will be enacted.

Rights are rights. None of us can, nor should we, pick and choose whose rights we will defend and whose rights we will ignore. The government must represent the rights of all Canadians equally.

We understand and we respect the fact there are strong feelings on all sides of this debate. We are talking about a central, longstanding institution of society. We trust and hope that this bill will lead not only to a more respectful solution, but a solution governed by mutual tolerance and understanding, a solution anchored in charter principles of equality rights, minority rights, respect for religious freedom and respect for diversity, and, as I said, which represents the best of our hopes and aspirations for an egalitarian and just society.

**The Acting Speaker (Mr. Marcel Proulx):** Before proceeding to questions and comments, may I remind the hon. minister that his comments are to be addressed to the Chair. As he knows, we are not to refer to members of the House by their family names but rather by their riding names or titles.

**Mr. Brian Fitzpatrick (Prince Albert, CPC):** Mr. Speaker, the minister has a lot more education in the law than I have. I am a lawyer, a small-town country lawyer, and I guess sometimes we just do not see things as well as the academic people who live in ivory towers do.

*Government Orders*

If I understand his overarching message today, it is that Parliament must respect the Constitution in every detail and that somehow the Conservatives have this wrong. Last year in the election campaign, the Prime Minister made health care the centrepiece of his campaign. That is what we heard about: health care. Now in his media interviews he says he has accomplished a lot, that he has the cities agenda pushed through and he has early child learning in place.

Maybe I got something wrong in our law school in Saskatchewan, where Howard McConnell was my constitutional law professor, but it is my understanding that under section 92 of our Constitution and other provisions, municipal government is the exclusive jurisdiction of the provinces. Under the exclusive jurisdiction of the provinces is health care and the exclusive jurisdiction over education is with the provinces.

I think the minister has to be honest in acknowledging that the government, through its spending power and other means, has invaded those areas of the Constitution. In my opinion, it has violated the spirit of that Constitution by doing so. This government spends more time invading provincial jurisdictions and evading the Constitution of this country than any other government we have had in our country. For the minister to preach about being a constitutional purist in the House of Commons really flies in the face of the record of the government.

• (1030)

**Hon. Irwin Cotler:** Mr. Speaker, I am not sure what the hon. member's observations have to do with Bill C-38, which is the subject before the House. In fact, I did not hear any direct reference to Bill C-38.

The hon. member made references to matters relating to health care, child care and the environment, and then to the fact that these were invasions of provincial jurisdiction. The last time I looked these were the subject of federal-provincial-territorial agreements brought about with the understanding, concurrence, support and indeed at times even the initiative of the provinces.

We are talking about an exercise in cooperative federalism, which is a central pillar of a whole approach to constitutional law and policy. We are talking about cooperative federalism in the service of the public good regardless of partisan party or politics in that regard. We respected the Constitution for our social justice agenda for the public good and we are respecting the Constitution with respect to Bill C-38.

**Mr. Andrew Scheer (Regina—Qu'Appelle, CPC):** Mr. Speaker, I want to ask a very simple question of the justice minister. The only people saying that traditional marriage is unconstitutional are in fact the Liberals due to the Prime Minister's radical obsession with it.

In 1996, in a majority decision, Justices Iacobucci and McLaughlin stated that, in the absence of statute law, if Parliament enacts a statute law that differs from the court's view, it does not follow that would be unconstitutional. We have a lot of case law and common law in this country that when there is an absence of statute law, Parliament can fill that void by passing a statute and that it would not necessarily be unconstitutional if it differs from what the court may envisage in that absence.

Parliament could just as easily pass a statute law respecting the traditional definition of marriage and put forward that compromised position of civil unions without it being unconstitutional. We have lots of case law that proves that.

**Hon. Irwin Cotler:** Mr. Speaker, I had a sense that this was going to be proposed regardless of what I said. Many of my remarks were spent trying to address that kind of scenario.

The hon. member says that the only one party that wants this is the Liberal Party. I might add that it is not a matter of this party or another party. It is a matter of the rule of law in this country. It is a matter of court decisions in nine jurisdictions following New Brunswick's decision last week, eight provinces and one territory. It is a matter of a unanimous decision of the Supreme Court of Canada, all of which are constitutional law and a law for making laws.

Any statute about which the hon. member spoke has to comport with the charter, the Constitution, the rule of law and these constitutional law decisions. If we were not to comport with the rule of law, the charter and all these constitutional law decisions, we would have to use a notwithstanding clause and in using it state that all that has been declared as being constitutional can somehow now be regarded as being unconstitutional. That is not the kind of country that Canadians would want or invite.

**Mr. Bradley Trost (Saskatoon—Humboldt, CPC):** Mr. Speaker, I listened with interest to the minister's remarks. He kept implying that to use the notwithstanding clause was a negative and somehow dirty thing.

Coming from Saskatchewan where in the days of constitutional negotiations and so forth with Pierre Trudeau, my understanding was that the NDP premier of Saskatchewan, Mr. Alan Blakeney, was one of the people who pushed for this for various reasons. One of the reasons may have been the health care ruling we saw from the Supreme Court where three of the justices referred to the national charter of rights and four of the justices referred to the Quebec charter of rights. However, listening to the minister speak, he continued to imply that using the notwithstanding clause was a bad thing.

The Prime Minister himself has said that under certain circumstances he would use the notwithstanding clause and that with the ruling of the Supreme Court it may be necessary to use the notwithstanding clause to protect a one tier public medicare system.

Does the minister disagree with the Prime Minister because the Prime Minister has backed the use of the notwithstanding clause in certain circumstances? Does he criticize the province of Quebec which has repeatedly, for language legislation, used the notwithstanding clause? Other provinces have, including my home province of Saskatchewan for one piece. Does he disagree with all those uses and criticize every use of the notwithstanding clause including the protection of medicare?

If we are to be consistent, we must be either completely opposed to the notwithstanding clause or we must actually think that it is a part of the charter of rights, which it is, and a part of our Constitution. We should embrace the entirety of the charter of rights and not merely pick and choose different parts.

### Government Orders

So, my question again, which is it? Is he completely opposed to the notwithstanding clause or is he opposed to his own leader's position on it?

• (1035)

**Hon. Irwin Cotler:** Mr. Speaker, the Prime Minister has said that the notwithstanding clause, as a hypothetical, would be there for that rare possibility in order to protect rights, not to override rights. We are talking about the use of the notwithstanding clause. As I said to the hon. members of the opposition, if they want to re-invoke the traditional definition of marriage then at least have the honesty to say that they would have to use the notwithstanding clause to do so.

They should not invite Canadians to think it could be done by a magic wand of verbiage. If they are going to re-invoke the traditional definition of marriage, they should be prepared to tell Canadians that they are going to use that notwithstanding clause and if they use it, they are going to be overriding the charter of rights. They are going to be overriding the unanimous decision of the Supreme Court of Canada, overriding decisions of eight provinces and a territory, and they are going to be overriding the rule of law and constitutional law in this country. If they want to do that, at least they should be honest and say that is what they want to do. However, I have not seen that kind of honesty, regrettably, from the opposition in this debate.

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## ROUTINE PROCEEDINGS

[English]

### COMMITTEES OF THE HOUSE

#### FOREIGN AFFAIRS AND INTERNATIONAL TRADE

**Ms. Alexa McDonough (Halifax, NDP):** Mr. Speaker, I rise on a point of order. On the basis of further discussions that have taken place among the parties, I think you would find that there is unanimous consent for the following motion.

I move that the 12th report of the Standing Committee on Foreign Affairs and International Trade presented Monday, June 13, be deemed concurred in without debate or amendment.

**The Acting Speaker (Mr. Marcel Proulx):** Is there unanimous consent?

**Some hon. members:** Agreed.

(Motion agreed to)

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## GOVERNMENT ORDERS

[English]

### CIVIL MARRIAGE ACT

The House resumed consideration of the motion that Bill C-38, An Act respecting certain aspects of legal capacity for marriage for civil purposes, be read the third time and passed.

**Mr. Gord Brown (Leeds—Grenville, CPC):** Mr. Speaker, I would seek unanimous consent to split my time with the member for Niagara West—Glanbrook.

**The Acting Speaker (Mr. Marcel Proulx):** The hon. member does not need unanimous consent to share his time at this time.

**Mr. Gord Brown:** Thank you, Mr. Speaker. I am pleased to stand in this House today and state my unequivocal opposition to Bill C-38.

I am in agreement with many of my colleagues on this issue, in that I support the traditional definition of marriage which is the union of one man and one woman to the exclusion of all others. I believe that all rights can be granted to same sex couples without the need to change this common law definition that stretches back to before Confederation and has helped define this great country for almost 138 years.

The definition of marriage which has been consistently applied in Canada comes from an 1866 British case which holds that marriage is the union of one woman and one man to the exclusion of all others. I believe what the Conservative Party of Canada offers on this issue is a reasonable compromise.

My arguments will not concentrate on these issues. I merely wish to put it into perspective, so that we can compare it to the situation in which we currently find ourselves in this debate.

My discussions will centre on the process by which the government has been attempting to ram this legislation down the throats of Canadians by cloaking its arguments in the mantra of human rights. I want to speak today about the flaws in the process and the lack of accountability to the Canadian people and the method by which we stand here today when we should have been in our ridings having dialogue with our constituents.

There has not been a proper debate on this issue involving the people of Canada and there has not been a proper process followed to allow full debate by parliamentarians.

The government introduced this bill after insufficient public debate and rushed it through the House, and sent it to a committee that I happened to have sat on that in my view did not allow proper examination of witnesses. It was not the proper process. This was a committee that the government knew would discuss the bill quickly. It was designed to get this issue out of the way with little opportunity for debate, permitting no changes. We now find ourselves in extended sittings as we fully expected we would, and we fully expected the government to invoke closure, as it has. The government is shutting down debate. We are going to pass this piece of legislation that flies in the face of the history of our country.

Late in his mandate, the former Prime Minister sent a proposed piece of legislation to the Supreme Court of Canada for a ruling on human rights issues. The current Prime Minister added a clause to that proposed piece of legislation in an effort to hog-tie the court and Parliament. Of course, and thankfully, the court saw through that feeble attempt and made no ruling.

I have several problems with the actions of these two prime ministers. First, this is not a debate about human rights. It is a debate about politics and social policy. Therefore, it should be treated in a much different way from how it has been handled by the current and previous governments.



*Government Orders*

I and my colleagues, and indeed every person in this place, have been elected by Canadians to debate and decide issues of concern to this country and its people. Whether it is the civil marriage bill, budget bills, assistance for foreign countries, missile defence, assistance for our farmers or any number of other issues, we the elected members of Parliament have been chosen by the people of Canada to debate and ultimately decide the direction of this country.

If the party opposite believed that, it would have followed the accepted process for such issues as Bill C-38. That process would have involved some sort of public dialogue and arguments for and against. The government would have brought the issue before the House and it would never have gone to the Supreme Court of Canada first.

A proper process would have taken into consideration the decisions and wishes of a previous Parliament, a Parliament that included some of our current members, which determined that the only definition of marriage that is acceptable to Canadians is the traditional definition of marriage.

A proper process would have included statements by members of Parliament that they would do everything in their power to defend the traditional definition of marriage. It would have included statements by judges on the Supreme Court that defined and defended the traditional definition of marriage.

Let me offer some examples. In 1995 Supreme Court Justice Gérard La Forest, speaking on behalf of four judges in the majority in the Egan decision, wrote:

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

This statement remains the only commentary on the basic meaning of marriage in any Supreme Court decision and would have been included in any proper debate.

• (1040)

I will offer another example. This House, which at the time included the current Prime Minister, voted to uphold the traditional definition of marriage in 1999 and the amendments to Bill C-23 in 2000, with the Deputy Prime Minister, who was the then justice minister, leading the cause of the defence of marriage.

The following is what the Deputy Prime Minister said in 1999 in her eloquent defence of the traditional definition of marriage. She said:

We on this side agree that the institution of marriage is a central and important institution in the lives of many Canadians. It plays an important part in all societies worldwide, second only to the fundamental importance of family to all of us... The definition of marriage, which has been consistently applied in Canada, comes from an 1866 British case which holds that marriage is "the union of one man and one woman to the exclusion of all others". That case and that definition are considered clear law by ordinary Canadians, by academics and by the courts. The courts have upheld the constitutionality of that definition.

We have also heard comments from our Minister of Immigration that are consistent with that.

If the bill had followed proper process, these parliamentary statements and the court decisions would have had to be factored into the formulation of any bill that upholds the rights of same sex couples.

There may have been, and rightly so, a referendum. After this type of proper debate, the government would then have presented a bill for first reading, second reading and a proper committee hearing. The proper committee for the bill would have been the justice committee, but instead of carrying out the correct process, the Liberals formed a special committee and then loaded it in their favour. They charged through committee hearings at a blistering pace that did not allow ordinary parliamentarians the time for proper research and questioning of witnesses.

The Liberal chair of the committee ruled suggested modifications by the Conservatives to be out of order and the committee swiftly sent this piece of legislation back to the House for debate and third reading.

As we witnessed last week, the government will stop at nothing and use any trick in the book to avoid proper debate and reach its own predetermined end.

As I prepared this speech I wondered if I would in fact be granted the time to present it here in this place. I wondered that because of what we witnessed last week. I and most Canadians expected the coalition government to barricade proper debate on the bill once again, as it has, and close the doors on this sad chapter in the history of this place.

We all know that if a free vote were allowed by all parties, where MPs could represent the wishes of their ridings, the legislation would fail. It is this lack of proper process and the lack of real democracy more than anything, that I am truly concerned with today. I also have a great deal of concern about the lack of protection of religious freedom and the strengthening of that protection against discrimination for religious beliefs.

At this time I would like to move an amendment. I move:

That the motion be amended by deleting all the words after the word "That" and substituting the following therefore:

Bill C-38, an act respecting certain aspects of legal capacity for marriage for civil purposes, be not now read a third time, but be referred back to the legislative committee for the purpose of reconsidering all of its clauses with the view to strengthen protection against discrimination for religious beliefs and that the legislative committee on Bill C-38 be reconstituted for the purpose of this reconsideration.

\* \* \*

• (1050)

**STATISTICS ACT**

The House proceeded to the consideration of Bill S-18, an act to amend the Statistics Act, as reported (without amendment) from the committee.

*Government Orders*

**Hon. Dominic LeBlanc (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, there have been consultations among all the parties. I particularly want to thank the member for Edmonton—Leduc, the member for Montmagny—L'Islet—Kamouraska—Rivière-du-Loup and the member for Windsor West for their important work on this bill.

I think you would find unanimous consent for the following motion. I move:

That Bill S-18, an act to amend the Statistics Act, be deemed to have been concurred in at the report stage, read a third time and passed.

**The Acting Speaker (Mr. Marcel Proulx):** Is it the pleasure of the House to adopt the motion?

**Some hon. members:** Agreed.

(Motion agreed to, bill concurred in, read the third time and passed)

\* \* \*

**CIVIL MARRIAGE ACT**

The House resumed consideration of the motion that Bill C-38, An Act respecting certain aspects of legal capacity for marriage for civil purposes, be read the third time and passed, and of the amendment.

**Mr. Paul Szabo (Mississauga South, Lib.):** Mr. Speaker, as the member knows, I also oppose Bill C-38. I believe that marriage is the legal union of one man and one woman to the exclusion of all others.

One of the important debates that took place on Bill C-38 had to do with the issue of whether this was a human rights issue on an equality basis. I wonder if the member would agree with the proposition that this is a matter of rights, but it is a matter of the rights of children and of families which have been ignored in this legislation by de-linking children from their parents.

**Mr. Gord Brown:** Mr. Speaker, the whole issue revolves around the rights of children. If we make marriage an adult-centred institution then we do so to the detriment of it being a children-centred institution. That is one of the many concerns I have about this legislation.

I talked about the process and I would like to go back to that for a second because it is another thing that I am greatly concerned about. In 2003, when the government had the opportunity to appeal the decision of the Ontario Supreme Court, it failed to do so. Despicable things went on in the committee. Liberal members of the committee hid in the hall, refusing to allow a quorum to address that question. It is a really sad state of affairs that our country is now in this state.

If Bill C-38 is such a great bill and such a great concept, why would we not allow proper debate, discussion and opportunity? If it were so good there would have been no need for the games and no need for this underhanded process to sneak the bill through Parliament.

**Hon. Keith Martin (Parliamentary Secretary to the Minister of National Defence, Lib.):** Mr. Speaker, I listened intently to the hon. member's comments and there were really three parts to his speech. I will address two of those parts and ask him a question.

The first part has to do with the issue of democracy. If he had listened to the Minister of Justice he would have heard that the committee had 500 witnesses, visited 12 cities and received 300 submissions. Bill C-38 went through committee clause by clause. All of what he has asked for has already happened exhaustively.

My second point is with respect to the issue of religious beliefs. As the minister said very clearly, the right to religious beliefs and the protection of religious institutions to act out their beliefs is the first among all rights within this country.

The member mentioned the issue of children. Does he not think that Bill C-38 actually strengthens the rights of children because gay and lesbian couples actually have children? Bill C-38 would enable lesbian and gay couples to have a civil marriage, not a religious marriage because it is up to religious institutions to marry whomever they wish. Does he not think that Bill C-38 strengthens the rights of those children whose parents happen to be gay or lesbian?

• (1055)

**Mr. Gord Brown:** Mr. Speaker, first, let us talk about democracy. In 2003 the justice committee was shut down without the opportunity to report to Parliament. Liberal members were hiding in the hall and not allowing quorum.

I sat on the legislative committee that dealt with Bill C-38. Witnesses were bunched four and five at a time. I sit on another committee and that is not the way we do things. Witnesses were given 24 hours or less notice to appear. They were given no opportunity to have their presentations translated. In my view that was not a proper process. I know members from the other side will talk about the lengthy process with 400 witnesses but the justice committee was not dealing with this legislation.

**Mr. Mario Silva (Davenport, Lib.):** Mr. Speaker, today is a significant day for many of us in the House. It is the one year anniversary for those of us who were elected last year. I want to thank the good people of Davenport for electing me a year ago.

It is also a very significant day for the tens of thousands of gays and lesbians across the country. It is a day when we say as parliamentarians and as a government that we recognize them as full citizens under the law. Equality for all, for once, prevails. It will be a very historic day in years to come when people look back on this day as being the day we started to believe in equality and put forward the civil marriage legislation.

The leader of Her Majesty's official opposition stated that the law would be less weakened today if it is passed because it has the support of the Bloc Québécois. Does the hon. member share the view of his leader?

**Mr. Gord Brown:** Mr. Speaker, I congratulate the member for Davenport on his election a year ago today, as was I.

The member asked whether I supported my leader's comment about the legislation having less legitimacy because it was not supported by a majority of federalist members of Parliament. I think that is key because it is important that we support our country. I think the hon. member would be concerned about separation. We talk about a unified country. It is very important we have a united country and I stand four-square for that.

*Government Orders*

**Mr. Dean Allison (Niagara West—Glanbrook, CPC):** Mr. Speaker, I rise in the House again today to speak to Bill C-38. As I have previously stated, I am fully aware of both the privilege and responsibility that I have been given as a representative of the diverse communities and residents that compose the riding of Niagara West—Glanbrook. All my hon. colleagues in the House also have the duty to reflect the values and concerns of their constituents.

Each time I have risen to speak on the bill, I have clearly said that I will be voting against the legislation that will change the definition of marriage. In my vote I have faithfully taken the direction that has been so clearly expressed by the people of Niagara West—Glanbrook.

More than any other item on the government's agenda, which has been incredibly lacking when it comes to effectively responding to real concerns of Canadians, the issue of same sex marriage has evoked an outpouring of commentary.

The same sex marriage bill has inspired tremendous debate and considerations throughout all segments of my community. To date I have received feedback for up to close to 10,000 individuals from my constituency and thousands more from coast to coast on the definition of marriage.

Overwhelmingly the residents of the communities of Niagara West—Glanbrook have indicated support for maintaining the current definition of marriage. I agree with the majority of public views I have received, that marriage is a union between one man and one woman.

During the election campaign I promised my constituents that I would vote in support of this definition and that promise I have kept with them.

I have solicited the opinion of my constituents by asking them through news letters, emails and other correspondence and I would like to share the response. Almost 90% of my constituents are against changing the meaning of marriage, 9% support changing it and the remainder has no opinion.

Contrary to the claims of the Prime Minister with regard to anyone who does not support the legislation, the residents of my riding are Canadian and so are the millions of Canadians from coast to coast who oppose the legislation. Are their voices any less important than other Canadians? In my eyes, definitely not.

However, I am not so confident that all members of the House can look their constituents in the eye and claim that they wholeheartedly represent them. How long can the Liberal government claim that its is fixing the democratic deficit when it refuses to hear the voices that oppose it?

Just last week the government tabled the report on democratic reform which it stated was at the top of its priority list. It has stated that its action plan on democratic reform is based on three pillars of democracy: ethics and integrity, restoring the representative and deliberate role of MPs and accountability.

The Liberal government has failed miserably on all three counts. In the action plan the government has stated:

Democratic Reform will re-connect Parliamentarians with Canadians by giving MPs greater freedom to voice the views and concerns of their constituents, by providing parliamentary committees with more resources to influence and shape legislation, and by requiring that Ministers are actively engaged with MPs and Committees on priorities and legislative initiatives.

What this means for individual Canadians is that the people they elect will be able to better reflect their views in the process of government. It also means increased responsibilities for individual Members of Parliament to ensure that these reforms result in real change.

That is a quote from the report. From my time I have been here in the last year, that could not be further from the truth. Many committees have made many recommendations to the House that have been totally ignored or just shelved for a later point in time.

I would like to repeat one more time that I hope all members from all parties take this to heart. The government talks about the fact that democratic reform will reconnect parliamentarians with Canadians by giving MPs greater freedom to voice the views and concerns of the constituents. What this means for individual Canadians is that people they elect will be better able to reflect the views of the process of government. It also means increased responsibilities for individual members of Parliament to ensure that these reforms result in real change. I am not exactly sure at what point in time Parliament strayed away from this democracy by honouring the wishes of Canadians, but now is the time that we need to restore democracy.

The government can produce reports, action plans and even create a minister of democratic reform, but these measures are meaningless if members of the House are to ignore the voices of Canadians on an issue that will alter one of the most fundamental institutions in our society.

• (1100)

The government can produce reports, action plans and even create a Minister of Democratic Reform, but these measures are meaningless if members of the House are to ignore the voices of Canadians on an issue that will alter one of the most fundamental institutions in our society. The fact is the Liberal government and, indeed, the Prime Minister, are not interested in restoring faith in democracy. They will even alienate their own beliefs along with their constituents' beliefs to ensure that they maintain whatever little power they may have left.

I am baffled that many members of the Liberal government who not so long ago spoke so fearlessly in preserving the traditional definition of marriage. Now they immediately will do as they are told and vote for the bill.

It has been quoted before, but I would like to quote the speech of the hon. Deputy Prime Minister delivered in the House on September 2003 when she was the justice minister. She stated:

Marriage has fundamental value and importance to Canadians and we do not believe on this side of the House that importance and value is in any way threatened or undermined by others seeking to have their long term relationships recognized. I support the motion for maintaining the clear legal definition of marriage in Canada as the union of one man and one woman to the exclusion of all others.

*Government Orders*

In free votes in 1999 and again in 2003, the hon. Deputy Prime Minister voted for maintaining the traditional definition of marriage, as did many others in government. Yet she along with her cohorts will stand in the House again today, as she did last night, and force the will of the Liberal government on the Canadian people and vote for a bill that will reverse exactly what she fought so hard to preserve on two previous occasions. Maybe "fought" is too strong a word.

My intention is not to single out the Deputy Prime Minister. She is just one of the many in cabinet who publicly opposed changing the traditional definition of marriage in the past. In fact there are currently 20 Liberal members who in 1999 freely voted to preserve the traditional definition of marriage as the union of one man and one woman to the exclusion of all others, who now vote to destroy marriage. There were 34 Liberals who have voted against the government. This also includes the current Prime Minister.

There could be many more Liberal members whose constituents oppose the legislation, but without a free vote, the voices of Canadians will be ignored and our democracy trampled on once again.

I applaud the hon. members who have put their political careers aside to truly represent what they and their constituents believe is right. They have sacrificed their aspirations for what is best for the country. Why will the Prime Minister not do the same thing?

It is rather unfortunate that the Prime Minister has given his cabinet an ultimatum: Vote in favour of the government or lose your ministerial perks.

The NDP, a party which also claims it is the true voice of democracy, has also whipped its members into submission. The only member of that party who dared voice an opinion has been muted and has been told to sit on her hands during a vote on one of our society's fundamental institutions. This is just another example of the Liberal-NDP coalition forcing members to toe the party line. I will mention, though, the member did vote last night and I was encouraged to see that.

Coercion is not a tool of democracy, it is a tool of tyranny. All hon. members should resist the threats of having their political careers ended prematurely by voting against the bill. As elected representatives, we were sent to Ottawa for a specific reason: to be the voice of our constituents, to embody the wishes of the great people of this country and to protect their democracy and freedom.

The justice minister has presented the bill as a charter issue. He has said that it will give all people equality. He has stated that religious freedoms will not be affected by the passage of the bill. I would challenge him on this.

There are numerous instances that have already occurred which have put religious freedoms at risk. Scott Brockie owns a printing company called Imaging Excellence. In 1996 Mr. Brockie refused to provide printing services to the Canadian Lesbian and Gay Archives on the basis that the cause of homosexuality was offensive to his religious belief. The CLG Archives filed a human rights complaint under the Ontario Human Rights Code, alleging that Mr. Brockie discriminated against them on the basis of sexual orientation. A board of inquiry, appointed under the Ontario Human Rights Code, found that Mr. Brockie did discriminate and fined him.

Then there is the case of Mr. Kempling. Chris Kempling is a teacher and a school counsellor in Quesnel, B.C., who was disciplined by a professional body, the B.C. College of Teachers, for writing letters to the editor of a local newspaper denouncing the school's teaching on homosexuality.

The B.C. Supreme Court upheld the discipline and said that Mr. Kempling was not entitled to protection. Mr. Kempling was not even working at the time.

I could mention Bishop Fred Henry as another individual, the Knights of Columbus and the list goes on and on. Bishop Henry said:

The denial of the social and legal status of marriage to same-sex couples is not discrimination. It is not something opposed to justice; on the contrary, justice requires such an opposition.

● (1105)

It is the right and the responsibility of all citizens who are troubled by the proposal to reinvent the institution of marriage, to enter into the debate and, with clarity and charity, to make their voices heard by their fellow citizens and our political leaders.

It is through their elected representatives that we must let the citizens of our great country be heard. The majority of Canadians have clearly stated that they want marriage to continue to be defined as the union between one man and one woman to the exclusion of all others. When the vote is called, I would encourage all my colleagues to courageously stand and vote against Bill C-38.

**Hon. Keith Martin (Parliamentary Secretary to the Minister of National Defence, Lib.):** Mr. Speaker, we tend to come back to the issue of supposedly the lack of democracy on this bill, but it has been expressed quite widely what has taken place with respect to the Constitution. I want to get back to the root of what appears to be going on here.

When so much anger is directed against a particular bill, what is the true root of that anger? If we scratch behind the scenes, what is really driving the opposition? I completely understand the views on both sides of this. I understand why many people would oppose this, particularly when it is consistent with their religious beliefs, which they have every right to protect. We must protect, acknowledge and respect the beliefs of people.

Fear is driving much of the animus that has come from members on the other side who oppose this. There is the fear of people's marriages, of their children, of their children's future relationships and of the direction of Canadian society. That has been expressed many times by the other side. Is this fear really rational? Are the concerns as expressed by many members from the Conservative Party about where the issue of marriage is going, how this will affect heterosexual marriage, whether it will dilute or destroy the institution of marriage?

*Government Orders*

Does my hon. colleague not think the bill will have absolutely zero bearing whatsoever on heterosexual civil marriage and on religious marriage? The bill has everything to do with civil marriage and nothing to do with religious marriage? Does he not see this will not affect his marriage or damage heterosexual relationships or marriages? It will broaden the concept of marriage to include those people who are in a loving, caring relationship. They can then share in that institution as other heterosexuals do.

• (1110)

**Mr. Dean Allison:** Mr. Speaker, one of the bigger questions I have is this. If there is no fear or no reason why we should be concerned, if there is no basis for our concern, and in many cases the government has tried to assure us that religious freedoms will be protected, then why did the Minister of Justice say in his speech that in every case religious freedoms would be trumped by human rights?

What we see right now is if it is a human right but it is not a religious right, those things do not matter. I have given a half a dozen examples. My colleagues have given many examples where people who have been in front of the courts have been discriminated against. They are being fined and dragged into lawsuits which are quite possibly costing them their homes, given the costs to defend these cases.

Right now individuals have religious choices, but their personal beliefs are being trumped by what society wants. We are not even at the point where we have changed the name. We have broadened the definition.

If it is a question of incorporating the rights or broadening the rights, why does this group not look at a new name? Why does this group not look at establishing something of its own. Marriage has been fully entrenched in our society for thousands of years?

In 1999 and 2003, 20 government members, including the member, voted to support the traditional definition of marriage. What has changed in his mind or the minds of his constituents? Why in 1999 and in 2003 was the traditional definition of marriage important but now, as we move forward in 2005, there is a difference. What has changed?

[*Translation*]

**Mr. Richard Marceau (Charlesbourg—Haute-Saint-Charles, BQ):** Mr. Speaker, what a great day it is today for rights and freedoms in Quebec and Canada. This great day should be celebrated, not only by the minority that in the next few days will finally obtain the right to marry, anywhere in Canada, but also by all the heterosexuals who have supported the cause of equality, the cause of rights and freedoms, whether from the very beginning or only more recently. They know very well that confirming the rights and freedoms of a minority does not take anything away from the majority that previously enjoyed these rights and freedoms.

It has often been said in this debate, which has been going on now for many a long year, that marriage is an important institution in our society. That is very true. It is an institution through which society or the state recognizes the commitment that two people make to one another. Through the institution of marriage, society, the state, recognizes the importance of conjugal love.

The fact that homosexuals have fought hard and have spent time, money and energy for access to marriage—this basic institution in our society—demonstrates the enormous respect they have for it and their desire to gain access to it. Their entry into the institution of marriage will strengthen it because they are people who believe in it and have spent years fighting for access to it.

I would like to make two comments on the side. People who followed the debates in committee will know what I want to say. Marriage is not a static institution, contrary to what some people claim. I said so yesterday and it is important to repeat it. Just a few decades ago, when a woman married in Quebec she lost her adult status and became the responsibility of her husband, just as she had previously been the responsibility of her parents. But society changed, and as it changed, the various institutions and elements that make it up changed as well. Fifty years ago, women were not considered equal to men; now, they are.

Today, it is high time to give couples consisting of same sex partners access to the institution of marriage.

There is something else as well that we have heard many times in this debate, namely that marriage is supposedly—to use the expression of my friend in the Conservative Party who spoke before me—a child-centred institution. I challenge every member in this House who has gone before the altar to get married, whether once or more than once, to say whether having children was ever part, even one time, of the vows they exchanged. The answer is no.

When a couple gets married they promise fidelity, mutual support and friendship; they do not promise to have children. The purpose can vary according to what the couple wants or can do. What marriage celebrates is the recognition of conjugal love between two people.

The bill before us was improved by two amendments on the freedom of religion.

• (1115)

Although the bill deals specifically with civil marriage, some religious groups met with us many times to express their fears and apprehension concerning freedom of religion. It was with the utmost respect for these religious groups that my colleague from Hochelaga and I addressed the problem. We were very open to the representations made by the representatives of churches, temples, mosques and synagogues.

Mr. Speaker, you chaired this legislative committee admirably. I told you that privately today and now I am telling you that in public. Although I do not share the same views as these religious groups that oppose opening civil marriage to gays and lesbians, the other members of the committee and I listened to what they had to say. After several meetings with these religious groups and individuals, we presented an amendment, the only one to be adopted yesterday at report stage. It is an amendment that states in black and white that no religious group will lose its status as a charitable organization for refusing to celebrate marriages between same sex couples. One of these Christian groups made a suggestion for an amendment, which we presented and which was passed yesterday.

*Government Orders*

I want to say one final word on freedom of religion: it is as important and as fundamental to the Bloc as the right to equality, which, in our case law, now includes the right for same sex partners to marry. This freedom of religion is fundamental in a free and democratic society such as those in Quebec and Canada. This freedom of religion must not mean that the religion of some should become the law for others. We do not live in a Catholic, Evangelical or Protestant state or in a Jewish, Islamic or Buddhist state. We live in a secular state, where the separation between church and state is one of our civilization's finest achievements. It is an example of the fundamental principles from the age of enlightenment that have enabled us to expand the definition of marriage to include same sex partners for civil purposes.

We observe society's evolution with respect to civil marriage. However, we are in no way changing the Catholic vision of marriage as a sacrament, according to this church, which does not accept or allow divorce. This in no way changes Jewish marriage, for example, where, in order to marry, both partners must belong to the Jewish faith. This in no way changes any other religious wishes or religious definitions of marriage.

In any state with a justifiable and constitutional charter of rights and freedoms, the courts play an important role. For about the past 10 years discrimination on the basis of sexual orientation has been illegal, under section 15 of the Canadian Charter of Rights and Freedoms.

Furthermore, the highest courts in eight jurisdictions in Canada, including the appeal courts of Quebec, Ontario and B.C., which are the three most densely populated provinces in Canada, have ruled that the so-called traditional definition of marriage is unconstitutional. The Ontario and B.C. appeal courts struck down the common law definition of marriage, which dated back to 1866. The Quebec appeal court struck down the legislated definition of marriage that was passed by this Parliament in 2001.

• (1120)

That very clearly contradicts those, in the Conservative Party, especially, who said that Parliament had simply to reaffirm its belief in or its support for the so-called traditional definition of marriage, and the courts would follow.

First off, allow me to say that, each time someone says "all we need to do is such and such", all too often the solution proposed is overly simplistic. The "all-we-needs", as we might define them, are simplistic solutions for complex problems.

I have to agree as well with the 134 law professors who took the fairly unusual and exceptional step of signing a joint letter to the leader of the Conservative Party. In the letter, these eminent professors said, rightly, that the only way to make marriage between partners of the same sex illegal in Canada would be to use the notwithstanding clause.

That was my opinion before the letter. My legal analysis led me to say at the time—and these 134 professors concur—that the only way, today, for us parliamentarians to prevent partners of the same sex from marrying is to say that, notwithstanding what the courts have said, we are suspending the rights and freedoms recognized by

the courts for a period of five years, five years being the maximum period the notwithstanding clause may be applied.

Never would I vote, nor would I ask my colleagues to vote, to suspend the recognized rights and freedoms afforded a minority that has been persecuted too long, not only in Quebec and Canada, but throughout the world.

The choice facing us is to support Bill C-38, which would expand the right of same sex partners to marry in the eight jurisdictions where the right already exists and in the other jurisdictions where it does not, or to state very clearly that we are prepared to use the notwithstanding clause.

I have participated in this debate for many years. I have been an MP for eight years, during which time few matters I have been involved in as a parliamentarian have made me as proud. I am proud to take part in the process that will broaden the right to equality of thousands of Quebeckers and Canadians who want to marry. Be they two men or two women, they want to be able to say publicly to society, the government and the world that they are committed to a solid relationship, they are in a relationship of equals, and they are publicly declaring their love for each other.

Having taken part in this debate, having heard the vast majority of the 472 witnesses who appeared before the committee the first time around and the 60 or so who testified before the legislative committee, having travelled across Canada, from Vancouver to the Maritimes, via Iqaluit, Montreal Toronto, and many other places, and having received wedding pictures over the past two summers of couples who told me, "Look, we got married. Thank you, thank you for your part in it", I say that is wonderful, The pleasure is all mine.

To conclude, when I rock myself in my rocking chair, a few decades from now I hope, with my dentures in a glass on the side table, I will tell my children about what I did when I was a member of Parliament. When they ask me, "Where were you, Dad, when this debate took place? What did you do to provide these men and women with the same right as everyone else?", I will be able to say that I was there and that, on this June 28, 2005, I voted in favour of these men and women finally having access to marriage, as opposite sex spouses have had for decades, centuries, millennia.

• (1125)

**Ms. Françoise Boivin (Gatineau, Lib.):** Mr. Speaker, I thank the member for Charlesbourg—Haute-Saint-Charles for his excellent speech. I had the pleasure of sitting on the legislative committee on Bill C-38, and I share his opinion that you did an excellent job as committee chair, knowing the passion this subject arouses. Above all, I admired the calm and truly democratic way in which everything proceeded.

Obviously, when I was elected a year ago, I had no way of knowing how turbulent this Parliament would be. However, like my colleague from Charlesbourg—Haute-Saint-Charles, I will be able to say that I took part in what I consider a historic moment, in the sense that this vote will reaffirm the leadership role that Canada can play in terms of the right to equality.

*Government Orders*

I want to take advantage of my colleague's background in law, since we are not often able to call upon counsel for free in the House. So, I want to know what he thinks about an argument often made by our Conservative friends in committee and during the debates at the different stages of Bill C-38.

I am talking about the fourth question included in the reference to the Supreme Court of Canada on the traditional definition of marriage. Since the Supreme Court did not answer this question, our Conservative colleagues frequently use this as an excuse to claim that Parliament could simply reaffirm the traditional definition of marriage. So, I want his opinion on this.

If I may, I also want to ask his opinion about the frequent complaint that this legislation is being rushed through with no regard for the democratic process. In this context, I want—

• (1130)

[English]

**Mr. Bradley Trost:** Mr. Speaker, on a point of order, I have done a head count and by my numbers there are not 20 members here. I would like to call for a quorum to ensure we have enough proper representation.

*And the count having been taken:*

**The Acting Speaker (Mr. Marcel Proulx):** The count confirms that there is quorum in the House.

[Translation]

I would therefore ask the hon. member for Gatineau to finish her question.

**Ms. Françoise Boivin:** Mr. Speaker, I certainly prefer to speak before a larger crowd. I am very happy, therefore, to see that everyone here is listening carefully to what I have to say.

My questions were simple and I think that my friend from Charlesbourg—Haute-Saint-Charles, with whom I sat on the legislative committee considering Bill C-38, could hear them. They were about question 4 in the reference to the Supreme Court of Canada and the lead-up to the report on Bill C-38. I would like to know whether the hon. member thinks that the whole process is going too quickly.

**Mr. Richard Marceau:** Mr. Speaker, I also enjoyed working with my colleague from Gatineau on this committee.

In regard to her first question, it was indeed quite surprising to hear the Conservative committee members saying, “The courts have not ruled. So none of that is clear”.

I would like to read two passages that I have before me. The first is from a ruling by the British Columbia Court of Appeal on the traditional definition of marriage. I am going to read it, knowing that she understands English to some extent because we have taken part in debates together in English on various subjects. So I am going to read it in the original language because I do not have the translation.

Paragraph 7 in the ruling by the British Columbia Court of Appeal says:

[English]

—I conclude that there is a common law bar to same-sex marriage; that it contravenes s. 15 of the Charter; and that it cannot be justified under s. 1 of the Charter. I would grant the declaratory relief set forth at para. 158, infra,—

[Translation]

And the Ontario Court of Appeal said the following in paragraph 108, and I encourage my colleagues and the people listening to us to go and see for themselves if they want:

[English]

Based on the foregoing analysis, it is our view that the dignity of persons in same-sex relationships is violated by the exclusion of same-sex couples from the institution of marriage. Accordingly, we conclude that the common-law definition of marriage as “the voluntary union for life of one man and one woman to the exclusion of all others” violates s. 15(1) of the Charter.

[Translation]

It is obvious, therefore, to anyone who has taken the time to read the rulings that the courts were very clear that the so-called traditional definition of marriage was unconstitutional.

Insofar as the time we are allowed is concerned—a matter that we have already discussed—I would simply like to say that I share the view expressed by the Conservative Party's favourite newspaper. Usually, they rely a lot on this paper, and I encourage them to do so again.

I think that I quoted the editorial yesterday, but it is important to read it again. It is the editorial for Friday, June 3, 2005 entitled, “The marriage debate has had its day”. I apologize for not having the translation. The paper says:

• (1135)

[English]

But whatever side of the issue one is on, the notion that the reforms are being rushed through without proper debate is overblown. In fact, it's hard to think of a policy issue that has been the subject of more debate in this country over the past two years. After committee hearings, endless public analysis and a 2004 election in which voters were well aware that a re-elected Liberal government intended to legalize gay marriage, the personal stance of virtually every MP in the country is already well-documented. And given the degree to which opinions on the issue are inflamed, it is highly unlikely that any of those positions will change in the foreseeable future, no matter how much more debate there is.

[Translation]

I could not have put it better myself.

[English]

**Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.):** Mr. Speaker, I enjoyed my colleague's speech very much. I also enjoyed sitting on the civil marriage committee along with him and many others. I have to add my voice of commendation for the way that you, Mr. Speaker, chaired that committee and particularly the way you managed the relationship between the member for Provencher and the member for Hochelaga, which I thought showed great sensitivity.

I am proud to be standing here today in the House, proud that tonight we will indeed provide equality to gay and lesbian Canadians, something that they deserve and something whose time has come.

*Government Orders*

One of the issues that we heard a lot from witnesses in committee was about the changing roles of marriage and how marriage has changed. We have heard here today some concern from opposition members that marriage has not changed, that this is too dramatic a change. We all recall that not that many years ago blacks and whites did not marry, and Anglicans and Catholics did not marry. Marriage is an evolving process.

One of the concerns that people brought forward to the committee and other places was that Bill C-38 might lead to things such as polygamy. I wonder if the hon. member might be able to reassure Canadians that they do not have to worry about polygamy in the near future.

[*Translation*]

**Mr. Richard Marceau:** Mr. Speaker, first, I would like to thank the hon. member for Dartmouth—Cole Harbour for his question and say that I too enjoyed very much sitting with him on the committee.

Second, when my colleague from Dartmouth—Cole Harbour said that marriage is an evolving process, I was very surprised to hear a Conservative member shout, “Wrong”. I wonder what planet our Conservative colleague lives on. He is a young, and probably a dynamic person. If he thinks that the institution of marriage has not evolved over time, I suggest, in a friendly, gentle and humble way, that he should do his homework and carefully review history, particularly as regards the race based exclusions that existed and the lack of equality between men and women.

There is also the fact that, for hundreds of years, in our own Judeo-Christian tradition, polygamy was permitted. Until the year 1000, in the Jewish tradition, Ashkenazi Jews were allowed to be polygamous. Similarly, until just recently, Sephardic Jews who practised polygamy in their countries of origin were allowed to remain polygamous upon moving to Israel. So, marriage has evolved. I hope that my colleague is not suggesting that it did not.

As for polygamy, I believe this is an unfounded fear. One of the tenets of our legislation here, in Quebec and Canada, is gender equality. But polygamy, or its mirror image polyandry, means inequality between partners within the couple, which means gender inequality. So, any conjugal relationship that is not based on equal partners would de facto be contrary to this equality right that has opened the door, thank God for that, to same sex marriage.

• (1140)

[*English*]

**Mr. Brian Masse (Windsor West, NDP):** Mr. Speaker, it is a pleasure to speak today to Bill C-38. It is an honour for me to be splitting my time with the member for Halifax.

Today is a historic moment in Canadian history. We will be breaking new ground in a country that has individual civil liberties and rights at its forefront, and which are contained in our Charter of Rights and Freedoms and Constitution. We will be reaffirming our commitment to those rights today.

The member for Halifax is an interesting case study of a changing society and rights and freedoms. The member for Halifax was a trailblazer for women's issues. Back in 1980 she was elected to her provincial legislature as the first female leader in this country. This country has benefited in the last 25 years since her election because

women have become more involved in municipal, provincial and federal politics. Women have not yet reached their full representation in our society in terms of business, industry, or politics. However, the steps that have been taken have benefited Canadians. My colleague from Halifax needs to be commended on this historic day for Canadians.

I want to talk a bit about Bill C-38 in terms of what it means aside from the issue of whether or not we should support it. I and my party will be supporting this legislation for a couple of reasons.

The first and foremost reason is the fact that it involves an issue relating to freedoms and rights. We in the NDP believe it is very important to protect these freedoms and rights for all members of society. The courts have done through the back door what we in Parliament should have done through the front door. The courts have acknowledged that gay and lesbian couples deserve the right to be unified in marriage by those religious institutions that choose to do so.

It is important to note that any religious organizations that feel it is not within their practice or faith to perform civil marriages do have the right to have their traditions reaffirmed, defined and protected. They need to be masters of their own domain. Their own congregations need to decide for themselves what is in the best interests of their members. It should not be left up to the government to decide.

At the same time, there are those religious institutions that want to perform same sex marriages and have expressed this right to their members. They have had this debate and their congregations want gay and lesbian couples to celebrate their love in a similar fashion as heterosexual couples.

What happens in the nine provinces and the one territory that has passed this legislation if we do not pass Bill C-38 in this place? Nothing will change. We will then be denying rights to these jurisdictions in Canada.

Since the Ontario court ruling in 2002 we have witnessed thousands of couples getting married across this country. They have expressed their feelings in a way that is open and inclusive, and one that they feel is healthy for themselves. How do we undo that?

I would like to take this opportunity to thank all the people in my community who came forward to discuss this issue, whether they were opposed to it or in favour of it. One of the most interesting conversations that I will always remember was with a young man who had been adopted by two women who were married. He did not have a family before this relationship. His family wants to keep their relationship and show the rest of the community that they are in a strong relationship. Their church endorses their relationship. What gives me the right to take away that relationship?

He asked me how we would benefit people if we treat them differently? How could that court judgment be used to treat people differently and not equally?



*Government Orders*

● (1145)

It reminds me of the kind of division we have in that some people believe that people can be treated differently. They put it in the guise of being equal but different. I remember when those arguments were used in the civil rights movements. Quite frankly there was a discussion earlier here about people of different races marrying and the stigma attached to that. I am married to Terry Chow, who was originally born in Hong Kong. We have two beautiful children. At times I still get hate mail in my office because I married someone outside my specific race. Those people perceive that my children and my marriage are not equal and they write to me. I will not even mention some of the language they use. That is the reality. There are some people who still do not accept that and it is unfortunate.

That is one of the reasons we have to pass Bill C-38, because when we protect minority rights we protect all Canadians. We have to make sure that people are going to have fair access.

I have had other interesting discussions with people regarding why they want us to move on this issue. I have had discussions with soldiers, firefighters and police officers who tell me that they put their lives on the line every single day for Canadians. They get up in the morning, go to work, not knowing whether or not they will return home. There could be an accident at work, in service to the community or the country. What right do I have as a politician to deny them the equality that other citizens enjoy? Important policy to keep in mind is that the government has a responsibility, as do we parliamentarians, to act on something when we know at the end of the day the conclusion will be through the court system.

That brings me to a very important aspect about this whole debate. If we do not pass this bill, we will simply be sending everything back to the courts. It is an interesting strategy for those who are criticizing the decision of the courts that the very best we could do is to send it back to the courts, to the other four jurisdictions, but where would we go from there? Would it be the notwithstanding clause at that point? Do we go in a circle in the parliamentary cycle in the fall and discuss this issue over and over again?

We need to move forward. The amendments that have been made to the bill, the criticisms that have been related to it such as religious freedoms and sensitivity about it have actually been healthy in some respects. They have helped define the fact that Canadians are still very much interested in having their own religious autonomy. That is going to be protected by the charter. Also, there has been a strengthening of the bill which was unanimously agreed to. I want to read a specific clause in the bill about that which is important to note. It is clause 3.1, freedom of conscience and religion and expression of beliefs:

For greater certainty, no person or organization shall be deprived of any benefit, or be subject to any obligation or sanction, under any law of the Parliament of Canada solely by reason of their exercise, in respect of marriage between persons of same sex, of the freedom of conscience and religiously guaranteed under the Canadian Charter of Rights and Freedoms or the expression of their beliefs in respect of marriage as the union of a man and woman to the exclusion of all others based on that guaranteed freedom.

That is important. It does not just say that the court is going to define this. It says that Parliament in its own will wants to reinforce the fact that we want those organizations to make their own decisions and judgments. There was another amendment related to

charitable status so that churches, synagogues and mosques, for example, may decide that they do not want to perform these services and they will not be undermined because they might make different practising decisions.

At the end of the day it comes down to why we should do this. We need to do this because it is the right thing to do.

Parliament has been watching the courts make decisions. At a certain point in time our country has to act. We know that gays and lesbians in our communities are not being treated equally across the country. It is time to finally pass Bill C-38 and make sure that the voice of Parliament is heard in this debate and that we move forward as a country with equality for all.

[*Translation*]

**Ms. Françoise Boivin (Gatineau, Lib.):** Mr. Speaker, I thank my colleague from Windsor West for his very interesting speech. I am curious to learn what he thinks about another argument that has been frequently raised in the House or during the hearings in committee. People say okay, gays and lesbians can have the same rights, but this union should be called something else. I want to hear his opinion on this point since many people consider this to be such an obvious and simple solution, instead of arguing with each other and dividing the country.

● (1150)

[*English*]

**Mr. Brian Masse:** Mr. Speaker, my colleague has raised some very important points in that this goes to the whole argument that people have the right to be treated differently. This society cannot be founded on that principle. Society has to respect the rights of all individuals. If we are going to make arbitrary decisions about who can have a different categorization of rights, then we will see challenges in the court system in the future. Also, it is fundamentally wrong for a nation to progress in that way.

I mentioned my own personal relationship with someone of a different ethnic origin and that there has been a very negative stigma related to it. We have not even solved that in our society. That is why it is important for us as Canadians and parliamentarians to not try to do something through the back door in terms of changing rights of individuals when we know it is going to be thrown back to the courts. Once again it makes it very interesting because those who want to do that will simply end up throwing everything back to the courts that they have been criticizing from day one. I do not think that is leadership.

I noted the fact that there are only four jurisdictions left in Canada that do not have this equality. That is about 10% of the population, which means that 90% of the population have already been marrying same sex couples. Some have been doing it for years. Those couples are in society. They are on my street and in my neighbourhood. I have not witnessed the erosion of the family unit. In fact, I have seen a strengthening in many respects because I have seen people being able to express themselves in a way that has less restrictions. That is very important for those individuals.

*Government Orders*

If we are going to have a different categorization of individuals, it is a slippery slope for Canadian society. It opens the door for other possibilities that would be very negative. It is very important that we do not allow people to be categorized differently.

The courts have already decided this issue in many respects. They have said that we cannot treat people differently. Why would we want to throw this issue back to the courts at the expense of Canadian citizens who are law abiding, pay their taxes, participate in the community and only want to celebrate their love and relationship in an equal manner?

Approximately 3,000 individuals across Canada have been married since 2002. We are talking about a very small percentage of the population, which I do not think undermines any other type of marriage. I do not think it hurts Canadian society. In fact, it only progresses us by once again defining that civil liberties and rights in Canada are ensured and that Parliament will participate in that debate.

**Mr. Gary Goodyear (Cambridge, CPC):** Mr. Speaker, I lost count of how many times the member erred in his statements. No one is trying to create different categories. That is rhetoric and it is misleading. It is a shame that the member continued to use punchy words to mislead the Canadian public. There is no different categorization.

I believe everybody in the House recognizes the truly loving relationships of homosexual couples. I do not think that is the issue. My concern is that the love I have for my wife has not been improved or decreased because of a word or a piece of paper. That leads to my first question. How does the member feel this word, going on the previous member's question, is going to alter anything, and how does not having Bill C-38 decrease the love of these relationships?

The second question is very brief. Given the truth that the Bloc party only has an interest in Quebec and has absolutely no interest in the furtherance of Canada, and given the second truth that the Liberals have made a deal with the Bloc to push this bill through, in terms of truthful debate, how is that democracy?

• (1155)

**Mr. Brian Masse:** Mr. Speaker, I am astonished by the question and the statement of the hon. member.

I would ask the hon. member to look at the comments of some of his own colleagues in *Hansard*. In the material that I have used I was looking at some of the comments and some of the positive statements that Conservative members have said in favour of same sex civil unions.

With regard to the Bloc, whether we like it or not, the Bloc is part of the democratic process in Canada. It seems rather convenient that the Conservatives would team up with the Bloc on the budget bill and would work quite closely with those members for the majority of this Parliament and then astonishingly last night the Leader of the Opposition tried to categorize the Bloc differently.

We know that is only partisan politics to try to get away from what Canadians know, which is that the Conservatives have been working quite closely with the Bloc and it has hurt the Conservative Party in many parts of the country. The Conservatives know that and this is

their single opportunity as Parliament recesses to try to undo that damage. Everyone sees it.

Whether we like it or not, the Bloc votes count. Canadians live in Quebec. They are Canadians and they have decided that they want to stay in Canada for now. Quebeckers go to the polls and elect members from different political parties, including the Bloc. Therefore, the Bloc has a voice in this Parliament.

It is hypocritical, and I would say it is harpercritical, for the Conservative member to say that the Bloc votes do not count this time, when throughout this session of Parliament the Conservatives have been teaming and scheming with them. It is a harpercritical suggestion.

**The Acting Speaker (Mr. Marcel Proulx):** May I suggest that members be careful with regard to their vocabulary, especially when creating new words.

**Ms. Alexa McDonough (Halifax, NDP):** Mr. Speaker, I am very privileged and delighted to have an opportunity to speak briefly to this very important bill, Bill C-38, on this very historic occasion, because what we are about to do is pass a piece of legislation that has been many decades in the making here in Canada.

Many have spoken very eloquently about the evolution of human rights in our society. There is no question that over the years, the decades and the centuries we have evolved toward a more civilized, more compassionate and more just concept of the rights of people in our society, and really, justice is what is at the root of what we are talking about. Not only do the rights of people in our society have to be acknowledged and recognized, but they also have to be reflected in the laws of the nation and they have to be upheld. In other words, rights are of no consequence if there is not a way to protect people and ensure the enforcement of those rights.

Let me say this for those who would ask why we need legislation to protect equal marriage, who would say that we have managed without it forever and ask why we need it now, and who would ask if it is not some kind of trendy notion. Let me simply say that even though it is in recent years only that we have moved to assert full equality for gays and lesbians in our society as it relates to the right to full and equal marriage, we must recognize that the lack of this right, the lack of this respect and the lack of this sanctioning have haunted and bedevilled people whose right to that social recognition has been denied throughout the centuries.

Let us today celebrate the fact that we have recognized that there has been harm, hurt and frustration and that there has been a denial of this full exercising of the right to marriage to gays and lesbians in our society. Some people say they have gay friends or lesbian friends who do not want to get married and they ask what the big deal is. We all have friends who are gay and lesbian or who are straight who opt not to get married, and that will continue to be the case, but what is absolutely unacceptable in our society is the fact that no Canadian should be denied the right to equal marriage on the basis of sexual orientation. We are about to change that and it is something to celebrate,

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I have heard some members in the House, not exclusively in the neanderthal corner of the Conservative Party but also alarmingly frequently in the backbenches of the governing party as well, ask why we have to call it marriage. Why? Because that is the recognized sanctioning in the law of a relationship that exists between two people and has meaning. It has emotional meaning and it also has legal meaning.

As for those who argue that they are for it up to a point but to call it marriage just does some kind of terrible damage to the institution of marriage, I have to say in all honesty that I have struggled to understand why this is a problem for people. I do not understand what it is that causes someone to say, "I feel my marriage is somehow going to be diminished if the marriage between two other people is allowed to take place on an equal basis between two people of the same sex".

When I hear those arguments, I have to say that I am really genuinely puzzled that there could actually be people, thinking people, people with a sense of fairness and justice in our society, who would want to take the position that any other person, regardless of sexual orientation, should be denied access to the very marriage that these people say is so very important to them.

● (1200)

If marriage is such an important element of our society, why would they not be in favour of greater inclusion and more marriages? What we are talking about is a commitment undertaken between two adults to say that they want their obligations and their rights to be codified, institutionalized and fully recognized. Does that not broaden the circle of marriage? Does that not broaden the institution to the point where, if one really believes that this is a foundation in our society, more of it should be a good thing?

I do not want to spend my remaining moments arguing with members who take the opposite point of view. Sometimes I feel almost literally physically sick at my own welling up of intolerance. I do not like that feeling, because this is supposed to be about tolerance, inclusion and acceptance.

However, I will admit that I feel a certain welling up of intolerance when I hear the insensitivity that is displayed by those who say they have no problem denying equal access to marriage to people on the basis of their sexual orientation. These same people very often say they are in favour of protecting gays and lesbians from being discriminated against on the basis of their sexual orientation.

Let me say, however, that for some people it is the ultimate form of discrimination to say that they cannot enjoy the full benefits and full access to being married to the persons they love, as other people in this society enjoy.

I want to take a moment or two to pay tribute. I do have not time to pay tribute to a vast number of people, but we did not reach this point in this debate, in piloting this legislation through here today at this historic moment, without a great many people having contributed to and engaged in the struggle to bring us to this point.

It would really be an omission on this occasion not to recognize the very early and courageous work done by the former member for Burnaby—Douglas. I want to share a brief and actually quite humorous anecdote. Some 20 years ago, the former member for

Burnaby—Douglas, and some of my colleagues may know the exact date, held a press conference on Parliament Hill to openly declare, as a parliamentarian, that he was gay. A dear friend of mine from British Columbia, a mutual friend of his, was visiting in Nova Scotia. Her name is Rosemary Brown. Many will know that she is a hero to many of us. She said, "I don't know why Svend Robinson needs to hold a press conference to declare he's gay. That's like me holding a press conference to declare I'm black. It seems quite obvious. Everybody knows it".

Underlying that slightly humorous discussion was the recognition that some of the worst forms of discrimination and some of the worst kind of hate-mongering take place when it cannot be fully recognized that it is happening. That is why we have laws to say that we cannot discriminate against people just because we do not like whatever their characteristics or attributes may be.

I have had an avalanche of letters and emails from people in my own riding and across the country. I wish I had time to write a book and someday share them with people. I know that we all have had those kinds of letters.

I have also benefited from information that has been shared. I want to mention this briefly in wrapping up. Regarding the place of churches in the same sex marriage debate, there are a few things members may not have heard. There is an outstanding paper by the head of the Department of Religious Studies at Queen's University, Pamela Dickey Young, and I commend it to people.

Finally, I want to quote from the very fine speech from the current member for Burnaby—Douglas, who stated in this debate that:

When it comes down to it, there is no difference in the love experienced by gay and lesbian couples and heterosexual couples. Love is love is love.

The bill is a cause for celebration. Soon, when it finally passes, we will be able to celebrate the love and commitment of all Canadian couples. The circle of love, of responsibility, of commitment, of marriage will be wider.

We will all be the richer for it.

● (1205)

**Mr. Bradley Trost (Saskatoon—Humboldt, CPC):** Mr. Speaker, I have two comments and one question for my hon. friend.

First, I have been listening to the debate and I want to say there is one thing that I think both sides of the debate can agree on. When the opponents of this legislation talk about heterosexual marriage, about marriage as traditionally noted, we talk about it being a child-centred institution, about historical reasons, not just religious reasons, about anthropological and sociological reasons, et cetera, and also about reasons about structure and nature. When the proponents talk about marriage, be it heterosexual, homosexual or whatever way we are going to define it, they talk more about the commitment of two adults to each other, about intimacy.

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Therefore, I think there is one thing we can agree on, based on the speeches, and it is that we have converged at one point: the two sides of this debate fundamentally disagree on what the nature of heterosexual marriage is even before we redefine it to include homosexuals. We fundamentally disagree on what the nature of marriage has been in the past and what it should be in the future. That is just one point. It is one thing I have gathered in listening to various comments.

The other thing I want to put on the record as a comment is that in this debate democracy has not been respected. Not all members are being allowed to give speeches on behalf of their constituents due to the closure motion that the separatists, the socialists and the Liberals pushed through last night. This is one reason why I am up on questions and comments repeatedly today. It is my only opportunity to speak. I will be denied a right to speak at third reading of this bill.

Now I have a question for the hon. member. She has spoken about how this is an important human right and how, if it is a human right, it cannot be compromised on, how there is no leeway and we must back it. Last night, much to my surprise, the member for Churchill, a member of her caucus, broke ranks with her party and essentially, according to what she said, voted against human rights. I suspect she will do that again tonight.

If the member for Churchill again votes against human rights, in the mind of the hon. member for Halifax, what should happen to her? Voting against human rights is very serious. I know that if a colleague of mine opposed what I believe to be human rights, I would not want him or her sitting with me in caucus. I can disagree with members on many issues, but on fundamental human rights there is a line in the sand. What does the member believe should happen to the member for Churchill if she votes against human rights?

• (1210)

**Ms. Alexa McDonough:** Mr. Speaker, let me respond to two things. I wish I had more time to respond to a number of things that have been said by the hon. member opposite, but I know I do not.

First, he has made some kind of convoluted argument about how the real problem is that same sex marriages do not actually have anything to do with children. I think that was sort of the argument. I have to say that my dearest and closest childhood friend from the age of two, with whom I grew up and actively engaged in the Baptist church, has a wonderful, beautiful daughter who entered into a same sex marriage and has one of the most beautiful children I have ever known. If the member does not understand anything about how that, in today's world, is a modern miracle, then I hope he can do his homework and find out.

Let me just quickly read for him a letter from a lesbian couple in my riding. I do not know them personally. Here is what they said on that subject:

We are a same-sex couple who have been together for almost twenty years. We are planning to have a family, and we feel that recognized social support of marriage will make the country a far less discriminatory place for our children.

Now, let me—

**Mr. Bradley Trost:** Where is the father?

**Ms. Alexa McDonough:** I am sorry. If you have another question I would be happy to address it, but I am not hearing what the question is—

**The Acting Speaker (Mr. Marcel Proulx):** I would remind hon. members to deal with each other through the Chair, please.

**Ms. Alexa McDonough:** Mr. Speaker, this member is trying to single out the one member of my 19 member caucus who has taken a different view. I personally regret that very much. I would suggest that this member on the Conservative bench should take a little more responsibility for his 94 colleagues who have taken a stand against this bill.

I hope that he will speak to the member for Central Nova who absolutely betrayed a commitment that he made to his constituents who helped elect him to defeat a woman by the name of Roseanne Skoke who had no respect for human rights. The member for Central Nova ran as a champion of human rights, put on the record that he viewed gay and lesbian issues as human rights issues, and then absolutely betrayed, in a way that was very hurtful to people in Central Nova, the commitment that he had made to treat this matter as a matter of human rights. I think the member has his hands full dealing with 94 of his colleagues. Perhaps he would want to turn his attention there.

**Hon. Larry Bagnell (Parliamentary Secretary to the Minister of Natural Resources, Lib.):** Mr. Speaker, I will be splitting my time with the member for Scarborough—Rouge River.

It is an honour to be here on this historic day when Parliament will affirm the equality rights and religious freedoms that were first conveyed to us when the Charter of Rights and Freedoms became part of the Canadian Constitution.

Everyone in Parliament and across Canada understands the very deeply held and passionate views on this issue among Canadians. No member of Parliament would ever suggest that their constituents were not split or that people did not feel very passionate on both sides of this issue.

It is incumbent upon all of us to respect the rights of each member of Parliament and of each Canadian to have different views on this very sensitive and heartfelt issue.

I will try to give a balanced reflection of some of the comments from my constituents. I will read some excerpts from some of the emails and letters I received from my constituents with views on both sides of the issue, so they know they have been treated fairly, they have been heard, and they have passed their feelings on to Parliament.

Jennifer Williams and Paul Gort wrote:

As constituents we are writing to let you know of our support for the government's proposed same sex marriage act and to urge you and your colleagues to take action to ensure this important bill is passed before the House adjourns for the summer. The right to marry is a fundamental human right and as such is deeply connected with our Canadian identity and sense of justice. How can we as Canadians deem to judge other nations if we fail to uphold the most basic of human rights at home?

Lana Wickstrom wrote:

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Courts across Canada consistently and repeatedly found excluding gays and lesbians from civil marriage to violate the charter because the exclusion is discriminatory and without reasonable justification. Some argue marriage has always excluded same sex couples. However, just because a discriminatory practice has been in place for a long time does not make it acceptable. Women were denied the right to vote for centuries. Discrimination was not fair then and it is not fair now.

Given that same sex marriages have been allowed in eight provinces and in Yukon Territory, Claude Chabot wrote:

I can't say I've noticed Yukon society falling apart after our experience with same sex marriage over the past few months.

Kevin Greenshields wrote:

The United Nations Commission on Human Rights has upheld traditional marriage on an international case from New Zealand in 2002. Even countries like the United Kingdom, France, Denmark and Sweden have upheld the traditional definition of marriage.

Don Green said, “—marriage is part of what defines a Christian”. Ruth Dueck said, “—social experiment that would intentionally deprive children of a mother or father”. Carol Horne wrote:

Furthermore, it would appear that the government is abdicating the responsibilities of Parliament, allowing an unelected and unaccountable judiciary to set the agenda and to carry out drastic social re-engineering of an essential human institution.

The Right Reverend Terrance Buckle, the Anglican Bishop of Yukon, wrote:

This proposed legislative action by the Government of Canada stands in opposition to the faith teachings of many in Canada and not only Christians, as I am certain you are aware.

Stan Marinoske wrote:

One of the major social systems which has been the cornerstone of our society is that of the family. The traditional family unit has been under attack from all sides. This will be another huge nail in the coffin which will eventually bury the family as we know it.

Harry McKenzie wrote a very deep felt letter ending with, “You have a chance here to protect our community and its members rather than push for their potential abuse and victimization”.

I received a number of form letters. A card from Don Duriez stated that marriage assures the survival of society by creating the next generation. Dianne Tate said, “Marriage is a vital social institution and is the foundation on which a strong, dynamic society is built”. Finally, Kim Runions said, “Will you also vote one day in support of marrying one man and one beast or maybe a father and his daughter?”

I want to assure my constituents that I read all their emails and letters, and I have reflected a number of them, on both sides of the issue, fairly in the House of Commons today.

I want to comment on that last one because it has come up a number of times in the House and in debate that it might lead to polygamy, incest or marrying animals. I want to assure the House that this is obviously not true. The difference is quite clear. We in Parliament are saying to all Canadians that they cannot marry beasts, have incest or polygamy. We are treating all Canadians equally by saying they cannot do that

• (1215)

The reason that same sex marriages are allowed now in Canada is that it is an equality right. It is treating all Canadians equally and

allowing all Canadians to do that, just as we are not allowing all Canadians to participate in those other activities.

I would like to outline more of the facts related to this situation for those Canadians who may not quite clearly understand the situation related to this law, so there are no misunderstandings.

I wish to make it clear that this is just civil marriages. If anyone is worrying about their traditional religious marriages, the law will carry on exactly as it has always been. We are only speaking of civil marriage.

The case in Canada today is that the highest law in the land created by Parliament, the Constitution and the Charter of Rights and Freedoms, has been interpreted to say that same sex marriages are legal. Whether or not the law passes, same sex marriages are now legal and they will continue to be legal in Canada.

Unfortunately, this has left us in a situation where there are two provinces and two territories where it has not been through the courts yet. Obviously, it will eventually get there, but in a sense we have two classes of citizens. That is why it is important to deal with this law. In fact, we will be finishing it this evening, so that we do not have different classes of citizens in Canada. I am sure all parliamentarians would agree with that.

Another fact that people should be made aware of is that this has nothing to do with benefits like pensions or other employee benefits for same sex couples. They already have these benefits through other laws which have been dealt with. It also has nothing to do with the right to adopt children. Same sex couples already have these rights as well through other laws.

The only thing that we are dealing with here is that same sex couples have equal rights to use the word “marriage” to define their civil unions.

Given that we have this situation, that same sex marriages are now legal in Canada, it is very important to note that all parties in the House of Commons have said that they will not change the Constitution to deny this equality right or to deny same sex civil unions. They will not use the notwithstanding clause. Then why do we need this bill? It is over and above, as I said earlier, to ensure that persons in the other two provinces and two territories are treated equally.

The other major objective of the bill is to reaffirm the protection of religious freedoms in the Constitution. Churches that do not want to perform same sex marriages should not have to. One of the important elements of the bill is to protect religious freedoms and two more elements have been added to the bill to enhance the religious freedoms aspect. I congratulate the committee and the House for doing that.

In summary, that is what the bill is all about. It reaffirms two rights that are in the Canadian Constitution and the Charter of Rights and Freedoms, namely the equality rights and the right to religious freedom.

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Canada is a nation of minorities. We are all part of some minority. If we do not protect all minorities, we cannot protect any minority. If we do not protect all minorities, we cannot protect people of colour, Anglicans, Catholics, Muslims, people of different genders, and people of different races or nationalities. We could not protect any Canadians because each and every one of us is part of some minority.

Parliamentarians in a previous Parliament have issued a great challenge for us by creating a charter with some overlapping rights, equality rights and the right of religious freedom. Balancing these is what Bill C-38 would put into law with a very good framework. Our challenge as parliamentarians is to do our level best to find that balance in these two rights for the fairness of all.

I have never had one Canadian suggest to me that all Canadians should not be treated equally. I stand by them, and the freedoms and rights of all Canadians.

● (1220)

**Mr. Bradley Trost (Saskatoon—Humboldt, CPC):** Mr. Speaker, I generally do not compliment members of the government but I will say that the member's speech was actually thoughtful and fairly representative of his constituents. He seems to honestly believe in the position he has come to.

I want to make a couple of general points. First, I want to make this point again to see what the hon. member thinks of it. Not all members of the House who wish to speak to Bill C-38 at third reading will be allowed to speak to it because of the closure. With such an important piece of legislation that affects so many Canadians and is crossing party lines in many different directions, I wonder why the hon. member feels each member should not have been treated in many ways as an independent to be allowed to speak out. I would like his comments on that.

I have a second point that I would be interested in hearing his comments on. When the Minister of Justice gave his speech this morning he seemed extremely adamant that the notwithstanding clause portion of the Charter of Rights should never be used. During questions and comments I noted to him that the Prime Minister had said that there were situations in which he would use the notwithstanding clause. I asked about previous incidents in the province of Quebec where the Quebec government used it for language rights and so forth.

I also noted that when the Constitution was ratified the premier of my province was a New Democrat, Mr. Allan Blakeney. He was an emphatic backer of the notwithstanding clause for things such as his future. He seems to have been fairly wise in seeing into the future and being concerned about the health care ruling that came down from the Supreme Court that medicare may be against the Charter of Rights and Freedoms.

Does the hon. member see any circumstance where the notwithstanding clause in the Charter of Rights and Freedoms should be used? Does he agree with the Prime Minister that perhaps it may be the only way to reverse that? Does he see the notwithstanding clause as ever being potentially useful?

● (1225)

**Hon. Larry Bagnell:** Mr. Speaker, first, with regard to allowing people to speak, I agree with the member. I am a champion of democracy and I believe everyone should be allowed to speak, including minorities.

However I think the justice minister made a very good delineation this morning in his speech of how this particular bill has been dealt with more extensively than probably anything else in this Parliament. Last night the Parliamentary Secretary to the Minister of National Defence made a beautiful outline of all the other serious items affecting Canadians that we ought to be dealing with.

The fact is that we have debated the bill at different stages. I know more people would like to speak but I think the Conservatives have agreed that no one is going to change his or her mind no matter how long we speak. With that in mind, it is my view that we should vote on this and then carry on with other items that are also very important for Canadians.

In relation to the notwithstanding clause, in answer to the member's question this morning, the justice minister said that he did not believe the notwithstanding should be used to deny people rights, in this case the equality right. The Prime Minister's suggestion was that we use the notwithstanding clause to protect people's rights.

In relation to my thoughts about the provinces using the notwithstanding clause, one of my philosophies in governance has always been to not pronounce on what other governments do in Canada. We have four orders of government: municipal, first nation, provincial-territorial and federal. Each, in theory, has an identified jurisdiction and work they should be doing. I personally have enough work to do in my own job that I do not comment on what the other governments do or what is within their authority and legal right to do.

**Mr. Derek Lee (Scarborough—Rouge River, Lib.):** Mr. Speaker, I stand here today as a Liberal. I noticed earlier in the debate that parties were being painted with different names. I heard one party being painted as separatists, another party being painted as socialists and another party being painted as Neanderthals. I am gratified that my party has managed to cling to its name, Liberal.

**Mr. Andrew Scheer:** You're crooks.

**Mr. Derek Lee:** There you go, Mr. Speaker. We are the crooks, according to the Conservative Party.

In any event, I will start with the big picture. Canadians are quite divided on this issue, as is Parliament and every caucus representing a party in the House. I suppose it ought to be that way because that is the way it is with Canadians.

From the very beginning the Prime Minister accorded our members a free vote on this issue. I know the opposition has said that it is not a free vote, that cabinet ministers and parliamentary secretaries do not have a free vote, but that simply is not true. Cabinet ministers do not have a free vote. They will vote as a government. However all the parliamentary secretaries do have a free vote, save one, and that is the Parliamentary Secretary to the Minister of Justice.

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I am very comfortable with my Liberal Party being where it is on this issue with the two line whip structure. I think it is serving the House and Canadians well.

The first major item I want to deal with today has to do with the amendment that was made at committee, which is described as clause 3.1. The amendment has not had a lot of discussion in the House because it was actually crafted and inserted into the bill at committee stage but I think it is a rather significant amendment. I will read it to the House:

For greater certainty, no person or organization shall be deprived of any benefit, or be subject to any obligation or sanction, under any law of the Parliament of Canada solely by reason of their exercise, in respect of marriage between persons of the same sex, of the freedom of conscience and religion guaranteed under the Canadian Charter of Rights and Freedoms or the expression of their beliefs in respect of marriage as the union of a man and woman to the exclusion of all others based on that guaranteed freedom.

Those are a lot of words but what the clause actually does is it codifies in the statute the widest possible berth we could have constructed on a general basis for those who, for religious or freedom of expression reasons, are not supportive of, nor advocates of, same sex marriage.

What we have here, structurally, is a clash between charter based equality rights and, on the other hand, religious freedoms and freedom of expression. On the issue of civil marriage, those two sets of values clashed and we as a Parliament needed to assist in drawing the boundary lines.

Many people have said that the Charter of Rights and Freedoms provides freedom of religion and freedom of expression, that it is good for everybody and that it is there if it is needed to defend oneself. While that is true, it just so happens that the ordinary citizen does not walk around with a copy of the charter in his or her back pocket. Those rights and freedoms in the Constitution are usually pretty general based.

I am one of those who believe that if we are going to legislate in an area that manifests the clash of those spheres of interest, equality versus religious freedom, then we have to provide to the citizen something on the shelf that he or she can refer to in a statute, and we have done it.

●(1230)

However there are those who say that we should not be putting that in a statute because it tends to entrench on other provincial jurisdictions. I am one of those who say that if we can legislate on the subject, if we can refer to the charter, which is a federal instrument in the Constitution that is there for all Canadians, then surely when we enact legislation to protect the spheres of interests we can place a provision on the shelf as part of the hardware and software to which the citizen has access. I mentioned earlier, the charter based equality provisions versus religious freedoms.

We have to note that the Holy Bible and the Holy Quran are just two of many religious writings, and other religious writings have done the same thing, which comment on or even prescribe same sex relationships.

In our modern world those relationships do exist but, at the same time, many Canadians say that the religious writings on which they manage and govern their lives have provisions in which they believe

and to which they subscribe, which prevent them from looking in any other way at same sex unions. Recognizing that, we have constructed in clause 3.1 a reasonable berth for those views.

I will be voting against the bill even though I have tried to make the legislation better and played a small role in developing clause 3.1. What if Bill C-38 does not pass during the final vote this evening? If it does not pass, we would be left with an existing status quo, where eight out of ten provinces through their courts have recognized the legality of same sex marriages and those marriages are taking place now. We also would be faced with the scenario where we have to regularize what is out there unless we are simply going to let the courts carry on legislating for us for ever and ever.

We would then have to either deconstruct what has been put in place by the courts, which we could do in part, or we would have to find some other way to reconstruct and re-legislate.

I wish we could have gone back and completed the work of the justice committee, made a proposal to the House and attempted some legislation. Who knows where it would have ended up, in a way, without the pre-emptive strike of the Ontario Court of Appeal, which I regard as a very unfortunate day for parliamentary procedures and functions. I know there are those in the House who believe it was a great day for human rights, for equality rights, but we would have to go back and reconstruct. I am not saying that we could not do it but it would be very difficult to do given that we have had a year or more of same sex marriages taking place and those people are legally married.

It was unfortunate the way in which the courts did this. I am not saying that they are always wrong in the law. I am just saying that the way the courts have done it has pre-empted the legislative work of Parliament and placed us in a very difficult position.

There is no sense in me getting out my guns on the courts. I can do it freely here. I have the freedom under the Constitution to say whatever I want and I can bad mouth the courts and say that they ought not to have done it, that it really was a matter for Parliament and legislatures and not for the courts, but they saw the opportunity and they stole it. They swiped it right off the legislative desk of this Parliament. They knew the justice committee was working on this matter. They knew the House had referred it to the justice committee and yet they felt the need to strike down a provision and read in new law.

●(1235)

I think the rationale was that the courts made the law in the first place in 1868, in the case of *Hyde v. Hyde*, and if they could make the law 130 years ago, then they can make the law now. They are wrong. The world has changed and we do not have a system of elites making decisions for people now. We do it in parliaments and legislatures. There are a whole lot of reasons I could give as to why the courts should not do it.

Maybe this is an area we have to work on as a country and as a Parliament. I am not saying we have to discipline the courts, but we need to have some kind of an understanding about what the courts do and what Parliament does.

*Government Orders*

I will not try to rewrite history now, but that is one of the reasons I cannot support this because I do not think we should be here now, and I fault the courts for that. I do understand everyone's position, but I will be vote against the bill for all of the usual reasons related to the views of my constituents.

**Mr. Andrew Scheer (Regina—Qu'Appelle, CPC):** Mr. Speaker, at the beginning of my colleague's speech he quoted clause 3.1. I will read it again because I have a specific question for him about it.

For greater certainty, no person or organization shall be deprived of any benefit, or be subject to any obligation or sanction, under any law of the Parliament of Canada solely by reason of their exercise, in respect of marriage between persons of the same sex, of the freedom of conscience and religion guaranteed under the Canadian Charter of Rights and Freedoms or the expression of their beliefs in respect of marriage as the union of a man and woman to the exclusion of all others based on that guaranteed freedom.

The important part in my mind is the part that reads “under any law of the Parliament of Canada”. He said that this was a very broad umbrella of protection for Canadians, but it is not.

We look around the country and there are several examples of people facing persecution under provincial human rights tribunals or provincial laws or trade unions. There is a case in British Columbia of someone who lost his teacher's licence because his union deemed that the letters he wrote to the editor on the subject of marriage were worthy enough to kick him out. We have seen a school in Ontario forced to have its position compromised on these issues.

I would put to him that the line under any law of the Parliament of Canada is very narrow. There are many examples out there that we can point to where people are facing persecution for their religious beliefs and the expression of those religious beliefs. They have lost their livelihoods and face many other sorts of persecution.

• (1240)

**Mr. Derek Lee:** Mr. Speaker, it may be true that these conflicts exist out in society. It should not surprise us that they do. The items the member refers to are probably ones that began before this federal bill got to Parliament. In any event, the bill has not even passed yet so it could not possibly have an impact on the street.

What is going on is that the issue is out on the street. Therefore, we have to find ways to regularize and accommodate the resolution of those conflicts. While we can legislate here in this Parliament for federal matters, we cannot legislate in areas of exclusive jurisdiction. That is simply something we cannot do, we never could do and we never will be able to do.

However, the fact act that we have addressed these issues and have legislated in a certain way in an attempt to codify the conflict between individual equality rights and religious rights and freedoms is quite likely to be noticed by provincial institutions. They may want to take another tack or another course, but I think we have done the right thing by legislating in this way. I think it will provide some leadership to those institutions as they all attempt to resolve these conflicts.

In any event, the Charter of Rights and Freedoms is always there as a backstop. A number of the people who are involved in these situations will ultimately have to rely on the charter to defend themselves.

**Mr. John Cummins (Delta—Richmond East, CPC):** Mr. Speaker, I do not want to put words in my friend's mouth, but in his discussion he suggested that perhaps the fault here lay with the courts. Stanley Hartt, in a presentation before the parliamentary committee studying the legislation, stated that Bill C-38 had provoked divisiveness because it was based on:

—an unsustainable claim that the government is acting out of a constitutional imperative to alter the traditional definition of marriage... because this is the only way to accommodate their equality rights under the Canadian Charter of Rights and Freedoms.

Mr. Hartt stated, “I see this claim as unsustainable, because I don't believe it's true”. He noted that when the charter equality challenges were heard in the lower court, the court only had the option of either rejecting the claim or offering them marriage. However, when the Supreme Court was expressly asked in question four in the same sex marriage reference, “Is the opposite sex requirement for marriage for civil purposes consistent with the Charter of Rights and Freedoms”, Mr. Hart noted that the Supreme Court declined to answer the question.

Is it then not so much the fault of the courts, but the fault of the government for failing to adequately pursue this issue and to adequately defend the traditional definition of marriage?

**Mr. Derek Lee:** Mr. Speaker, this is a good set of issues. If I had my way, I would have acted a lot more robustly in relation to the courts of appeal.

It is true that the Supreme Court of Canada has not had an opportunity to test the constitutional validity of an opposite sex requirement in the definition. It is also true that in every court of appeal in the seven provinces, and now we have an eighth province on track, the opposite sex definition was tested and failed.

I suppose there is an outside mathematical chance that the Supreme Court of Canada might have said that all the appeal courts were wrong and that it would strike them down and uphold the opposite sex definition. I do not think there were any observers who really believed the Supreme Court would do that.

I was disappointed that it did not take the opportunity to deal with it in the reference. I understood why it did not. The member makes a good point. He must realize that all the courts of appeal of the country that have dealt with this issue, as I understand it, have struck down the opposite sex definition.

• (1245)

**Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC):** Mr. Speaker, I will be splitting my time with the hon. member for Kamloops—Thompson—Cariboo.

Let me start by indicating that I will be voting against the bill at third reading. I will be doing so because I consulted with my constituents, using a householder that contained a mail in ballot, in which constituents were asked the following question, “Should your member of parliament vote for the civil marriage act?”



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We received back a total of 9,176 responses, with 7,321 advising me to vote against the bill, 1,814 advising me to vote for the bill and a further 41 ballots which were either spoiled or invalid. Therefore, my mandate is clear. My constituents want me to vote against this bill and I will respect their wish. However, speaking frankly, I am relieved that I was not asked to vote for this bill since I have grave concerns as to the implications of the civil marriage act for religious freedom in Canada.

Defence of freedom of religion and freedom of conscience has been one of the hallmarks of my own political career. My very first speech in the House of Commons in 2001 was in defence of the freedom of conscience of Falun Gong practitioners who had been persecuted in China.

In 2002 I offered a resolution, which was adopted unanimously by the House, in favour of freeing 13 Falun Gong practitioners who had ties to Canada and who had been imprisoned in China for expressing freedom of conscience. Some of those individuals are in our country today as free individuals because Parliament took a stand at that time in favour of freedom of religion and conscience.

My loyalty to this foundational principle goes beyond the defence of any one group. I have spoken out in protest against the oppression of Tibetan Buddhists and of both Buddhists and Christians in Vietnam.

One of the reasons I broke with my party to vote against the Anti-terrorism Act in 2001 was because that law effectively criminalized certain kinds of religious beliefs in certain kinds of situations, a feature that at least in theory could lead to the oppression of religious groups, most notably and obviously a danger that existed with Canadian Muslims.

When I say that I am very worried by the absence in Bill C-38 of protections for freedom of religion and freedom of conscience, I hope hon. members will understand how serious this matter is to me.

I am not unique of course in having such concerns. I will read from an article that Father Raymond de Souza, the well-known columnist, published in the journal *First Things* last year. He wrote, regarding the draft same sex marriage law then before the Supreme Court:

[It is likely to erode] religious liberty on questions related to marriage. First it will be churches forced to rent out their halls and basements for a same-sex couple's wedding reception. Then it will be religious charities forced to recognize employees in same-sex relationships as legally married. Then it will be religious schools not being allowed to fire a teacher in a same-sex marriage. Then it will be a hierarchical or synodal church not being allowed to discipline an errant priest or minister who performs a civilly legal but canonically illicit same-sex marriage. All of this can happen short of the worst-case scenario specifically exempted in the federal government's proposed law.

If Father de Souza's concerns seem a bit over the top to some hon. members, let me demonstrate that these concerns are, if anything, understated.

I will demonstrate this by giving a real life example of just how far Canada's courts have already gone to restrict or roll back the protection given to freedom of religion and freedom of conscience and the protection given to those rights under section 2 of the charter when this protection has come into conflict with the currently

fashionable but constitutionally unjustifiable, highly aggressive reading of the charter's equality of rights section, section 15.

I refer to the Scott Brockie case, although there are other cases before this nation's courts that I could cite as equally effective illustrations.

In April 1996, Scott Brockie and his family's Toronto printing business, Imaging Excellence, were approached with an order for letterhead, envelopes and business cards for the Canadian Lesbian and Gay Archives. Mr. Brockie, who is a Christian, refused to accept the order as it contravened his religious conscience to assist an organization's activities that directly promoted homosexuality, which he believed to be a sin.

Two months later, a representative from the Archives filed a complaint with the Ontario Human Rights Commission, asserting that Mr. Brockie had denied the individual commercial services based on the man's sexual orientation.

In September 1999, Mr. Brockie and Imaging Excellence were found guilty of what was called discriminatory conduct. He was forced to pay a penalty to the Archives of \$5,000 and to provide the printing services he had originally refused; in other words, to perform an act that he regarded as being unethical or immoral.

● (1250)

All of this occurred despite the fact that Mr. Brockie was able to demonstrate in court that he had provided printing services to homosexuals in the past and that his objection was to the policy objectives of the organization seeking the use of his services rather than to the sexual orientation of the representative who approached him.

Later, the Ontario Supreme Court rejected Mr. Brockie's request to overturn the decision. The Superior Court had initially awarded Mr. Brockie \$25,000 in costs, a decision that the Human Rights Commission and the archives successfully appealed to the Court of Appeals. As a result, Mr. Brockie must now foot a legal bill of \$40,000.

In upholding the initial decision of the Canadian Human Rights Commission, the Ontario Superior Court engaged a logic that, if fully applied, would mean that freedom of conscience has no meaning under Canadian law, except that with which it is endowed by judges who more often than not will not share the religious or ethical beliefs of those upon whose right to act according to conscience they are ruling.

The court started in paragraph 51 of its ruling by citing with approval an earlier case in which the Supreme Court of Canada had "expressed some of the elements of freedom of religion and necessary limits on it", that is, freedom of religion. It went on to state:

The further [a given] activity is from the core elements of the freedom, the more likely the activity is to impact on others and the less deserving the activity is of protection. Service of the public in a commercial activity must be considered at the periphery of activities protected by freedom of religion.

The court went on to say, "Mr. Brockie's exercise of his right of freedom of religion in the commercial marketplace is, at best, at the fringes of that right". It then made an argument in paragraph 56 of its decision that deserves to be quoted at length:

### *Government Orders*

If any particular printing project ordered [of] Mr. Brockie...contained material that conveyed a message proselytizing and promoting the gay and lesbian lifestyle or ridiculing his religious beliefs, such material might reasonably be held to be in direct conflict with the core elements of Mr. Brockie's religious beliefs. On the other hand, if the particular printing object contained a directory of goods and services that might be of interest to the gay and lesbian community, that material might reasonably be held not to be in direct conflict with the core elements of Mr. Brockie's religious beliefs.

Let me start by making the obvious observation of the astounding arrogance of this claim. How can the court know what Mr. Brockie's core religious beliefs are? How can it determine what is core and fundamental to his conscience? When he says certain things are core to his beliefs, how can the court say that no, they are not, that he misunderstands what his own beliefs are and the court will dictate them to him?

There are so many examples from history of this. Let me cite just one example where something that appeared peripheral was actually core to people's beliefs.

I studied Russian history. In the 1600s, in an attempt to modernize the Orthodox church, the czar of Russia instructed that certain changes would occur. For example, the manner in which the sign of the cross was made would be done using three fingers instead of two and certain other apparently limited rationalizations took place. The so-called old believers, and there were hundreds of thousands of them, maybe millions in Russia, were so distressed by these changes they fought them. Sometimes it cost them their lives. Whole congregations allowed themselves, for example, to be burned alive rather than to change to the new rationalizations.

These may seem like peripheral beliefs and practices, but they were not peripheral in the minds of the old believers. I would argue that it is arrogant to assume that any court has the capacity to reach into the minds of other people to determine what is core to their belief systems.

This is as outlandish as the court determining that a Buddhist has no right not to print menus for a restaurant that serves meat. It is as ridiculous as instructing a Muslim that he has no right not to allow the Gideon Bible to be placed on bedside tables in a motel he runs. It is as inappropriate as saying that it is not against the core belief of a Mennonite to refuse to print a pamphlet promoting a war. This is simply inappropriate and arrogant action on the part of the courts. Unfortunately, it is something that could get worse and indeed is likely to get worse under the direction that the government is going.

Kevin Bourassa who runs the website [equalmarriage.ca](http://equalmarriage.ca) has publicly stated the following warning to religious officials who disagree with his viewpoint. Mr. Bourassa, of course, is in favour of same sex marriage. He stated:

If you are at the public trough, if you are collecting taxpayers' money, you should be following taxpayers' laws. And that means adhering to the Charter...We have no problem with the Catholic Church or any other faith group promoting bigotry.

By that he means opposition to same sex marriage.

We have a problem with the Canadian government funding that bigotry.

In other words, we have a problem with the Catholic church being able to have charitable status but not with the Unitarian church.

●(1255)

I myself am a Unitarian and was raised as a Unitarian, as part of a church that supports same sex marriage. I do not think it is my right to dictate that the Catholic church or any other institution which says that same sex marriage is not moral should be deprived of its equality and its right to speak freely and proselytize its views, any more than I happen to think that the Catholic church should be restricted from saying that divorced persons, like myself, cannot get married in a Catholic ceremony. It is not my right; it is not the right of any person to dictate what some other person's core beliefs are and to say that that person does not have the right to express those beliefs I dictate as being non-core.

This is protection that is completely absent not merely from Bill C-38, but from the entire legislative agenda of the government. It could be central to its agenda, but it is not. I regret that very much. I urge every member of this House to vote against this bill and in favour of protection of freedom of religion and conscience in Canada.

[*Translation*]

**Ms. Françoise Boivin (Gatineau, Lib.):** Mr. Speaker, I thank the member for Lanark—Frontenac—Lennox and Addington for his very interesting speech. Since I know he is a great democrat, from my time with him on the Standing Committee on Procedure and House Affairs, I would like to know if he agrees with his leader that, thanks to the Bloc's support, this evening's vote on Bill C-38 will lack legitimacy. I want him to comment on this.

**Mr. Scott Reid:** Mr. Speaker, the Bloc Québécois is a sovereignist party. It is interesting that this party is in favour of Quebec's sovereignty. This support is legitimate in a Canadian context. However, it is also legitimate to point out that most federalist MPs, meaning those in favour of Canadian unity, oppose this bill. That is what the leader of my party said yesterday about this evening's vote.

[*English*]

**Mr. John Cummins (Delta—Richmond East, CPC):** Mr. Speaker, I want to congratulate my colleague on a fine speech. I agree with him that the courts have been particularly aggressive on this issue.

I asked the member for Scarborough—Rouge River a question about the government's failure in this regard. I wonder if the member would comment on that. Briefly, my question was that when charter equity challenges were heard in the lower court, the court only had the option of rejecting the claim or offering marriage. However, when the Supreme Court was expressly asked in question four in the same sex marriage reference, is the opposite sex requirement for marriage for civil purposes consistent with the Canadian Charter of Rights and Freedoms, it declined to answer the question. This was in essence because if it had voted yes to that, it would have thrown the whole state of law into confusion.

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In my view the federal government dropped the ball here. It should have aggressively defended the traditional definition of marriage and it did not. I wonder if my friend would comment on that.

**Mr. Scott Reid:** Mr. Speaker, as a general rule, the Supreme Court and indeed all courts in Canada are reluctant to rule on hypothetical cases when the opportunity exists for presenting an actual case of law before them. The courts do not like to do this, notwithstanding the lapses in judicial activism that we see more often than we ought to with our courts. The reason they do not like to do it is that a hypothetical case inevitably is a case of policy, as opposed to being a matter of deciding on law. Obviously courts do what they can to restrict the extent to which they are being forced into policy decisions, especially when it is a highly controversial decision on which a consensus does not exist in public opinion.

I think the court quite rightly sensed that it was being asked to make a political decision to get the Prime Minister out of the hot seat. The Supreme Court quite rightly said, "Look, you have other options here". One option would have been to appeal one or perhaps several of the provincial court decisions up to the Supreme Court of Canada. The court might have, as my hon. colleague from Scarborough—Rouge River suggested, in the end decided to uphold those decisions, or it might not have done so. We will not know. That would have been the best way to go from a legal point of view.

Of course the Minister of Justice understands that entirely, as does the Prime Minister, but they were not looking for the best legal solution. They were looking for a way to get themselves off the policy hook, while at the same time pushing through their agenda on same sex marriage.

• (1300)

**Mr. Andrew Scheer (Regina—Qu'Appelle, CPC):** Mr. Speaker, what we are seeing today is the heavy-handedness of a Liberal government that is afraid of honest debate on this issue. The government is afraid to hear speeches like the one made by my hon. colleague because the government knows that the vast majority of Canadians are opposed to its radical position on marriage.

Because of the Liberals' fear of healthy debate on this issue, they have invoked closure, one of the most undemocratic things that has ever happened in this Parliament. The government extended the sittings of the House, tinkered with the Standing Orders and the legislative calendar, and then immediately afterward invoked closure to cut off debate on Bill C-38.

Does the hon. member think these are the actions of a Prime Minister who is going to slay the democratic deficit?

**Mr. Scott Reid:** Mr. Speaker, I agree with my hon. colleague's opinion.

The invoking of closure is permitted under the rules, but to me the real travesty was the absolutely unconstitutional decision of the government to refuse to permit a confidence vote in the House until it had a chance to cause members to cross the floor, to attempt to buy the vote of one member and perhaps several others, before it had the chance to frame the debate.

The whole idea of the House needing confidence in the government is predicated on the idea that it is the House that

determines whether or not it has confidence in the government. It is not up to the government to choose the time and place of a debate and try to rig the proceedings. That was unconstitutional. It was a violation of one of the most fundamental tenets and conventions of our Constitution. It was an absolute abuse. To me that will be what Paul Martin will be remembered for. He will be remembered for shame in Canadian history.

**The Deputy Speaker:** I urge all hon. members to use either the title of the person they are referring to or speak of them in the third person.

**Mrs. Betty Hinton (Kamloops—Thompson—Cariboo, CPC):** Mr. Speaker, this is the second time I have risen to speak to this issue. I will preface what I am going to say by telling the House that I sent out a ballot within my own constituency on this issue. Eighty-two per cent of my constituents told me to vote in favour of the traditional definition of marriage. I have done so.

I want to go back a little bit on this and mention a few things that may or may not be relevant to some members of the House. My daughter's godmother has a sign in her place of business that reads, "Poor planning on your part does not constitute an emergency on my part". I believe that is a very appropriate saying for where we find ourselves today.

This was a very awkward situation for all. I understand that, but that sign pretty much sums it up, because what we have here is a case of poor planning, poor wording and face-saving. The result is going to be bad legislation. We have tried to put through amendments that would make it a better piece of legislation and would protect religious freedom, but all of those amendments have been thwarted.

I also would like to suggest, as I suggested in my last speech, that this is not a human rights issue. People use the argument that this is a human rights issue because they have to resort to using emotional speeches to get their point across. They cannot get their point across in any other legitimate way.

I believe that is very wrong. As the shadow critic for veterans affairs, I could introduce members of the House to any number of veterans who would be happy to tell the members the difference between a human rights issue and a social issue. As a country, we are extremely proud of these men and women who have fought for democracy worldwide. I do not think we would find a single veteran who would say to us that the same sex marriage legislation is a human rights issue. It is not a human rights issue. It never has been.

In my last address to the House, I told the House that in my opinion I believed that this was in fact an intellectual property issue. I believe that the creation of the ceremony for marriage belongs solely to the churches. I also question why members of the House would stand up and passionately defend intellectual property rights on another issue yet be very casual about protecting religious rights. I do not understand that. I believe that if we were to ask a few of the members here about this, they would be hard pressed to explain it.

*Government Orders*

Perhaps they do not view this as intellectual property rights, but I do. I believe that when we take the emotion out of this argument and boil it all down, that is in fact what this is. We do not have the permission of the churches to change anything to do with marriage. That lies solely in their hands. I do not believe that government has a place in this, but we are here nonetheless.

I also have made it clear that other things are at stake here. One of the things I would once again like to clarify is about what we sell to immigrants coming to this country. For the very people who built the country, who made the country what it is today and who add to the country on a daily basis, what we sold them on for Canada was freedom of speech and freedom of religion. Both of them are seriously jeopardized in this piece of legislation.

Yesterday the Prime Minister met with the Prime Minister of Vietnam. By all accounts, when the Prime Minister spoke to that issue, he claimed to have told the Vietnamese prime minister that Canada wants Vietnam to honour freedom of expression and freedom of religion. There is an irony there. Is the Prime Minister of our country saying to the Prime Minister of Vietnam “do as I say, not as I do”? This piece of legislation that he is currently endorsing undermines religious freedom in this country. I do not quite understand how he can stand up and say something like that to another country when he has that very problem happening within his own.

● (1305)

Just a few steps outside these doors there is a statue. It is probably 10 paces from the outer doors. It is a statue of Lieutenant Colonel George Baker. Lieutenant Colonel George Baker was the only member of Parliament to die in a war. He died in World War I. From all accounts, he was a man of great honour. This was a man who served his country not only in Parliament but on the battlefield.

Right next to the statue of Lieutenant Colonel George Baker is another plaque. On that plaque is a poem that most Canadians can probably recite by heart. The poem was written by John McCrae:

To you from failing hands we throw,  
The torch; be yours to hold it high.  
If ye break faith with us who die  
We shall not sleep, though poppies grow  
In Flanders fields.

Those words have great meaning to all veterans. They have great meaning to all Canadians. In the opinion of many, that torch has fallen. If we fail in our own country to maintain religious rights and freedoms, we have failed all of those who have gone before us, who have fought worldwide and who have fought for honour in Canada to give freedom of expression and freedom of religion to countries throughout the world.

As Canadians, we are expected to stand up for these things and we have stood up for these things. When we draw up legislation that will affect the lives of every single Canadian and every immigrant who chose Canada for the freedoms we offer, it is beyond reason that we would put together legislation so iffy that we are challenging the right of religious freedom in our own country.

I do not understand it at all. It baffles me when I look about me and see that there are less than 20 people sitting in this room right

now listening to what I have to say. This says to me that members are thinking, “My mind is made up. Do not confuse me with facts. I will make my decision based on whatever reasoning I have in my own head and I really do not care to hear anything that anyone else has to say”. I never thought we would see the day when those sorts of thought processes would happen in a house of democracy.

I have been here only a short time, but I am deeply ashamed about some of the things that have happened to the democratic process in the House of Commons. I would like to see democratic renewal, but I have seen no evidence of it.

We have an opportunity right here and right now to take a sober second look at what we are doing with this legislation. What would be the harm in not bringing back this legislation until September?

There will be those who argue that we would be leaving people's lives in limbo, but we would not. There is absolutely nothing stopping same sex couples from marrying in this country right now. If we were to take the summer, have a sober second reflection and really seriously get down to what this is all about, I have no doubt that we could put wording into this legislation that would in fact protect freedom of religion.

As I said earlier, as shadow critic for veterans affairs, I have had the pleasure, the opportunity and the privilege to meet some of the finest men and women this country has to offer. Whether they are senior veterans who fought in World War II or the Korean war, to a man and a woman they will tell us that they value nothing more than the freedom this country has to offer. They have put themselves on the line around the world to preserve it for strangers.

The conversations I have had with veterans tell me very clearly that they are very unhappy about this legislation. Never in their lives did they think that the greatest threat to democracy would be coming from within their own country. We have to take steps which will ensure that everything we are so proud of in this country, everything we stand behind, is protected. Until we can protect freedom of religion, we have failed miserably.

I ask hon. members to remember the words of that poem:

To you from failing hands we throw,  
The torch; be yours to hold it high.  
If ye break faith with us who die  
We shall not sleep, though poppies grow  
In Flanders fields.

● (1310)

**Mr. Mario Silva (Davenport, Lib.):** Mr. Speaker, we have to stop this debate and argument about how there is somehow a great fear, about how an incredible situation is going to take place in our country if the civil marriage bill becomes law.

It is already the law in many places in the country. It is the law in Ontario, my home province, and it has been the law for over a year. I do not see marriages breaking up all over the place.

*Government Orders*

There is this incredible fear being presented by the opposition. It is terrible to build that on the unity of this country. We should speak to the betterment of the country, to what it is all about. It is about a country of tolerance and hope, one that respects people's rights and dignity. It is not a country that wants to create barriers between one group and another. I am concerned about some of the arguments stated by the opposition member.

I want to again ask a question of the members of the official opposition. I have posed this question twice already and have yet to get an answer. Maybe the hon. member will answer. It has to do with the fact there have been over 5,000 licences issued in the country. What is the Conservative Party view of what to do with the 5,000 licences that were legally issued to citizens in good standing of this country so they could get married civilly? What is her plan? What does her party plan to do with those licences? Do the Conservatives plan to have them nullified?

**Mrs. Betty Hinton:** Mr. Speaker, I do not recall hearing any of my colleagues say that marriages will be breaking up all across the country if same sex marriage is granted. I think that is the theatrical type of response I have come to expect from those who are uncertain of their ground. It is an emotional argument. That is what I talked about earlier in my speech.

I do not have any qualms about horrid things happening to marriages across the country if same sex couples are allowed to marry. They are allowed to marry now. In many provinces, they have been allowed to marry. They have been allowed to marry because this government failed to give a signal. It did not give a strong signal. It allowed provinces to make their own decisions along the way.

As for what we as the Conservative Party would do about the marriages that are already there, the marriages are there and we honour the marriages. We have made it very clear that we are prepared to accommodate same sex couples. We are prepared to give them the same responsibilities and the same rights as heterosexual couples.

What we are not prepared to do is change the definition of marriage, and we are not prepared to risk religious freedom. Religious freedoms and the freedom of speech are absolutely fundamental in this country. If the member across the way does not understand that at this point, or did not glean that from the speech I just made, there is nothing else I can say to make this stronger for him.

This is seriously flawed legislation. It does not do justice to any Canadian. We need to protect the rights of all. When we want to extend rights to another group of people or a certain segment of society, we have to take into consideration the ramifications for the rest of society. We in this House have failed miserably to do that.

We have jeopardized the things that mean the most to Canadians. There is no explanation for that. I do not understand why there would be any question about it. This has been dealt with for over two years now. There was a split decision at the committee level. Also, it was not endorsed by a vast majority of people. I am sure the Speaker recognizes as well as I do that if we were to do a survey across Canada we would find a split, roughly half and half, maybe a little more to one side and a little more to the other side depending on

what part of the country one is located. It is split roughly half and half.

Why would the House not take the time to make certain we protect the things that are the most valuable to us in our country? We can extend benefits and extend all of the things that the government is talking about extending. I do not have a problem with that and neither does anyone in my party.

We believe in equality in this country, but this is not a human rights issue. This is an issue that goes well beyond human rights. As I said in my speech, I believe it is a question of intellectual property. It is the right of the churches to decide who they do and do not marry. If we take away that right, we will have failed all of those who have gone before us, those who made the country what it is today and who have built Canada's reputation worldwide.

• (1315)

**Mr. Paul Szabo (Mississauga South, Lib.):** Mr. Speaker, I will be sharing my time with the member for York South—Weston.

Bill C-38, the civil marriage act, seeks to change the definition of marriage from a man and a woman to the exclusion of all others, to any two persons to the exclusion of all others. The difference is defining characteristics. The traditional definition of marriage has defining characteristics. The proposed definition of marriage appears not to have any defining characteristics whatsoever, which seems to be very odd.

Even this morning the justice minister in his speech continued to debate whether this was a matter of human rights and a matter of equality. There is still a debate. I think it is very clear to all members and to all the public now that if this were really a matter of human rights, then it would not be subject to a free vote. That is the issue. Human rights are not subject to a free vote.

With regard to the equality provisions of the charter, there are two substantive exceptions to that provision.

First, as we all know that section 33 of the charter, the notwithstanding clause, permits Parliament to continue to operate for up to five years.

The second broad exception is found in section 1 of the charter. It reads:

The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

What that really means is any of the rights and freedoms provided in the charter can be suspended or can be overridden if under a section 1 analysis, they determine that it is demonstrably justified in a free and democratic society.

In fact, this case, with regard to whether the definition of marriage is constitutional, has come before the courts many times. This is much like the Quebec referendum question. We are going to keep asking the question, keep going back to the people and eventually it is going to pass and become law. There may not be a final answer. This is driven by the fact that the Supreme Court of Canada has clearly laid out that it views the charter as a living tree. It changes. We change and, therefore, our interpretation of that changes.

*Government Orders*

We have to be very careful. Now the Supreme Court is telling us that, even though Parliament is supposed to make the laws and the court is supposed to interpret and apply those laws, the charter is a living tree and if the government does not act, it will act and change the law and the government will have to deal with it.

This is the challenge for us. The Supreme Court of Canada has given us a clear signal.

As I mentioned, for many years the question about whether the constitutionality of the definition of marriage has been challenged in the courts. In the last case, before the Halpern case which triggered all of this, the Attorney General of Canada argued that the objective of limiting marriage to opposite sex couples was sufficiently important to warrant infringing on the rights of same sex couples. The next point was that the purpose of marriage was to provide a societal structure for the procreation of children in order to perpetuate Canadian society. It was very clear. This was the Government of Canada. This was the position before the courts.

What happens when we have the Halpern case where, all of a sudden, the same details come out? In July 2002, Halpern v. Canada, the Ontario Supreme Court heard a case dealing with the constitutionality of the definition of marriage. This is what gives me the most problem. It is probably the reason why I am totally opposed to Bill C-38. It effectively discredited heterosexual marriage by citing the number of divorces and the existence of common law marriage.

This is something that had not changed overnight, not since the last Supreme Court decision. It just happened to be a different panel of the court, three persons on a panel. That was their view. It was not the decision of the Supreme Court.

The court went on. It also dismissed the importance of the ability to procreate, citing the availability of reproductive technologies, such as artificial insemination, in vitro fertilization, surrogacy and adoption just to name a few.

By the failure of the court case, the arguments being made all of a sudden were challenging what happened in the B.C. court decision a year earlier. By looking at marriage and the distinctive characteristics of marriage, it tried to discredit them to the point that it might tip the balance in terms of a section 1 analysis. That is where it always has been a matter of a violation or an infringement on equality rights.

● (1320)

Under section 1 it was not so great because of the consequences. If we change the definition of marriage, look what it would do to the definition of family, look what it would do to the parent-child relationship, look at all the other risks that would come about, which I will deal with shortly.

In my view, the court case that has triggered all of this summarily dismisses the relevance of marriage to any aspect of social well-being of Canadians, which is one of the reasons why we are here. It is to protect the health and well-being of all Canadians, especially our children.

Let me paraphrase Justice Robert Blair on assessing that court decision. He warned that the legal redefinition of marriage would not be an incremental change, but a profound one, with extremely

complex consequences. These include touching the core of many people's beliefs and value systems, resulting in social, political, cultural, emotional, and legal ramifications. This is very ominous, and I think it is a caution and maybe more strongly a severe warning to legislators.

Daniel Cere of McGill University also talked about the impact on children. He raises a point that members have not talked about very much. Under the bill, the biological concept of parent will be replaced by a legal parent. This is very important because all of a sudden the role of biological parents is coming under question. I totally disagree.

I want to conclude by talking about marriage. This is all about that. Marriage promotes the bonding of men and women and the creation of stable and durable partnerships for life and property. It recognizes the interdependence of men and women. It embodies the spiritual, social, economic and contractual dimensions. It reflects a commitment to fidelity and monogamy.

Marriage serves as an optimal societal structure for the birthing and rearing of children, at least to the extent necessary for the perpetuation of society. It provides for mutual support between men and women. It supports the birthright of children. Marriage promotes bonding between men, women and children. It guides the transformation of children into young men and women who are readying themselves for marriage and to begin a new cycle. Marriage grows the family tree and develops broad supports and securities for all members.

These are the distinctive characteristics of the definition of marriage being one man and one woman to the exclusion of all others.

The potential change to the parent-child bond will have a profound effect on society. I believe that but I do not know because we will not know until it happens. There are also clear possible effects on religious rights as we know. Paragraph 60 of the Supreme Court reference decision says:

Returning to the question before us, the Court is of the opinion that, absent unique circumstances with respect to which we will not speculate, the guarantee of religious freedom in s. 2(a) of the Charter is broad enough to protect religious officials...

This involves the living tree issue. Today we do not know of any, but based on what has happened so far, there will be a challenge to religious rights and freedoms.

I believe the redefinition constitutes a radical societal change. It may not have immediate societal consequences, but over time it may have, and I stress may have enormous implications. This is not just about the infringement on the rights of gays and lesbians. It is also about diminishing the relevance of the most important societal institution, and that is marriage. In my opinion, the potential for material and adverse consequences is so great that we should take the time to more fully assess the broader implications of this fundamental change to families, children and religious freedoms.

*Government Orders*

With all due respect to the House, my view is that Bill C-38 should not proceed and that the notwithstanding clause under section 33 of the charter should be invoked to provide Parliament with the time it needs to make a fully informed decision.

• (1325)

**Mr. Gary Goodyear (Cambridge, CPC):** Mr. Speaker, I would like to thank the member who has been up a number of times on this issue. Frankly, he has a number of good things to say and I appreciate his comments.

We have had lots of experience in Canada, the United States and a number of countries around the world with people who sit around tables through the day, maybe five or 10 people, and think up ways to change society, kind of a societal engineering group. These experiments have, for the most part, been devastating to society.

I will acknowledge that I too cannot support this issue for a whole bunch of reasons. We need a lot more debate on this. We need to think about this a lot harder.

The member and I get criticized on this being a human rights issue. I believe we agree that it is not that. How does the member feel about extending Parliament to debate this issue rather than debate what is clearly a human rights violation by the member's own party? The courts recently ruled that the waiting times in our health care system are a violation of Canadian rights. Why are we not spending this time debating those crucial issues?

**Mr. Paul Szabo:** Mr. Speaker, because Bill C-38 is before the House and not the latest decision from the Supreme Court. I want to reiterate a couple of points.

On the issue of human rights, I know when this started. I suppose if I were to reflect back, the genesis of some of these things came when the Divorce Act was amended to provide no-fault divorce. All of a sudden we started to see the first pieces of the disrespect for the institution of marriage, the "I can get out of it", and also the growth of common law relationships.

I remember watching a panel program on this. People were asked why they did not get married and why they were living common law. Ninety-nine per cent of the people said that it was easier to get out of, that there was no commitment.

At the time I wrote a monograph on strong families making a strong country. I tried to come up with a definition of true love or real love. It was something to the effect that true love was when we put the interests of others ahead of our own. Therefore marriage represents that commitment. It represents a true love. There is a weaker commitment in a common law relationship and between any two parties, I doubt that there is any commitment, which has nothing to add in terms of making Canada a stronger country.

• (1330)

**Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP):** Mr. Speaker, I am standing in support of the bill, as I have consistently even prior to becoming a candidate. Consistency is important for Canadians. When we go through the electoral process, it is important for them to know what bill of goods they are getting when they vote for a certain candidate, a party and the leader representing that party. I have tried to stay consistent on this issue throughout.

I was raised in a single parent home. There is some suggestion in the member's tone that the ideal circumstance to produce good, strong Canadians is under the traditional nuclear family to the exclusion of all others. I find that not bordering on offensive, but fully into the realm of offensive.

Many of my constituents have struggled with this issue. This goes to the heart of many of their concerns for the strength of society and community. One of the ways that I have seen to strengthen this is through a robust and good economy and we have been struggling in the rural communities in Canada to do that.

When I go around my riding, I see the various stresses on families. For almost two years now, we have had same sex marriages in British Columbia. If I were to go to most of the homes in my riding where the family units are struggling to survive, I would place this issue very low on the scale compared to the basic ability to meet the needs of housing and all of the rest.

Not only do I find part of his tone offensive, but is drawing some conclusion that perhaps those Canadians who were raised in other than so-called traditional nuclear families are somehow of lesser quality or character?

**Mr. Paul Szabo:** Mr. Speaker, I certainly do not intend any offence to any members or anyone with regard to those comments. I am not an expert in these matters, but I have done enough research.

I refer the member, for instance, to the Special Joint Committee on Child Custody and Access and its study on the Divorce Act. It wrote a report called "For the Sake of the Children". If the member looks at that he will find that there was a clear majority opinion, which I think was unanimous, that both mothers and fathers have an important role to play in the lives of children.

Second, I wrote a monograph called "Tragic Tolerance...of Domestic Violence". It is on my website. If he looks at that he will see that the incidence of domestic violence in married relationships is less than it is in common law and same sex relationships. That is not my view; that is the research. That is Statistics Canada.

Finally, if he wants to talk about lone-parent situations, I am aware of it. I wrote monographs entitled "Strong Families...Make a Strong Country" and "The Child Poverty Solution". Very clearly, the latest statistics from campaign 2000 say that 15% of the families in Canada are lone-parent families, but they account for 54% of all children living in poverty. One cannot deny the facts. Children have a better start in life, a better outlook, and a better possibility of having successful lives in adulthood when they are in a secure, consistent attachment with engaged, committed adults. That is marriage.

*Government Orders*

**Mr. Alan Tonks (York South—Weston, Lib.):** Mr. Speaker, I thank the House for this opportunity to speak once again on this subject, Bill C-38, which proposes that the traditional definition of marriage, that which traditionally exists between a man and a woman, be changed to classify marriage as the legal equivalent to a civil marriage, which may be between two men or two women.

The fact is the bill tries to accomplish in one fell swoop what most Canadians would have preferred to have seen their Parliament do in two separate acts, instead of combining marriage and civil union in Bill C-38 and calling it civil marriage. Canadians would have supported the creation of the architecture of civil union, accessible to all Canadians, and separately protect the sanctity and sacrament of marriage as blessed and protected by the faith communities. The government, however, for reasons previously presented, decided not to assert its statutory responsibility to reaffirm the traditional definition of marriage, appeal the decisions of the provincial courts, and then set out to construct a true civil union regime.

For these reasons, Parliament missed the opportunity to interpret and wisely apply the words of the Canadian Supreme Court in describing the Canadian Constitution as a living tree, and root that tree in those same traditional and fundamental values that would serve both religious freedom and modern civil society.

Because we failed to do that, that is, to bring together all of our collective wisdom and parliamentary capacity and construct a bill reflective of the will and the needs of all Canadians, we are now, through Bill C-38, setting the stage for pervasive and divisive change, which up to this point in the discussion has not been given nearly enough consideration.

Time allows me to focus only on two areas as illustrations of practice and institutions that will be profoundly affected by Bill C-38, these being adoption and the public education system.

In some provinces, children's protective services, after decades of advocacy, were judicially granted to faith communities. In Ontario, for example, there exists a public children's aid society, but also both Jewish and Catholic children's aid societies. In this jurisdiction, and I use this as an illustration, when the relevant society is approached through an application for adoption by a couple of the same sex who are married but are at odds with religious and traditional teaching, it will be the courts who will pronounce upon what once again will be a matter of human rights, a confrontation between that same, but we believe erroneously applied, concept of human rights, which is the basis for Bill C-38. This will conflict with traditional spiritual and religious practice and teaching.

The second area is usually referred to as preach and teach, which is more than just protecting the hard-won rights of certain faith communities to develop curriculum in church-affiliated schools consistent with religious and spiritual values. While this is absolutely essential and itself will probably come under judicial assault, we must also be aware that the public school system, presently supported by many faiths, will be faced with contradictory attitudes toward marriage and sex education, compared with values taught in the churches, mosques, synagogues, temples, and homes of this nation. What long-term impact will this have on the institution of public education, which has been a force of cohesiveness across our land?

•(1335)

In both examples, adoption and education, I believe members can see that at a time when more social cohesiveness is needed, Bill C-38 will be taking us in exactly the wrong direction, by weakening these traditional practices and institutions.

To conclude, at a time when the world sees in Canada an example of a caring, tolerant, and compassionate society, and when one reflects on the legacy of institutional strength that generations of Canadians have fought and laboured to build and preserve, on balance, Bill C-38 is just not good enough, either in substance or in the process we have followed in developing it.

The most appropriate course of action, then, would be to defeat this bill and to begin the task of designing and constructing a true civil union that would respect the dignity, tradition, and lifestyle choices of all Canadians, but none at the expense of the others. This has been and should be the Canadian way.

•(1340)

**Mr. John Cummins (Delta—Richmond East, CPC):** Mr. Speaker, I want to thank my friend opposite for a very thoughtful and well-reasoned presentation.

The previous member, the member for Mississauga South, suggested that the Supreme Court has given us a clear signal on this particular issue. My friend opposite referenced the Constitution as a living tree, and I think most recognize that. The difficulty, of course, is that there is a conflict here. We essentially have nine lawyers in the Supreme Court telling 308 elected members what kind of country we should have.

My question is this. Is the problem we are facing here on this issue now that the Constitution does not really define the balance between the rights of Parliament to define society and the duty of the court to tweak Parliament's decisions with reference to the Constitution and the charter? It seems to me that is part of the problem we have today. There is no balance between just what the court can say and Parliament's rights here. Personally, I would fault the government for not stepping up to the plate and protecting Parliament's interest in this delicate balance, which perhaps is not so delicate. I wonder if the member had some thoughts on that notion.

**Mr. Alan Tonks:** Mr. Speaker, first, I am a teacher by profession, not a lawyer, and there are many who I think have given very accurate and reasoned analyses with respect to the authorities that Parliament has inherited through its statutory responsibilities and the role that Parliament plays with respect to decisions that are made by the courts. The charter is a living document as part of the Canadian Constitution. We have seen just how alive it is in the most recent decision given by the Supreme Court with respect to health care, with the notion that the charter should not arbitrarily set in place a standard that would make it difficult for Canadians to have reasonable freedom of decision, a different concept of freedom and rights, and one again that we are attempting to fit within the architecture of decision making as established through Parliament.



*Government Orders*

I believe statutory law is very close to natural law, that there is the finite law and the written law, but it is up to Parliament to look at the overall higher interest and to develop statutory principles within which all Canadians, in fact all human beings within our country, can live. I would think that is the guidance we should be giving to the courts, by setting that higher ground in terms of a law that goes beyond legalistic and judicial law and is really based on traditional values and conventions that have stood the test of time.

**Mr. Bill Siksay (Burnaby—Douglas, NDP):** Mr. Speaker, the member for York South—Weston mentioned values that are common to people who enter the institution of marriage in Canada. I would like to ask him exactly which values gay and lesbian couples who seek to be married do not share with other Canadian couples who seek to be married in Canada.

It seems to me that the gay and lesbian couples who are seeking to be married in Canada do so because they strongly believe in the institution of marriage. They are willing to fight to have access to that institution. It seems to me that we were raised in families where the values of marriage were passed on to us by our parents who entered into those married relationships, and we saw how those relationships were of importance and had value in our families and in our society. It seems to me we were raised in churches and other organizations that valued the institution of marriage and taught us those values and led us to want to share in that institution.

So exactly what values does he see gay and lesbian couples not upholding when it comes to marriage in Canada?

• (1345)

**Mr. Alan Tonks:** Mr. Speaker, there would be none if gay and lesbian couples were part of the same civil union institution that was created to be accessible for all people. I suppose it is wrong-headed and I have tried to argue that had we started from that premise, it would not be necessary to fend and prove what values gays and lesbians cherish and value more than couples of the same sex who are married. It would be the blessing and the sacrament of the church that would be part of the freedom that the church enjoyed in granting that benefit. That would be protected equally by the courts.

The question unfortunately sets the stage for what I have tried to say is an unnecessary confrontation between perceived values. The member made a good point, but he also must admit that if it was an acceptable principle that same sex couples and those of opposite sex had the same values, then why would we find ourselves in the position that we are changing one and it has to be at the expense of the principles and values of married couples, of those who have a traditional attitude supported by their religious convictions as a marriage between people of the opposite sex?

My very short answer is that we would not be where we are. We would be talking about the same values, if we were talking about the same thing, which would be a civil union regime.

[*Translation*]

**Mr. Réal Ménard (Hochelaga, BQ):** Mr. Speaker, with the consent of the House, I will be sharing my time with my good friend, the hon. member for Sherbrooke.

I am pleased to speak to what is certainly an historic debate in this House. I was in the House of Commons when Allan Rock

introduced an amendment to the Canadian Human Rights Act to include sexual orientation as a prohibited ground of discrimination. I was in the House when section 718 of the Criminal Code was amended to include provisions on hate crimes. I was also in the House when common-law same-sex couples were given the right to be fully considered as spouses with all the related obligations and responsibilities.

I must say that today's debate seems rather different to me. Of course, just like the other laws mentioned, it improves rights for gays and lesbians. Nonetheless, the debate today is slightly different because we are not just talking about financial benefits.

The primary issue is whether Canadians and Quebecers want to consider gays and lesbians as full citizens. If so, then logic follows that we should allow no room for discrimination in any aspect of society. It is not permitted in the workplace, in common carriers, nor in public places. There remained one place, one major institution, that of marriage, where same-sex couples were being discriminated against. That is what makes today's bill so great.

The bill before us is not important from a financial standpoint. I would even say that it is not important from a legal standpoint, since many of the benefits associated with marriage are available to those in common law unions. In Quebec, many benefits granted to heterosexual couples are available through a civil union.

What is great, noble and profoundly historic in the debate today is that we are recognizing same-sex couples as full citizens by allowing them to get married. Some will say that not all same-sex couples want to get married, just like not all heterosexual couples want to get married. However, all homosexual couples will have the choice. Among the wide range of possible committed relationships they can have, marriage can be added to the list.

Why is this important? It is never easy discovering you are a homosexual. I recall realizing I was homosexual about the age of ten. I announced it to my parents at age 18. Even though I was a member of a very open family, even though my parents were very understanding, even though I had brothers and sisters who loved me and still love me a lot, it is never easy saying you are gay. Parents wonder in what sort of company their child will grow up, what awaits the child, if the child will face jeers and rejection and if the child will be accepted wholly.

The bill before us sends a very clear message to parents. It says that, if they discover in a few years their child is homosexual, they will be able to say that, in Canada and Quebec, there is no room for discrimination, rejection, intolerance, at least in the light of the legislation passed by the men and women in Parliament. That is what is so great about today's bill.

*S. O. 31*

●(1350)

I recall when we looked at Allan Rock's bill, when he was Minister of Justice. A psychiatrist had appeared before us in committee and presented very alarming figures, which even today are true. They reveal that young adolescents who discover they are homosexual are more prone to suicide, depression and self rejection. So, I think that everyone who supports such a bill today will help make it easier to live with one's homosexuality in the Canada and Quebec of tomorrow.

Today, I am thinking as well of Svend Robinson and of two of my fellow Quebecers, Michael Hendricks and René Leboeuf, who were the first in Quebec to contest the laws. They were so serious and strong in their fight then that they had to remortgage their house to pay legal costs. It is all very well to have the court challenges program, but, obviously, people contesting the law have to invest time, money and energy.

So, if you asked me who, in the long list of great values advocates made important human rights contributions, I would immediately say Svend Robinson, along with Michael Hendricks and René Leboeuf.

I would like to finish by saying that the churches had some reasons for concern in this debate, even though there were very clear provisions on freedom of religion in clause 3 of the bill. What I liked was what the United Church of Canada had to say when it appeared before the members, and I would like to quote it:

In August 2000, the 37th General Council affirmed that human sexual orientations, whether heterosexual or homosexual, are a gift from God and part of the marvellous diversity of creation, and further resolved to advocate for the civil recognition of same-sex marriages.

Wherever one looks in society, whether among religious groups, in legal circles, in political parties, in social groups, among our fellow citizens, in urban or rural areas, there are people who support this bill.

The leader of the Bloc Québécois, the member for Laurier—Sainte-Marie, shared a survey with us in caucus that had been done in Quebec. It was interesting to see that in all the large urban areas in Quebec, a majority of people supported same sex marriage.

When I introduced a motion in 1995 to recognize common law marriage rights for homosexual partners, the government whip, who was Alfonso Gagliano at the time, called the vote on a Monday morning to make sure that as many members as possible were absent. Only one member of cabinet came to vote, and that was Sheila Copps, the Prime Minister's good friend, who had a tremendous amount of courage. She was Minister of the Environment then and Deputy Prime Minister. At the time, it was still so taboo for people in public life to be associated with homosexuality and the promotion of it that no other cabinet members dared to come and vote on a Monday morning.

The good news, this evening, is that more than a decade has passed since then. With great pride, dignity and open-mindedness, a majority of parliamentarians, I hope, will make one of the most noble gestures that can be made in a democracy, namely furthering human rights and saying clearly to all the homosexuals in this country, wherever they may be, whatever their age, and whatever

education they may have, "You are real citizens and you have a right to love".

●(1355)

**Ms. Françoise Boivin (Gatineau, Lib.):** Mr. Speaker, I thank the member for Hochelaga for his very impassioned speech, as always. I want to take this opportunity to thank him for his work on the legislative committee on Bill C-38. The committee did not have an easy task, but I think it has been accomplished with serenity, thanks in large part to the member for Hochelaga, who was able to inject nice touches of humour throughout the deliberations.

That said, I would like to ask him two questions. Does he believe that the bill we will be called to vote on provides adequate protection to all religions, given all that we have heard during committee hearings and the concerns that have been voiced, with good reason, I would say. Some of these concerns were more subjective than objective, as the Supreme Court of Canada indicated. So, is the member satisfied with the amendments that were made?

I would also like him to comment on the remarks made yesterday by the leader of the Conservative Party about tonight's vote lacking legitimacy because of the support by Bloc Québécois members.

**Mr. Réal Ménard:** Mr. Speaker, I thank the hon. member for her questions. I will not dwell on what the Conservative leader said, which, in a democracy, is extremely unfortunate. I think this shows how many light-years away he is from the responsibilities he aspires to, in other words, the responsibilities of Prime Minister.

The concept of freedom of religion is an important one. I am sure that no member would want to interfere with anyone's religious beliefs. Religious beliefs are important and have to do with our perception of the world and how we relate to one another.

I believe that the clause in the bill was very clear and that the Supreme Court was very clear in its reference. My colleague from Charlesbourg—Haute-Saint-Charles introduced an amendment to ensure that no group would be denied its status as a charitable organization, regardless of its religious beliefs on the right to marriage. I think all these factors combined ensure that all those concerned with freedom of religion can vote with complete peace of mind in favour of the bill before us today.

**The Deputy Speaker:** The hon. member will have time to answer one other question after oral question period.

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## STATEMENTS BY MEMBERS

●(1400)

[English]

### VETERANS AFFAIRS

**Mrs. Susan Kadis (Thornhill, Lib.):** Mr. Speaker, today in Toronto the Jewish War Veterans Memorial Committee will launch its fundraising campaign with the creation of Canada's first national Jewish war veterans memorial. The memorial will honour those of the Jewish faith who have served Canada both before and after Confederation.

This issue is very close to my heart as my father, Vic, at the young age of 15 joined the more than 17,000 Jewish men and women who fought for Canada during World War II.

As Canadians, we must honour the sacrifice of all veterans who have secured the hard-fought freedoms that we enjoy today. It is especially fitting that this project is being launched during the Year of the Veteran. As we mark the halfway point of this special year, Canadians across the country are continuing to celebrate, thank and remember our veterans, including those in particular who gave their lives. We must ensure that memorials like this one are erected so that Canada's memory and appreciation of our veterans never fade.

I want to convey my gratitude to all our veterans who have, whenever terror has loomed, when peace has been threatened, proudly fought with courage and determination to ensure that the Canadian values of freedom and democracy were always protected.

\* \* \*

#### AGRICULTURE

**Mr. Rick Casson (Lethbridge, CPC):** Mr. Speaker, Canada's BSE crisis is into its third year and the Liberal government continues to be content wandering around the outfield while the U.S. protectionist group R-CALF stands at the plate taking swing after swing at Canada's livestock industry.

R-CALF, already granted a temporary injunction against our live cattle, will be seeking to make that injunction permanent and seeking to add boxed beef. The case will be heard in Billings, Montana on July 27 and the Liberal government will not even be in the ballpark.

With the unwillingness of the tired government to go to bat for our producers and with our food safety protocols under attack, Conservative parliamentarians, in an unprecedented ruling, will be the de facto government in a foreign court. Yes, it will be the official opposition presenting an amicus brief in Billings on behalf of Canada's livestock industry.

While the government is stuck in the seventh inning stretch, content with its peanuts and Cracker Jacks, the Conservative team will be on the mound hopefully delivering the strike-out pitch.

\* \* \*

#### FORESTRY

**Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.):** Mr. Speaker, yesterday a fire hit the eastern shore of the Halifax regional municipality. The fire was fueled by leftover debris from hurricane Juan, debris that cannot be transported due to the quarantine zone that was established in 2000 by the CFIA as a result of the brown spruce longhorn beetle.

We were lucky yesterday. No lives were lost and damage was limited. Yesterday was a warning of what could happen if solutions are not found to the huge problem that exists for woodlot owners and residents inside that zone.

I have raised this issue in the House. It is imperative that all levels of government work together to solve this issue immediately. I have seen the damage firsthand and it is devastating. On top of the financial hardship, there is the danger of this debris as well. Broken

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branches, tree stumps and logs litter these properties, providing a hazard to everybody, especially children.

We must ensure that this problem is not compounded by personal tragedy such as a major fire. We need to get the wood out of the quarantine zone. We need to do it immediately. We all play a part.

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[*Translation*]

#### WORLD POLICE AND FIRE GAMES

**Ms. Christiane Gagnon (Québec, BQ):** Mr. Speaker, from last Sunday until July 5, Quebec City is hosting the 2005 World Police and Fire Games.

A total of 9,500 athletes from some 60 countries will compete in 62 disciplines. There will be over 24,000 visitors to Quebec City during the 10 days of competition.

With economic spinoffs of approximately \$50 million, it is hard to understand why the contribution from the federal government has been only half that of the Quebec government, particularly since Ottawa will benefit tremendously from this international event.

The Bloc Québécois congratulates the organizers and the 4,200 volunteers who will ensure the success of the World Police and Fire Games and solidify Quebec's reputation as a tourism destination.

We wish all the competitors good luck at the games.

\* \* \*

[*English*]

#### NEW MEDIA

**Hon. Hedy Fry (Vancouver Centre, Lib.):** Mr. Speaker, I rise to boast.

The Gastown and Yaletown districts in my riding form the hub of an innovative, rapidly growing sector called new media, an industry that bridges culture and technology using emerging, interactive, digital media to entertain, educate and inform.

B.C.'s new media industry includes 700 companies. Three-quarters export globally and predict a 25% growth next year. The industry employs 15,000 workers, 95% of whom have a technical, college or university degree, making B.C. Canada's largest new media hub.

Vancouver is home to the world's number one electronic games software company, Electronic Arts. Together with 150 other companies, including Radical, Sony, Disney and Vivendi, they make B.C. the North American hub for video game development.

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Futurist Richard Florida postulates that today's highly educated, mobile, IT workers carry their intellectual property with them. They choose where they live, though their workplace is global. Because of its lotus land image, multicultural lifestyle and superior quality of life, they are choosing B.C.

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● (1405)

**HEALTH**

**Mr. Steven Fletcher (Charleswood—St. James—Assiniboia, CPC):** Mr. Speaker, last fall the health minister promised tainted blood victims that come June he would give them answers. Well, June has nearly ended and we have heard nothing.

Victims have been phoning my office every day because they cannot get answers from the minister's office. They deserve to know today if they will be justly compensated for their suffering. It is disgraceful that victims have had to wait at all.

What is worse is the government misleads victims by implying that moneys are forthcoming and then does not provide compensation. This is a typical Liberal tactic, to make promises and commitments for political gain and then quietly do nothing, assuming the media will not follow up. The Conservative Party will follow up and it will not let these victims be forgotten.

The government's inaction on this issue is abhorrent. The Liberals should hang their heads in shame while these victims suffer. A Conservative government would have shown compassion to these victims from the start.

It is the end of June. For heaven's sake, compensate these people now.

\* \* \*

**FIGHTING ANTI-SEMITISM TOGETHER**

**Ms. Anita Neville (Winnipeg South Centre, Lib.):** Mr. Speaker, I rise today to salute the initiative of Tony Comper, CEO of BMO Financial Group, and co-founder along with his wife Elizabeth, of the coalition FAST, Fighting anti-Semitism Together. Mr. and Mrs. Comper have joined along with 21 other non-Jewish Canadian business leaders at a most important time, as the year 2004 produced an all-time high of 857 reported incidents of anti-Semitism in Canada.

Further to speaking out against the scourge of anti-Semitism, FAST will also attempt to educate young people about the evils of anti-Semitism and bigotry in general by establishing an educational initiative for 10 to 14-year-olds called "Choose your Voice".

It is one thing when members of the Jewish community speak out against anti-Semitism and bigotry, but it resonates much more when non-Jews decide to attack the problem. I ask my colleagues in the House to join with me and wish the members of the group well in their initiative and their fight against anti-Semitism.

[*Translation*]**MARIE-HÉLÈNE PRÉMONT**

**Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ):** Mr. Speaker, I want to pay tribute to the victory on June 25 of cyclist Marie-Hélène Prémont from Château-Richer in the women's mountain bike world cup, which took place in Mont Sainte-Anne in my riding.

In sweltering heat of nearly 30°C, Marie-Hélène Prémont came from behind in the last lap to beat the Olympic champion to the finish, in front of thousands of spectators from the Quebec City area who had come out to cheer her on.

This is her second victory on the world cup circuit. In addition, she ranks second overall.

I salute her courage and her determination, and I wish her the best of luck in her next competition, which will take place in Brazil. Congratulations again to Marie-Hélène for this great win. Good luck during the rest of this season. Côte-de-Beaupré and all of Quebec are behind you.

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[*English*]**NORTHERN ONTARIO**

**Mr. Roger Valley (Kenora, Lib.):** Mr. Speaker, it has been a year since the government was elected.

This has been an important year for the people of my riding, who have seen progress for which this government is directly responsible. We have seen improvements in our infrastructure through the work of FedNor. Our municipalities and unincorporated areas have benefited from the government's commitment to create a lasting partnership by supporting their initiatives through the reimbursement of the gas tax. The people in northern Ontario will have access to millions of dollars of new money to support their infrastructure.

During the past year I have had a chance to learn more about our remote communities. The potential for these communities is enormous but we must do more to address the unique challenges these communities face. We have made important steps to strengthen our relationship with the aboriginal people. This can be highlighted by the conclusion of the national round table.

I have been fortunate to work with municipal governments, local roads boards, fellow parliamentarians and people in my riding to achieve such positive results. I thank the people of my riding for the opportunity to serve them. I look forward to working with them over the next year.

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**NATIONAL DEFENCE**

**Mr. David Chatters (Westlock—St. Paul, CPC):** Mr. Speaker, the Minister of National Defence assured me personally on three occasions that he would resolve a conflict between his department and Scott Collacutt and his company CEL Surplus. Mr. Collacutt is a resident in my riding of Westlock—St. Paul.

In spite of the minister's commitment to me and months of delay, the minister has failed to use his ministerial authority to resolve this issue fairly. Mr. Collacutt has served his country honourably in the Canadian armed forces and is seeking only fair compensation for his losses caused by the actions of the Department of National Defence and the government.

I want Canadians to know that I am holding the weak-kneed minister personally responsible for the great hardship that this has caused Mr. Collacutt, his family and business. Why will the minister not find some backbone and courage and live up to his promise?

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●(1410)

#### BOSNIA AND HERZEGOVINA

**Hon. Jean Augustine (Etobicoke—Lakeshore, Lib.):** Mr. Speaker, this July will mark the 10th anniversary of the massacre in Srebrenica, Bosnia and Herzegovina. The memory of those atrocities are still very much alive in the minds and hearts of many of my constituents.

Srebrenica marked the climax of the war in Bosnia and Herzegovina. The Red Cross estimated that between 8,000 and 10,000 innocent people were either executed or listed as missing. Throughout the three year war, tens of thousands were deprived of the fundamental democratic principles of peace, stability and safety.

This July let us remember the individuals who suffered because of hatred and intolerance. Let us assure the Canadian-Bosnian community and all communities that aggression, ethnic cleansing, genocide and all such evils be not repeated, and that Canada and Canadians stand ready to uphold democratic principles and the rule of law.

July 11 is a day that all Canadians will remember.

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#### RELIGIOUS FREEDOM

**Hon. Bill Blaikie (Elmwood—Transcona, NDP):** Mr. Speaker, in a time when religion is predominantly characterized in the media as a conservative force, there is a need to diversify the face of religion in the political realm and to emphasize that there are faith informed progressive perspectives on issues which too often are dealt with as if there is only a debate between faith and non-faith.

In fact, what is often happening is a debate between Canadians of the same faith and/or a debate between conservative faith communities and a secular liberalism that owes its values in large part to our common religious heritage.

People of the same faith arrive at different conclusions about difficult issues and consequently join or support different political parties. This is as it should be.

Religious speech should not be restricted to a few issues, or even worse, seen as inadmissible in debate. Questions of peace and war, the economy and the environment are also moral issues that can be informed by faith.

The task is to discern the appropriate ways of such speaking in a pluralistic world. Dismissing views purely because they are religious

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throws out the wheat with the chaff. Secular fundamentalism is not the answer either. Thanks be to God, Mr. Speaker.

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#### GASOLINE PRICES

**Mr. Lee Richardson (Calgary Centre, CPC):** Mr. Speaker, gas prices are too high and Liberal taxes are to blame. The Prime Minister likes to take credit for reducing the deficit. Canadians reduced the deficit by paying an extra 10¢ a litre excise tax on gasoline. It has been an extra 10¢ a litre since 1995 when the Prime Minister, in his capacity as finance minister, raised the federal excise tax to 10¢ a litre claiming it was a temporary deficit reduction measure.

There is no longer a deficit yet the extra tax remains, gouging Canadians to the tune of \$7.8 billion this year, and then there is the GST on top of that. When people fill up at the pump this summer and pay the highest gas prices in Canadian history, they can thank the Liberals.

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[*Translation*]

#### ELIMINATION OF POVERTY

**Ms. Nicole Demers (Laval, BQ):** Mr. Speaker, this morning, the Make Poverty History coalition as well as performers and organizers of the Live 8 concert brought the Prime Minister thousands of postcards with the names of nearly 40,000 Quebecers and Canadians calling for a world without poverty.

More than 800 million human beings will go to bed hungry tonight and, today, more than 50,000 people will die from poverty related causes.

Increasing and optimizing international aid up to 0.7% of GDP, making trade fair, and continuing debt cancellation for poor countries are all tangible ways of fighting this scourge.

The Bloc Québécois urges the Prime Minister to champion such efforts at the next G-8 summit, at the UN millennium summit in September and at the WTO meeting in December.

Poverty is a hindrance to the development and fulfilment of those who live in it. Canada must act and do its fair share.

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[*English*]

#### DEMOCRATIC REFORM

**Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC):** Mr. Speaker, in his first throne speech, the Prime Minister announced that he would restore freedom to MPs by adopting a three line voting system.

Under this system, when a vote is designated as a three line whip, all Liberal MPs have to vote the way they are told. Ministers and parliamentary secretaries are bound by party discipline when it is a two line whip. But not to worry. Under a one line whip, every Liberal MP is in theory free to vote according to conscience.

### Oral Questions

I say in theory because the government's annual report on democratic reform reveals that not one vote has ever been designated by the Prime Minister as a one line whip. This is significant because a two line whip denies a free vote to all those new cabinet ministers and parliamentary secretaries the PM keeps creating, including both of the ministers for democratic reform.

It means that every member of a cabinet that is expanding like a prize winning pumpkin is bound on every single vote and on every single piece of government business. If the freedom of Liberal MPs is the test of the democratic deficit, the Prime Minister gets an F.

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• (1415)

### HEALTH

**Mr. John Maloney (Welland, Lib.):** Mr. Speaker, I am pleased to rise in the House today to commend Health Canada for its recent award presented by the United States Food and Drug Administration to acknowledge the work the department has done to enhance its ability to protect not just the health of Canadians but all North Americans.

The FDA Leveraging/Cooperation award recognizes Health Canada's commitment to addressing health challenges and furthering health goals. Canada's rigorous participation in the Canada-Mexico-U.S. trilateral cooperation charter has proven an asset for the citizens of our continent.

The trilateral group has increased communication and information exchange in the areas of drugs, biologics, medical devices, food safety and nutrition to protect and promote human health in North America.

Health Canada's award is an excellent demonstration of the efforts Canada is making to promote relations with our closest neighbours to the south, the U.S. and Mexico. This award represents our shared important goals: healthy scientific research, healthy citizens and healthy international relations.

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## ORAL QUESTION PERIOD

[English]

### HEALTH

**Hon. Stephen Harper (Leader of the Opposition, CPC):** Mr. Speaker, yesterday I pointed out the government's failures over the past year on Air-India, hepatitis C and the fiscal imbalance.

The Prime Minister said he would fix health care for a generation. Instead, his health minister is fighting with doctors. After more than a decade of mismanagement, Canadians are waiting longer than ever for access to medical care.

Why has the most important action on health care come from the Supreme Court and not from the government?

**Right Hon. Paul Martin (Prime Minister, Lib.):** Mr. Speaker, although the Supreme Court certainly dealt with the issue of waiting times, it was the government that convened the federal-provincial conference specifically on that issue. It was the government that

raised it during the election campaign. It was that opposition party that said it was not a problem during the election campaign.

It was the government that put \$41 billion over 10 years into dealing with the issues of waiting times and better health care. It was the government that set up the waiting times reduction fund. The government has assumed its responsibilities despite the blindness of the opposition.

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### SPONSORSHIP PROGRAM

**Hon. Stephen Harper (Leader of the Opposition, CPC):** Mr. Speaker, what the Supreme Court said was not that the government had dealt with health care, but that it was not dealing with health care adequately in this country.

While we are on courts, yesterday in court the former prime minister and the current Prime Minister were again working together against Justice Gomery. Both lawyers for the government and for Jean Chrétien have ignored a court order to expedite allegations of bias.

Why are the Prime Minister's lawyers still working with Jean Chrétien instead of working with Judge Gomery?

**Right Hon. Paul Martin (Prime Minister, Lib.):** Mr. Speaker, the Leader of the Opposition's facts are simply wrong.

The government's position, and we have stated it clearly in court and elsewhere, is that Judge Gomery is not biased. We will oppose any moves to obstruct or to slow down his report. We supported Judge Gomery. We put Judge Gomery in place. We created the commission. We have supported him throughout the whole process despite the countless attempts by the opposition to undermine his authority.

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### CHILD CARE

**Hon. Stephen Harper (Leader of the Opposition, CPC):** Mr. Speaker, the only person who undermined Justice Gomery was the Prime Minister when he praised Jean Chrétien's behaviour in his own caucus.

After another year Canadian families still see no results on child care. Premier Lord of New Brunswick is trying to get an agreement with the government which would give options and results to parents.

Why is the government so inflexible when it comes to dealing with New Brunswick and giving real options to parents?

**Hon. Ken Dryden (Minister of Social Development, Lib.):** Mr. Speaker, a few weeks ago we were on the verge of signing an agreement in principle with the Government of New Brunswick. We had an agreement among officials. We are still looking forward to finalizing something with New Brunswick which would represent something quite significant to people in rural and remote areas in New Brunswick, in particular, an increase of about 130% on what is currently being spent on child care in that province.

*Oral Questions*

• (1420)

**Ms. Rona Ambrose (Edmonton—Spruce Grove, CPC):** Mr. Speaker, the Premier of New Brunswick wants to give his share of the federal child care money to parents, so they can have a choice in child care, but the Minister of Social Development refused to listen and said that federal money will only go to trained child care experts.

When will the Minister of Social Development understand that these billions should be going to the real child care experts in this country? Maybe he has heard of them. They are called mom and dad.

**Hon. Ken Dryden (Minister of Social Development, Lib.):** Mr. Speaker, I might remind the party opposite that 13 months ago in terms of child care in this country things were stalled. In the midst of the campaign, the party opposite decided to make a campaign promise and that promise would represent \$320 for a low income family.

**Some hon. members:** Hear, hear!

**Hon. Ken Dryden:** They are applauding. That is less than \$1 a day. That is a real triumph. Congratulations.

**Ms. Rona Ambrose (Edmonton—Spruce Grove, CPC):** Mr. Speaker, at least on this side of the House we would have given this money to parents already.

The Liberals say they take child poverty seriously and yet their day care deal leaves millions of children without financial support. The Conservative Party has committed to providing each and every child with significant financial support, regardless of whether or not their parents choose day care or stay home.

Why is the government refusing to give this money equally to every child in Canada?

**Hon. Ken Dryden (Minister of Social Development, Lib.):** Mr. Speaker, there is another great difference between the party opposite in here—

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

**The Speaker:** Order, please. We need to have a little order. Hon. members will get cheated out of an opportunity to ask a lot of questions with all this noise. The Minister of Social Development has the floor and I am sure hon. members want to hear the answer and all those differences. The hon. Minister of Social Development.

**Hon. Ken Dryden:** Mr. Speaker, the biggest difference is that this government is delivering on a \$5 billion commitment over five years for a national system of early learning and child care.

All that has happened on the other side of the House was a campaign promise 13 months ago, discouraging words ever since and vague talk at this particular moment. There is a huge difference between each side.

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[Translation]

#### INTERNATIONAL ADOPTION

**Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ):** Mr. Speaker, the Canada-Vietnam agreement on international adoption, which has been awaited for two years, is being compromised because Ottawa wants to limit the legal scope of it, to the detriment of parents

and children, something that is totally unacceptable according to the Quebec minister of international relations, who says this sets us back 40 years.

As dozens of this type of agreement have been signed by Quebec, how does the Prime Minister explain his government's desire to now question Quebec's authority in international adoptions, a field that is clearly under its jurisdiction?

**Right Hon. Paul Martin (Prime Minister, Lib.):** Mr. Speaker, first, Vietnam is the one calling for an international treaty with other countries to permit international adoptions. It is Vietnam's request. Instead of criticizing, the leader of the Bloc Québécois should be happy, because this is good news. After a three or four year moratorium, Canadians can now adopt Vietnamese children. It is good news, and I am very happy that Canada could sign a framework agreement and that now the provinces, including Quebec, will be able to negotiate within the framework.

**Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ):** Mr. Speaker, apparently, the Government of Quebec does not find it good news and has said so clearly. The framework agreement is not at issue. What is, is the fact that Quebec had negotiated with Vietnam on jurisdiction over international adoptions, and Ottawa is changing its mind and setting conditions for Quebec in this regard, according to the Government of Quebec.

Why set these conditions rather than do what has been done in many other cases where there is a framework agreement? However, the international schedule is in Quebec's domain. Why these conditions?

• (1425)

**Hon. Pierre Pettigrew (Minister of Foreign Affairs, Lib.):** Mr. Speaker, let us be clear. The government of Vietnam wants a treaty protecting children, a treaty with the force of international law. This area is clearly under the jurisdiction of the Government of Canada. This is of concern to us. It is our job, and we delivered the goods yesterday with an agreement of great interest to families and Vietnamese children seeking adoption. Now that this treaty has been negotiated with Vietnam, with the force of international law, the Government of Quebec, clearly, can negotiate its own agreement, since it is responsible for adoption.

**Ms. Francine Lalonde (La Pointe-de-l'Île, BQ):** Mr. Speaker, Quebec and Vietnam negotiated an agreement two years ago on adopting children from that country. For this agreement to be valid under international law, since Quebec is not a sovereign country, Vietnam asked the federal government to sign an agreement also.

Why did the federal government use it to backtrack on the understanding negotiated by Quebec, as it has done a number of times in the past, when the Government of Quebec acted within its jurisdiction? Why is the federal government acting in such bad faith?

*Oral Questions*

**Hon. Pierre Pettigrew (Minister of Foreign Affairs, Lib.):** Mr. Speaker, I must say that we are very proud to have this treaty with Vietnam. The Government of Quebec is perfectly within its jurisdiction in the area of adoption. The situation in Quebec is quite special since we have the civil code. The Quebec understanding should reflect the laws as they exist in Quebec. However, as far as international law is concerned, it is the agreement the Government of Canada signed yesterday that provides the force of international law and the protection Vietnam was seeking. Nonetheless, the Quebec government's understanding governs the conditions for adoption in Quebec.

**Ms. Francine Lalonde (La Pointe-de-l'Île, BQ):** Mr. Speaker, the understanding reached between the Government of Quebec and the Vietnamese government was negotiated with the approval of the former minister of foreign affairs, who approved the wording himself.

Why is the current Minister of Foreign Affairs insisting on setting things back 40 years in matters of adoption, by taking responsibilities away from Quebec? Why this step backwards by the minister, when hundreds of parents are waiting to adopt hundreds of waiting children?

**Hon. Pierre Pettigrew (Minister of Foreign Affairs, Lib.):** Mr. Speaker, children and families are precisely what we are concerned about. Let us think about the children and the families and let us stop raising constitutional issues and try to obtain international recognition for a right that is very clear under international law. Children and families are what must count the most here.

I do not see how the minister could have approved the wording two years ago, as the hon. member just said, when it was finalized this weekend. Really, there are limits.

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[English]

**INTERNATIONAL AID**

**Hon. Jack Layton (Toronto—Danforth, NDP):** Mr. Speaker, thanks to the member for Halifax, Parliament has now voted to set a target of 0.7% of GDP in foreign aid by 2015. Canadians want this to happen, thousands of Canadians, like all those involved in making poverty history. MPs want this to happen. Canadians want us to be part of the family of nations that keeps its promises.

Will the Prime Minister commit to achieving 0.7% of GDP in foreign aid by 2015 as requested by Parliament and this House?

**Right Hon. Paul Martin (Prime Minister, Lib.):** Mr. Speaker, this government is committed to the 0.7% and we would very much like to achieve that target by the year 2015. However we believe it is crucial that nations keep their commitments, which means they have to set out how they are going to do it.

I remember very clearly the agreement of the international community to achieving primary education for all young Africans by the year 2015. That is a commitment that has not been lived up to. I remember the first commitment on climate change in Rio de Janeiro, which is another commitment the international community did not live up to.

The fact is that countries must keep their commitments, and if they are going to do it, they should set out how they will do it. We will set the example.

• (1430)

**Hon. Jack Layton (Toronto—Danforth, NDP):** Mr. Speaker, the only example that the government has set is the breaking of international commitments, whether it be climate change or repressing poverty.

It was under the Liberal administration that Canadian foreign aid fell as a percentage of GDP, at the same time as leading nations in the world were honouring a promise that was established by a Canadian prime minister, for heaven's sake.

When will the Prime Minister begin to listen to Parliament? Parliament has just adopted the position that Canada should honour its international promises. Does the Prime Minister not hear, and if not, why not?

**Hon. Ralph Goodale (Minister of Finance, Lib.):** Mr. Speaker, we have led the world in cutting the debt of poor countries. We are in the process right now of doubling our aid to Africa.

A commentator in this House last year said, "Every time you propose an idea, you have to identify a source of funding". That was in a book called *Speaking Out* published in 2004. The quote is at page 192. The author is Jack Layton.

**The Speaker:** I assume the Minister of Finance meant the hon. member for Toronto—Danforth and, if so, I know he would want to be correct the next time he answered such a question.

The hon. member for Calgary—Nose Hill.

\* \* \*

**CITIZENSHIP AND IMMIGRATION**

**Mrs. Diane Ablonczy (Calgary—Nose Hill, CPC):** Mr. Speaker, there is growing evidence that this Liberal government misuses residency permits for political advantage.

Equally troubling, the recent ethics report also confirmed the involvement of the Prime Minister's own office. According to Democracy Watch, the PMO had information about permit abuse but did nothing.

Why did the Prime Minister's Office not call in the Ethics Commissioner about evidence it had of unfairness in Canada's immigration system?

**Hon. Joseph Volpe (Minister of Citizenship and Immigration, Lib.):** Mr. Speaker, I am not sure whether the hon. member is referring to the Ethics Commissioner's second report where he found that one of her old colleagues was asking for 232 letters of guarantee before there was an intervention on behalf of a constituent.

We believe they are going to operate on behalf of a constituent at all times with no letters of guarantee but doing appropriate due diligence.

**Mrs. Diane Ablonczy (Calgary—Nose Hill, CPC):** Evasive tactics, Mr. Speaker.



*Oral Questions*

The discovery of partisan misuse of residency permits in the 2004 election by the Liberals may well be just the tip of the iceberg. A brave whistleblower provided evidence of abuse of permits personally authorized by a Liberal immigration minister.

The ethics report identified that during the election 97% of permits issued at an MP's request went to Liberals.

Did anyone in the Prime Minister's Office direct the former minister to approve this flood of election period permits for Liberals?

**Hon. Joseph Volpe (Minister of Citizenship and Immigration, Lib.):** Mr. Speaker, I am happy to say that in my period of time as the Minister of Citizenship and Immigration, we have duly presided over roughly half a million decisions.

I want to put that 97% of 70-plus decisions into context. As the House will recall, last year 1,100,000 permits were issued for entry into the country, be they tourist visas, student visas, work visas or permanent residencies. So far it is about 600,000 this year.

I am sure the member will be delighted to hear that we are operating—

**The Speaker:** The hon. member for Edmonton—Strathcona.

[*Translation*]

**Mr. Rahim Jaffer (Edmonton—Strathcona, CPC):** Mr. Speaker, mafioso Antonio Comisso easily found refuge in Canada.

A man whom the international justice system describes as a bloodthirsty organized crime leader has managed to live here after easily entering through the Pierre Elliott Trudeau airport.

How can we trust a government that is not even able to refuse mobsters?

[*English*]

**Hon. Joseph Volpe (Minister of Citizenship and Immigration, Lib.):** Mr. Speaker, surely the member would not expect us to talk about a specific case here on the floor of the House, especially when we are not sure whether the member is a real member or whether it is a staff member who he sent to replace him.

• (1435)

**Mr. Rahim Jaffer (Edmonton—Strathcona, CPC):** Mr. Speaker, I congratulate the minister for raising a new bar of arrogance in this place.

The other day the Minister of Public Safety tried to mask the reality of how the Liberals have improved the security of Canadians. When men like Comisso can come to Canada, buy a house, get a driver's licence and live in our suburbs, it seems that the only security the Liberals can provide is financial security for the mobsters.

Why did it take over a year to catch this man? How does the Deputy Prime Minister expect Canadians to feel safe when they made Mr. Comisso an offer he could not refuse?

**Hon. Anne McLellan (Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness, Lib.):** Mr. Speaker, let me reassure the hon. member that the Department of Citizenship and Immigration, the RCMP and the CBSA worked very closely on this case.

I will not comment on individual circumstances but I will reassure Canadians that we take their safety and the integrity of their safety very seriously.

I cannot comment further on any extradition proceedings that might take place. That is a matter for the Minister of Justice and the Department of Justice. However the named individual is someone who is now—

**The Speaker:** The hon. member for Vaudreuil-Soulanges.

[*Translation*]

**Ms. Meili Faille (Vaudreuil-Soulanges, BQ):** Mr. Speaker, concerning the refugee appeal division provided for by law, the minister is making excuses not to establish this mechanism requested by many organizations, including the UN committee against torture.

How can the minister explain with a straight face that, three years after the legislation was passed in Parliament, this mechanism has yet to be established, despite requests from international organizations and despite the fact that people are suffering and are being penalized because this appeal mechanism does not exist, even though the minister has repeatedly promised to deal with the situation?

**Hon. Joseph Volpe (Minister of Citizenship and Immigration, Lib.):** Mr. Speaker, individuals who seek political asylum are not disadvantaged by the mere fact that there is no appeal system. They are disadvantaged because of the bad conditions in the countries they come from. It is important to remember that last year this country welcomed 22% more refugees. This shows that something is working pretty well.

**Ms. Meili Faille (Vaudreuil-Soulanges, BQ):** Mr. Speaker, the lawyer representing the Mexican family facing removal as early as tomorrow morning stated that an appeal mechanism would represent a solution for this family.

Does the minister not realize that the government's inability to comply with its own legislation is severely penalizing individuals, who are thus denied rights and are victims of its mismanagement? What is he waiting for to act?

**Hon. Joseph Volpe (Minister of Citizenship and Immigration, Lib.):** Mr. Speaker, I still want to act. I am not referring to any case in particular, but each individual who seeks Canadian protection has an opportunity, after having been heard by the Immigration and Refugee Board, to appeal to the Federal Court of Appeal and, then, to another mechanism on humanitarian or compassionate grounds.

There is always a whole procedure to follow.

\* \* \*

**GASOLINE PRICES**

**Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ):** Mr. Speaker, it is increasingly obvious that the government is resigned to seeing the price of gas skyrocket. Contrary to statements by the Minister of Industry, there are ways to monitor the petroleum industry, but obviously the political will to act is lacking.

*Oral Questions*

What will it take for the Minister of Industry to amend the Competition Act and significantly increase the investigative powers of the Competition Bureau, which, according to the former commissioner, does not have the authority under current legislation to investigate the industry? What will it take for him to act?

[English]

**Hon. David Emerson (Minister of Industry, Lib.):** Mr. Speaker, while I thank the hon. member for the question, I must say that following the tradition of the Parti Québécois perhaps he should recommend to Parliament that we repeal the laws of supply and demand. In the meantime, let us get on with the amendments to the Competition Act, which are designed to deal with the very issues he is talking about. We will go further, but we will consult with industry on how to take those amendments further.

• (1440)

[Translation]

**Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ):** Mr. Speaker, consumers clearly do not consider the government's inaction to be a solution, now that the price of gas has passed the \$1 per litre mark.

Does the Minister of Industry not think it is time to retain the recommendations put forward by the Bloc Québécois demanding that the Competition Bureau be granted the authority to conduct independent investigations into the petroleum industry, and send the message that the current inaction has gone on long enough?

[English]

**Hon. David Emerson (Minister of Industry, Lib.):** Mr. Speaker, I would remind the hon. member that it still costs more for a litre of Coke than it does for a litre of gas.

I will say this. I welcome suggestions from the member opposite on how we can strengthen the Competition Act. We will certainly consider constructive suggestions on how we can improve that act and improve public policy for all Canadians and for competition in the marketplace.

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### JUSTICE

**Mr. Rob Merrifield (Yellowhead, CPC):** Mr. Speaker, it has been four months since the death of four RCMP officers near Mayerthorpe, Alberta, but what has the government done to make our communities and our police officers safer? The families of the victims want changes to our criminal justice system. They are coming to Ottawa this fall to make their case.

How will the minister explain his inaction to the RCMP families when they get here?

**Hon. Anne McLellan (Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness, Lib.):** Mr. Speaker, let me say that my colleague, the Minister of Justice, and I take very seriously the concerns that were raised yesterday by the families of the four fallen RCMP officers from Mayerthorpe. The Minister of Justice and I will be more than happy to meet with the families.

As did the Prime Minister, I certainly had the opportunity to talk to them at the time of the terrible tragedy, but the Minister of Justice

and I will look forward to discussions with them around how we can improve different elements of our criminal justice system.

**Mr. Rob Merrifield (Yellowhead, CPC):** Mr. Speaker, if that is what she is going to tell them this fall, they are going to be very disappointed.

Yesterday in London, Ontario, two police officers were shot during an incident that left four people dead. The Canadian Police Association wants minimum sentences for serious crimes. The London police chief wants them. It seems that the only one who does not want them is our justice minister.

Mandatory minimum prison sentences are not only about deterrence; they are about protection. Is the government committed to minimum sentences for serious violent crimes?

**Hon. Irwin Cotler (Minister of Justice and Attorney General of Canada, Lib.):** Mr. Speaker, we have said before and I will repeat again that the evidence we have thus far has demonstrated that mandatory minimums serve neither as a deterrent nor an effect. We share with the hon. member the concern with respect to the protection of public safety. We now await a report that is about to be tendered with respect to the deputy ministers who have looked into this issue. We will see what their response is on matters of mandatory minimums and other sentencing principles.

**Mr. Peter MacKay (Central Nova, CPC):** Mr. Speaker, last week the Ontario Court of Appeal refused a request to unseal Justice Fred Kaufman's report into the 1959 murder conviction of Steven Truscott. The court said the report's contents are a matter of public interest but are protected by solicitor-client privilege that only the Minister of Justice can waive.

Steven Truscott, who has the most to lose if this information is prejudicial to his case, has called for the release of that report. In the interests of the public, will the Minister of Justice waive the privilege so Canadians can finally see the material that the judge and the minister himself concluded was a miscarriage of justice for Steven Truscott?

**Hon. Irwin Cotler (Minister of Justice and Attorney General of Canada, Lib.):** Mr. Speaker, in our submission to the court we said at the time that we had no objection to the release of Justice Kaufman's report with appropriate protections in matters of privacy and in the interests of the administration of justice. One of the parties objected to the release of the report. We are now going to confer to see whether we will nonetheless authorize the court to release it, notwithstanding that there may be an objection by one of the parties.

• (1445)

**Mr. Peter MacKay (Central Nova, CPC):** Mr. Speaker, it has been an excruciating 45 years for the Truscott family in its wait for fundamental justice. In December, the Ontario Court of Appeal issued directions to ensure a fair review of the Truscott case. The court said it would rely on the information provided to Justice Kaufman but not the report itself. Last week, Justice David Doherty expressed concern about the sealing of this important information in one of the most well known criminal cases in Canada.

Why is the Minister of Justice compounding the injustice for the Truscott family, in this case by continuing to assert solicitor-client privilege in refusing to release the Kaufman report?

**Hon. Irwin Cotler (Minister of Justice and Attorney General of Canada, Lib.):** Mr. Speaker, I think the hon. member should read the decision from which he is quoting. In fact, the December decision of the Ontario Court of Appeal said it would not release the report because of considerations of privacy and in the interests of the administration of justice. As a result of this most recent judgment, we said we would now be prepared to look into it.

As I have said, I have no objection to releasing that report. In fact, I look forward to it, provided it is consistent with issues of privacy and the administration of justice. We will address that in our letter to the Ontario Court of Appeal.

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#### AUTOMOBILE INDUSTRY

**Mr. Lynn Myers (Kitchener—Conestoga, Lib.):** Mr. Speaker, recent media reports say that Toyota plans to build a new auto assembly plant in southern Ontario. This would be the first greenfield auto assembly plant built in Canada in almost 20 years.

Could the Minister of Industry advise the House whether the federal government has been active in trying to secure this investment and the 1,300 direct jobs it could bring?

**Hon. David Emerson (Minister of Industry, Lib.):** Mr. Speaker, that is an excellent question, and I want to thank the hon. member for Kitchener—Conestoga for the good work he has done in expressing the interests of the auto industry in our caucus and supporting the auto supply industry.

I want to say that if there is an announcement on Toyota in the next couple of days it will be because the Prime Minister met directly with the president of Toyota in Tokyo and encouraged Toyota to put that plant here in Canada. I think we are going to be successful.

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#### FISHERIES AND OCEANS

**Mr. Peter Stoffer (Sackville—Eastern Shore, NDP):** Mr. Speaker, it would be a great day if he were to announce a shipbuilding policy in this country.

My question is for the Prime Minister. Mining Watch Canada today issued a blistering report on the failures of DFO to do a very simple thing for the protection of fish and fish habitat. From British Columbia to Newfoundland and from Yukon to Nova Scotia, fish habitat and fish are disappearing at an alarming rate. Why? Because the Department of Fisheries and Oceans refuses to do its job.

I ask the Prime Minister of Canada, will he put the minister and the department out to pasture and call an inquiry into the practices and policies of the Department of Fisheries and Oceans?

**Hon. Geoff Regan (Minister of Fisheries and Oceans, Lib.):** Mr. Speaker, my hon. colleague knows that my first priority is fish and fish habitat. That is why last week in Vancouver I announced our wild salmon policy, which makes it very clear that conservation is

#### Oral Questions

our first principle. I am doing my job, not grandstanding like my hon. friend.

\* \* \*

[Translation]

#### GASOLINE PRICES

**Mr. Yvon Godin (Acadie—Bathurst, NDP):** Mr. Speaker, it is insulting for the minister to compare the price of Coke to the price of gas. We do not need Coke but we do need gas.

Gasoline prices are higher than ever. The cost of living is killing consumers. Businesses continue to increase the price of their products and services to offset these costs. According to one study, many Canadians are giving up the idea of travelling this summer due to the price of gas. The Canadian economy will suffer as a result.

My question is for the Prime Minister. Will the Liberal government take the necessary steps to halt this unjustifiable increase in gasoline prices?

[English]

**Hon. David Emerson (Minister of Industry, Lib.):** Mr. Speaker, it is nice to see that there is gathering support in the House to repeal the laws of supply and demand, but I will say once again that since 1990 there have been five reviews of competition in the oil and gas industry and not one of them found any evidence of anti-competitive conduct

. If the member thinks there has been anti-competitive conduct, he should ask to have an investigation launched.

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#### BORDER SECURITY

**Mr. David Anderson (Cypress Hills—Grasslands, CPC):** Mr. Speaker, last week I challenged the government on its plans to close five single-person RCMP detachments along a 100 mile stretch of the Canada-U.S. border. The government said it was a provincial issue. It is not anymore. Last weekend, someone ran the border near Val Marie, Saskatchewan. Because of chronic understaffing, the RCMP could not respond. Instead, they resorted to phoning the Val Marie bar and local residents to see if they had seen him.

Will the government admit that these closures are leaving our borders unprotected?

● (1450)

**Hon. Anne McLellan (Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness, Lib.):** Mr. Speaker, no, I do not admit that—

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

**The Speaker:** Order, please. The hon. member for Cypress Hills—Grasslands has asked a question and he is going to get an answer from none other than the Deputy Prime Minister. We cannot hear a word she is saying. How can the member ask an intelligent supplementary if he cannot hear the answer from the Deputy Prime Minister? We will have some order. The Deputy Prime Minister has the floor.

*Oral Questions*

**Hon. Anne McLellan:** Mr. Speaker, there are 71 million crossings in this country every year. Virtually every one of them stops legally at the border, either on our side or on the American side. In fact, these closings of single detachments are redeployments. They take place after consultation with the provinces involved. These redeployments ultimately lead to more effective policing.

**Mr. David Anderson (Cypress Hills—Grasslands, CPC):** Mr. Speaker, let us get this straight. The government is going to allow the closure of these detachments. There will be no permanent RCMP presence along a 100 mile stretch of the border, with no officers stationed within 50 miles of the border. Is the government serious? Is it telling us that its new border security plan is to phone the local bar and ask if anyone has seen a stranger?

**Hon. Anne McLellan (Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness, Lib.):** Mr. Speaker, as I have said before, redeployment of RCMP officers and closures of detachments are operational matters for the RCMP and they are done in consultation with the provinces involved. It is my understanding from the RCMP that the Attorney General for Saskatchewan has been consulted on these closures.

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**VETERANS AFFAIRS**

**Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC):** Mr. Speaker, it is now clear that the families of servicemen and civilians living on or near CFB Gagetown have been exposed to the so-called rainbow herbicides, agents orange, purple and white, and a variety of other toxic chemicals. There is also the likelihood of exposure at other bases.

If the government denies responsibility for all victims of chemical warfare testing, why does the government refuse to recognize all victims, including non-military, of chemical warfare experiments?

**Hon. Bill Graham (Minister of National Defence, Lib.):** Mr. Speaker, the hon. member is deliberately, and I say again, deliberately, seeking to mix up the question of chemical warfare experiments and the use of defoliants on bases, which are entirely different propositions.

It is an irresponsible suggestion on her part. She represents the military in her riding. It is a disgraceful attempt to sow fear in the military. It is not true. There never was chemical warfare related testing on our forces in connection with the defoliants agent orange or others. We will get to the bottom of this. We are working on it. Let us work together to help the Canadian public, not sow discord of this kind.

**Mr. Greg Thompson (New Brunswick Southwest, CPC):** Mr. Speaker, the controversial spray program at CFB Gagetown ran from 1956 to 1984 with casualties all over the place.

Last week DND confirmed an in-house investigation would take place, but it would be restricted to a small scale test area in 1966-67. Would the public interest not be best served with an independent public inquiry, removed from the influence of senior politicians in Ottawa, an inquiry that would focus on the entire spray period program?

**Hon. Bill Graham (Minister of National Defence, Lib.):** Mr. Speaker, what the public interest would be best served by is hon. members in the House restricting their comments to the facts. The

hon. member knows very well that agent orange and agent purple were tested in Gagetown over a small acreage during two years.

The member suggested to the public and others that it expanded over another period of time. In fact, there were only seven days involved over two years during a limited time.

We in the department will be looking at that. We will be doing soil tests. I will be working with other members of the government to ensure that we find the facts. We will work with the Canadian public to ensure that all people get proper treatment of—

● (1455)

**The Speaker:** The hon. member for Rosemont—La Petite-Patrie.

\* \* \*

[Translation]

**THE ENVIRONMENT**

**Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ):** Mr. Speaker, Canada's attitude in its fight to eliminate pesticides is puzzling to say the least. While, as a signatory to the Montreal protocol, it undertook to reduce the use of pesticides that are harmful to the ozone layer, Canada requested an exemption in 2004 for the use of methyl bromide and made a similar request for 2006, although it knows full well that this substance is one of the causes of the depletion of the ozone layer.

How does the government justify this increased use of methyl bromide?

**Hon. Stéphane Dion (Minister of the Environment, Lib.):** Mr. Speaker, it is nevertheless true to say that the Government of Canada and Canada as a whole have made huge progress, in connection with the ozone layer, in fact. We have succeeded in reducing substances enormously. It takes longer, but, despite everything, Canada is well ahead of most of its partners in this matter. We will certainly succeed in reducing this substance, as we have all the others.

**Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ):** Mr. Speaker, as methyl bromide is a potential risk to public health, how can the government agree to import products from the United States that have been grown with the use of this pesticide?

**Hon. Stéphane Dion (Minister of the Environment, Lib.):** Mr. Speaker, I have answered the question, but permit me, in this heat wave, to point out Canada's determination to reduce smog and climate change. Just yesterday, my provincial counterparts and I reached an agreement in principle to reduce mercury emissions by at least 60% to 90%, which we will confirm in the fall.

*Points of Order*

[English]

**JUSTICE**

**Mr. Mark Warawa (Langley, CPC):** Mr. Speaker, Bill C-13, the DNA bill, was a high priority of this Parliament and received royal assent before Karla Homolka's release. She could now be required to provide a DNA sample. Unfortunately, Bill C-13 is sitting on the desk of the Prime Minister. While he waits to enact the legislation, other sex offenders, murderers and terrorists will escape the requirement to provide DNA.

What is he waiting for? How many other dangerous sex offenders will escape DNA sampling while the Prime Minister dithers?

**Hon. Anne McLellan (Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness, Lib.):** Mr. Speaker, Bill C-13 was legislation that everybody came together on in the House. Bill C-13 speaks to the fact that when people actually focus on the real problems confronting Canadians in the House, we can work together. That legislation will be in full force and effect and will help us in our pursuit of dangerous criminals. It also will help us to achieve a higher degree of safety and protection for all Canadians.

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**CANADA POST**

**Mr. Brian Pallister (Portage—Lisgar, CPC):** Mr. Speaker, it looks like it is going to be a happy anniversary for André Ouellet. It has been almost a full year since the Deloitte & Touche report told the Prime Minister that the former porkmaster general had violated tendering and hiring rules and turned Canada Post basically into a friends and family program.

The Prime Minister's tepid response has been to dither. This is a Prime Minister after all who can buy a billionaire over dinner, make one-night stand deals with the NDP and lately, regularly resorts to closure to get his way.

Perhaps he could tell Canadian taxpayers this. When will they get some closure on André Ouellet's file?

[Translation]

**Hon. John McCallum (Minister of National Revenue, Lib.):** Mr. Speaker, the audit is proceeding normally and without political intervention.

I see that the hon. member is not pleased to hear me respond in French. There is a simple solution. Since he questioned the right of a witness to speak French before a parliamentary committee, he needs to apologize to French Canadians. We have a saying in the other official language.

[English]

It is never too late to say sorry.

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**CITIZENSHIP AND IMMIGRATION**

**Ms. Marlene Catterall (Ottawa West—Nepean, Lib.):** Mr. Speaker, my question is for the Minister of Citizenship and Immigration. For nearly a year Syria kept my constituent Maher Arar in prison and subjected him to terrible treatment, in total violation of Mr. Arar's rights as a Canadian citizen. Now the

daughter-in-law of the former head of Syria's internal intelligence force, involved in denying Mr. Arar his rights, has a visitor's visa so her child can be born a Canadian citizen.

This is outrageous. I demand that the minister exercise his discretion and immediately revoke this visa.

● (1500)

**Hon. Joseph Volpe (Minister of Citizenship and Immigration, Lib.):** Mr. Speaker, I do not want to make a connection between the former unfortunate situation and this one. I will not comment on a specific case except to say what I have done already.

I have instructed my department to examine the procedures that are in place in such similar situations so as to avoid any perceptions like the ones that have been raised.

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**COPYRIGHT LEGISLATION**

**Ms. Bev Oda (Durham, CPC):** Mr. Speaker, Canada has a world-class Internet infrastructure in our schools, but the heritage minister's new copyright legislation makes it restrictive, onerous and possibly more costly for schools, teachers and students to download online educational material.

The legislation will make routine classroom activities illegal. Why do the government and the minister want to make our students and teachers pay more for materials they are using now or make them criminals under a new copyright law?

**Hon. Liza Frulla (Minister of Canadian Heritage and Minister responsible for Status of Women, Lib.):** Mr. Speaker, the hon. opposition member knows very well that we promised to table the copyright law in June, which we did. We also said that as far as the education matter was concerned, we would study it and focus on it solely after second reading of the bill. We will study the education matter because it does not have consensus.

Children can be in school, but once they become researchers and authors, they also need to have their copyrights reserved and paid for.

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**POINTS OF ORDER**

## REMARKS BY MINISTER OF NATIONAL DEFENCE

**Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC):** Mr. Speaker, I rise on a point of order. On June 20 the Minister of National Defence, in responding to a question from the member for Acadie—Bathurst, said the following, I quote from *Hansard*:

We are, of course, concerned with the case of agent orange which, as I have said, was sprayed seven days a week for two years over Gagetown land. We will continue all our investigations on all our bases to determine whether other agents have been used.

*Government Orders*

On Tuesday, June 21 the assistant deputy minister for infrastructure and environment in the Department of National Defence, Karen Ellis, during sworn testimony before the Standing Committee on National Defence and Veterans Affairs, contradicted the minister when she stated that in the case of agent orange and agent purple, three days in June 1966 and four days in July 1967 were the only days and, to the best of the department's knowledge, were the only times cooperative defoliant testing was to have occurred.

This statement directly contradicts the information the minister gave the House on June 20 when the minister told the member for Acadie—Bathurst that agent orange was sprayed seven days a week for two years at CFB Gagetown and that the use of the rainbow herbicides, such as agents orange and purple, was being investigated on all military bases.

As a consequence of the conflicting statements coming from the Department of National Defence regarding chemical weapons testing, I invite the Minister of National Defence to either correct the record in the House of Commons or correct the comments of his public servant regarding the use of chemical defoliants and desiccants on or near Canadian military bases.

**Hon. Bill Graham (Minister of National Defence, Lib.):** Mr. Speaker, I did not quite digest entirely everything the hon. member had to say, but I understood the thrust of her comment to be that there was confusion between what I had said in the House and what Ms. Ellis, who was the assistant deputy minister, had said to the committee. She said that agent orange and agent purple, which is a matter of concern before the House, were sprayed on a limited area in Gagetown in 1967 and 1966 over a total period of seven days, three days in one year and four days in the other year.

I have tried my best to make the House understand that. If the hon. member has not understood that and chosen to interpret that as seven days a week for two years, I am sorry for her. I have tried to make it very clear to the House and it is consistent with what the assistant deputy minister said, that this was a matter of seven days total spraying over two years in a limited area of Gagetown.

We are working with all those concerned to find out the facts so we can get the proper response to this terrible problem. We will ensure we do that, but let us get the facts straight first. That is all I ask of the House, that we get the facts.

• (1505)

**Mr. Greg Thompson (New Brunswick Southwest, CPC):** Mr. Speaker, on that same point of order, the minister is inconsistent in the testimony that he provides compared to the testimony that we heard at committee and what the people in Gagetown heard in the community when DND took their travelling road show to Base Gagetown.

The point I simply want to make is this. When the Minister of National Defence talks about a limited test area, he fails to mention the broader spray program of those years where they used agent orange and agent purple over 4,000 acres and hundreds of gallons of the defoliant in those same years that he selectively refers to as the test period.

I believe the member is correct in the sense that the minister is operating on information which is inconsistent with the documents

that his department has provided and it inconsistent with the evidence that we heard at committee by some of his officials.

**Hon. Bill Graham (Minister of National Defence, Lib.):** Mr. Speaker, this has now become a matter of debate, but I would like to respectfully suggest to the hon. members and to the House that if we can have debate with some civil conduct with one another, I would be happy to look into this and I will get back to the hon. members with the facts.

My understanding, as I said to the House, is that there was no suggestion of any spraying of agent orange over 4,000 acres. That is not testimony that I have ever heard before.

I will consult with my officials and I will correspond with the hon. members to exact facts about what I have said and what has been said by my deputy minister to ensure that the facts are entirely clear. We will do our best to get—

**The Speaker:** I think we have heard enough on this. Is the hon. member for Acadie—Bathurst rising on the same point of order?

[*Translation*]

Apparently, the hon. member wishes to rise on a different point of order.

**Mr. Yvon Godin (Acadie—Bathurst, NDP):** Mr. Speaker, I rise on this same point of order. It also concerns the question I had raised in the House about the importance of public health and safety. For years, we have been calling for the Department of National Defence to decontaminate the Tracadie-Sheila military training area, and so far, only a surface decontamination has been done. This is contradictory. We want the minister to mandate an independent group to conduct a study and fully decontaminate this military training area once and for all.

**The Speaker:** That is interesting, but it concerns another matter and is not a point of order. The problem before us concerns a contradiction of facts, obviously. The hon. member for Renfrew—Nipissing—Pembroke has pointed out two quotations that may be contradictory.

[*English*]

We have heard clarification on the matter. The minister said he will clarify any other issues that are raised on it. I am sure if the hon. member for Acadie—Bathurst has continuing problems, he will be able to correspond with the minister directly. We are not going to keep doing question period under the guise of points of order. That is unheard of.

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## GOVERNMENT ORDERS

[*Translation*]

### CIVIL MARRIAGE ACT

The House resumed consideration of the motion that Bill C-38, an act respecting certain aspects of legal capacity for marriage for civil purposes, be read the third time and passed, and of the amendment.

**The Speaker:** Before oral question period, the hon. member for Hochelaga—Maisonneuve had the floor. He has two minutes left to finish his speech.

*Government Orders*

The hon. member for Burnaby—Douglas.

[*English*]

**Mr. Bill Siksay (Burnaby—Douglas, NDP):** Mr. Speaker, I want to congratulate the member for Hochelaga on his speech, which was a very important addition to the debate on this bill.

With his usual modesty, he undersold his importance in the various aspects of the improvement in the human rights situation for gay and lesbian people over his many years of service in the House. He mentioned that he had been present in the House while many changes had been made. He very much underplayed his own part in making those changes happen. He has played an important part in ensuring that gay and lesbian people assume full citizenship here in Canada and in Quebec. I want to recognize the contribution he has made over his many years here and tell him how important it has been to all of us in the gay and lesbian community.

I also want to thank him for mentioning the contributions of my predecessor, Svend Robinson, to those debates and to his other colleagues from Quebec in the whole move toward full equality and full citizenship for gay and lesbian people.

It has been a cooperative effort by many people, but I do not want the member for Hochelaga to underestimate the importance he has brought to this debate in the House.

The member will remember from the committee hearings that we heard from the Canadian Psychological Association. One of the things the association said was that the stigma and isolation that gay and lesbian families may experience as a result of public and systemic prejudice and discrimination may cause distress and that was a far more important factor in the stability and the adjustment of children in those families than was the fact that their parents were gay and lesbian, which seemed to have no effect whatsoever on the children.

I wonder if he could comment on the importance of Bill C-38 in light of that assertion by the Canadian Psychological Association.

• (1510)

[*Translation*]

**Mr. Réal Ménard (Hochelaga, BQ):** Mr. Speaker, I want to thank my colleague for his kind words. I remember quite well when the Canadian Psychological Association appeared before the committee and said that there was no correlation between sexual orientation and parenting skills.

It was also made very clear how important it is to quell any type of stigma in the process of building self-esteem, what psychologists call psychogenesis. All the members voting in favour of the bill we are discussing this afternoon are contributing to making homosexuality respectable. In so doing, we are saying that gays and lesbians are full citizens. That is the historic dimension of tonight's vote.

**Mr. Serge Cardin (Sherbrooke, BQ):** Mr. Speaker, to completely honest, I must admit that it is not a pleasure to take part in today's debate on Bill C-38 on civil marriage.

I get the feeling that, right from the very start, this has been a fruitless debate where everyone has stuck by their positions and refused to budge. Both sides have said some scandalous things. Not

only has the debate been polarized, it has been controversial. Some people were subject to harsh remarks and an obvious lack of respect.

Today, I want to make my humble contribution, given my great surprise that the government is incapable of addressing the right to equality and, at the same time, respecting our identities as individuals. When I said that I supported maintaining the definition of marriage as the union of one man and one woman, I also said, in the same breath, that I supported the union of same sex partners and their right to equality.

The challenge facing this House and its members, as legislators, was that, in maintaining the definition of marriage as the union of one man and one woman, it was also our duty to find a way to pass legislation ensuring equality for same sex couples, so they could have access to a union recognizing their choices and rights. The quest for equality does not mean we have to standardize intrinsically different realities by creating just one type of union between individuals and using the same word to describe it.

Homosexuality exists. It is a reality and no one can explain it or even attempt to. First, it is complex; second, it would be politically incorrect to do so.

Love also exists between same sex partners, and their right to happiness, as far as I am concerned, is a given. We must understand that, according to the government, Bill C-38 seeks essentially to protect two equally fundamental values: the right to equality and freedom of religion.

In order to do this, the government took the easy way out by simply changing the traditional definition of marriage—which is the union of one man and one woman—to include all unions between two individuals. Was it the easy way or incompetency? Both, in all honesty. I believe that this government took the easy way out because it is incompetent and incapable of being bold and innovative.

The second fundamental value is protection of the right of religious organizations to refuse to marry partners of the same sex, which, according to the government, comes under freedom of religion.

As the government failed to assume its responsibilities, it appealed to the Supreme Court of Canada. And the result? Essentially, the court concluded that the government had the right to authorize marriage between partners of the same sex, but that the court would not force it to do so, that it would not find that the definition of marriage as being between a man and a woman was a bad thing in itself.

The court recognized that no one could guarantee that religious freedom would be protected against the rights of minorities and that Parliament could not do anything to guarantee religious freedom over the longer term either.

In conclusion, it was left to Parliament to decide. Today, we are experiencing its desire to present Bill C-38, which runs counter to the right of respect for the distinct identity of each kind of union between two people.

*Government Orders*

Obviously, in this debate, reference is made to the unions of persons of the opposite sex and of the same sex. We are talking, essentially, about sexual orientation, and therefore sex. Perhaps we should talk about it a little.

I would like to quote from Yvon Dallaire, an expert in the psychology of sex. I quote:

● (1515)

Although reasonable, human beings are still animals and, as such, subject to the laws of nature, whether aware of it or not. Thus, whether we want it or not, sexuality remains a strategy of nature to ensure the survival of the species. What we call love is another of these strategies to provide the best opportunity to raise our young. Love is a biological point of view serving sexuality—

And continuing the quote:

Love becomes so important in our species probably because we spend decades raising our children, while the young of most animal species become independent a few days, weeks or months after their birth. So, it is important for humanity that the male and female not only form a stable couple but share in the task of child rearing.

It is in this concept of the focus of life reaching out to life that society over the years has defined and confirmed the institution of marriage as the union of one man and one woman.

First I tried to use a Cartesian approach in addressing this issue and to be as rational as possible. It is fair to say that men and women are fundamentally different, but happily complementary. Thus, a union between a man and woman is fundamentally different from a union between two members of the same sex. I admit, it is disarmingly simplistic.

Allow me to quote Krishna Deva, “The sexual union between a man and a woman expresses the cosmic dimension of creation... Therefore, sexual pleasure is a symbolic reflection of the infinite joy of the divinity of creation.”

It is important to mention that this statement does not make either union a second class union with respect to the other.

Based on this philosophy, it seems that each of the two unions has its own identity. To paraphrase Michel Gourges, a professor in Ottawa, I would say that the first problem is that in the name of equality rights, it seems necessary for the union between two persons of the same sex to be recognized in the same way as a union between a man and a woman.

Second, for the union between two persons of the same sex to be recognized in the same way as a union between a man and a woman, it seems that both identities need to be described the same way. If we continue in that same vein, then recognizing equality between men and women should necessarily require both to be identical.

Allow me again to quote a passage from a text by Richard Alexander, biologist at the University of Michigan, “Men and women are different on a variety of levels and much more so than we can imagine. To diminish and deny these differences is to diminish our nature and a vital aspect of our human heritage.”

As I said earlier, men and women are fundamentally different, but happily complementary.

The government's approach to this issue sacrifices the very identity of each of the unions.

The government could have achieved equality of the unions of individuals while maintaining respect for the very identity of each of the two unions: the union between a man and a woman, and the union between two persons of the same sex.

In conclusion, I want to say I too received countless positive and negative comments, and I want to share one of them that particularly caught my attention, “The time has come for you—he is talking to me—to realize that, as an MP, you must lead by example, and that voting against this bill is completely unacceptable for someone who wants Quebec to be independent and open to the world”.

It is no secret that I want Quebec to be sovereign. I want Quebec to have the right to equality with other countries, and I want the identity of Quebecers to be respected. If I took the same approach to these two fundamental values that the government is using to resolve the issue of same sex unions, I would end up with the following absurdity: I would obtain equality rights but I would forfeit—for the benefit of the Canadian identity—my identity as a Quebecer, something I would consider unacceptable.

● (1520)

So, we must respect the right to equality and the right to our own identity.

[*English*]

**Mr. Paul Szabo (Mississauga South, Lib.):** Mr. Speaker, I want to thank the member for his speech on a sensitive matter. He knows that the country and Parliament is split on this issue. Even within the gay community, there are divergent views on whether or not the definition of marriage should be changed. I think the member has articulated his arguments well.

The member knows that France adopted an approach to resolving this by extending benefits to all and adopting a civil union approach. It would appear that this has been a compromise which has been widely accepted within France.

Would the member suggest that perhaps that should have been more fully considered by parliamentarians in committee and even here in the House prior to moving forward so that we could have considered more broadly how we might be able to resolve the differences of views among Canadians?

[*Translation*]

**Mr. Serge Cardin:** Mr. Speaker, as I said in the speech I just gave, the government has not been innovative. It has, instead, taken the easy way. To respond to calls for the right to equality, which is legitimate, the government has taken the easy way by deciding to use the same name for all possible unions: civil marriage.

I think it would have been relevant to respect the character of each of the unions. A person really has to live in another world to not understand that each of these unions has its own identity. Consequently, with effort and some courage, efforts should have been made to give each type recognition of its uniqueness, individually and for the couple.

There was more work to do, but, unfortunately, it appears that the government did not want to invest the time required to do this work and thus to act boldly and creatively.



*Government Orders*

• (1525)

[English]

**Mr. Bradley Trost (Saskatoon—Humboldt, CPC):** Mr. Speaker, I listened with interest to the comments of my colleague, with whom I sit on the industry committee. One of the things that struck me as most interesting in this debate is the criticism that the arguments against are only religious. That somehow implies that faith based arguments are not as valid. However, the hon. member's arguments were completely secular, and completely based on a secular society, unless there was a portion there that I missed. I want to note that for the record.

I also want to ask him a question about what he thinks about another slightly related issue. We have talked a lot about religious freedom and this being abridged, that religious freedom is being held back. However, there is a secular opinion that argues for marriage as the definition of one man and one woman to the exclusion of all others.

I am curious if the hon. member has any comments on how this legislation and the attitude of the government toward it, that it is an absolute right and whoever is opposed to it does not support rights, could perhaps put some pressure on secular opinion that argues, as the hon. member did, in a secular way against this. I would be interested in hearing the member's comments on that.

[Translation]

**Mr. Serge Cardin:** Mr. Speaker, the challenge is in fact to protect the rights of individuals as such and their rights to their unions and their choices. I made a point of not using religious arguments. However, it appears, obviously, from what the Supreme Court has said, that freedom of religion is not necessarily guaranteed over the longer term. Although I made a point of not using religious arguments, I did hear debates in this House which were of a religious nature. There was a shift away from respect for individuals, which is also found in religious concepts, and which leads to respect for others and tolerance.

I should also point out that, often, religious values are close to human values. Sometimes, depending on the religion, there can be significant differences. In this case, I think human and natural values are projected as well in a number of religions. So, one does not preclude the other, but clearly, if we look only at the human side, there is a right to equality and respect for identities.

[English]

**Hon. Paddy Torsney (Parliamentary Secretary to the Minister of International Cooperation, Lib.):** Mr. Speaker, I will be sharing my time with the member for Vancouver Centre.

Bill C-38 has placed before Canadians an issue that is complex for some and for others it is incredibly simple. It is the ability of two people to commit to each other in marriage that is recognized by the state. Over the past few years I have had the opportunity to speak with many people across Canada and in my constituency of Burlington about the issues that Bill C-38 raises. I have read their letters and their emails. I have listened to the comments that they have made to me.

In the last election this issue was before us at every single one of the debates and there were nine. Without a doubt, some people do

not like this legislation and yet others think of it as a logical extension of rights to a group of citizens who have for too long been denied equality. In many ways this debate reflects others that have taken place in this chamber, debates that extended the right of women to vote and to take their place in this chamber.

Today in eight provinces and one territory the law on civil marriage is that two people of the same gender or of opposite genders can marry. In each of these jurisdictions the courts have ruled that it is against the Charter of Rights and Freedoms to deny same sex couples access to marriage in order to create a civil union and the Government of Canada agrees with that.

The Charter of Rights and Freedoms is one of the defining elements of Canadian society. Section 15 of the charter came into force 20 years ago. The inclusion of equality rights in the supreme law of our country was a significant milestone, one that put Canada at the forefront of nations committed to safeguarding human rights and protecting all our citizens' essential dignity.

Section 2 of the charter ensures the freedom for officials of religious institutions to perform marriages only in accordance with their religious beliefs. In supporting Bill C-38 I am fulfilling my legal and constitutional obligations to defend the rights of all Canadians. As I mentioned, section 2 protects religious freedoms as does this bill and that was important to me and to many Canadians. I will continue to defend the right of religious organizations to marry only those who pass their religion standard to qualify for marriage.

Over the past months I have been particularly impressed by the many constituents who have taken the time to ensure that their views were heard. It is always easier for people to call when they disagree with a policy and I have certainly heard from those people, especially when hate filled literature appeared at the doorstep. While I have heard from many constituents who disagree with the bill, I have been overwhelmed with messages of support for the bill from parents, grandparents, younger people, straight people and those who were not. I have been approached by people of faith, by Catholics, Anglicans, Muslims, Jews and members of the United Church.

Their message was that the government must do what is right for our community and our country. They believe their God would not want discrimination. They believe in equality and the people making their choice should be respected and accepted as equal before the law. They believe that Bill C-38 is a logical expression of our commitment as Canadians to equal treatment of all individuals as enshrined by the charter.

I would like to read from some of the messages that particularly touched me. This one is from the mother of two children. She said:

My family is strong. My Canada is accepting and does not permit or encourage hate-mongering. My Canada is one of tolerance, that welcomes everyone, that supports peace and harmony both at home and abroad.

I heard from other people who told me that they believe that the extension of marriage to same sex couples is good for Canadian society and children to the extent that stable, committed, loving couples and families are the foundation of strong communities and the ideal environment for raising children. We all benefit by including same sex couples among those who can choose the rights and responsibilities of marriage.

*Government Orders*

I heard from a minister of a church who said to me that marriage, as opposed to being a union of one man and one women, is instead an honouring of those who are engaged in lifelong, faithful, committed, faith filled relationships regardless of a couple's sexuality. He went on to thank me for showing strong leadership in the riding and across the country as we struggle with this issue.

● (1530)

I heard from constituents who told me that they are proud to live in a country that allows everyone to marry, that ensures that all forms of ignorance, prejudice and hate must be fought and fought hard. I heard from someone who said to me that they are sure that this bill must be supported because they believe that anything that promotes supportive and committed relationships between partners is a good thing.

I heard from people who got pamphlets on their doorstep telling them to call me and say they disagreed. They called me to say they agree. "I am very proud and thankful", one woman wrote, "to have an MP who takes a stand for what they believe in and, most importantly, what I believe in".

I heard from constituents who pointed out that they had been married for 35 years, have lived in my constituency for 10 years, are 57 and 58 years old. They wanted to write to thank me for supporting the same sex bill.

I heard from somebody who pointed out, "We elect our MPs. We entrust our MPs to protect minority rights, not simply to bow to the majority's sometimes uninformed and intolerant views. A society has never thrived by denying specific groups the rights that are granted to others. A healthy Canada will continue to move forward, instead of clinging to outdated and meaningless definitions".

I heard from somebody who goes to the same church that I do, who wrote, "What would Jesus say if He was standing before two gay people? He would say 'I created you and I bless you, so live your lives with peace and love'. And thank you for being on this issue".

I heard from others who were encouraged again by Catholic bishops to write and say that they disagreed. They wrote to say, "I believe in the separation of church and state. I agree with same sex legislation and that supporting it is the right choice. I civilly agree with the legislation and back it 100% in my belief that the rights of all concerned are being taken care of".

These letters really did affect me as I read them. They reminded me of why we have the honour of being members of Parliament. We can come to a place like this, we can debate these issues passionately, but we can be respected and we can be treated as equals, as men and women, as people who care about issues deeply.

Bill C-38 represents all that we believe in as Canadians, that we believe in equality for everyone. It is a strong symbol of the core values that many Canadians, and I hope all members of this House, hold dear: equality, dignity, tolerance and respect for others.

Passing Bill C-38 will ensure that all Canadians can take their place in the rich tapestry that makes our country so great, that allows each of us to be the people who we are. It will allow people who wish to marry someone of the opposite sex to continue to do that. It

will allow people who wish to have a same sex marriage respected by the government and in some cases by their church.

Bill C-38 is an important piece of legislation. I am proud to be able to stand in this House and support this bill on behalf of all my constituents.

● (1535)

**Mr. Jay Hill (Prince George—Peace River, CPC):** Mr. Speaker, I appreciated the hon. member's comments, even though I profoundly disagree with virtually everything that she said.

That is the great thing. We on this side at least believe in a free vote and free expression and the divergence of opinion on something as controversial as expanding the definition of marriage to include same sex couples.

We believe that the leader of the Conservative Party of Canada put forward a well thought out compromise position that the vast majority of Canadians would support and actually do support.

It is interesting that Liberal members in particular who support this bill try to frame the discussion around the issue of rights. Yet, speaking as the House leader for the official opposition, I can say that many of my colleagues wanted the opportunity to speak to this legislation at report stage. They were denied that last night when the three other parties in this chamber conspired together and were complicit in bringing forward a seldom used Standing Order to shut down debate.

The reality is that the government shut down the rights of members of Parliament to represent their constituents today as well. There will be many members of Parliament from all parties, but in particular I want to speak on behalf of my colleagues in the Conservative Party, who will be denied the right to represent their constituents and voice those concerns here during the debate, despite the fact the government House leader said there would be adequate debate. Yet, he is shutting down this debate.

The member was talking about rights. Could she address the rights of members of Parliament to represent their constituents by adequately speaking to this bill at report stage and third reading?

● (1540)

**Hon. Paddy Torsney:** Mr. Speaker, I am actually quite stunned. The member for Prince George—Peace River started his comments by saying that he disagreed with virtually everything I said. So I say to that member, does he disagree with the Canadian Charter of Rights and Freedoms? Does he disagree with equality? Does he disagree with the Canadian values of tolerance and acceptance? What part of the rule of law does he disagree with?

The rules of this House are here for all of us. He may not like the rules but the rules are being used to ensure that we get on with this legislation after months and years of discussion.

The member for Prince George—Peace River is not going to change my mind and I am not going to change his mind, although I would encourage him to read the Charter of Rights and Freedoms and to stand proudly and respect that and ensure it is respected for all Canadians, even the ones he does not like.

*Government Orders*

**Mr. John Cummins (Delta—Richmond East, CPC):** Mr. Speaker, when I listen to the member opposite, I cannot help feeling that maybe I am a little like Alice stepping through the looking glass. When Alice stepped through the looking glass she found herself in a world where the rules of life had changed and nothing seemed to make sense any more. At one point she encountered Humpty Dumpty sitting on a wall. He said to Alice, “When I use a word, it means just what I choose it to mean, neither more nor less”. Somewhat perplexed by this, Alice said, “The question is whether one can make words mean so many different things”. Humpty Dumpty barked back, “The real question is, which is to be master, that is all”.

It seems to me that there is more of Humpty Dumpty in the member opposite than there is of Alice.

**Hon. Paddy Torsney:** Mr. Speaker, it is very interesting that the member would say those things because words do change meaning. It was only in 1929 that the word “person” in Canada did not include a woman. It is interesting that the member would talk about Alice, because prior to 1930 a woman named Alice could not be in this House or in the Senate because women were not respected as equal.

In the same way that the word “marriage” is changing for some people to include something that is different from their marriage, the word “person” changed in the early 1920s to allow all of us to come here and to be represented. I think that was a good thing.

**An hon. member:** It was a different issue.

**Hon. Paddy Torsney:** Mr. Speaker, it was a different issue, the member opposite has said.

It is the same issue. It is the issue of equality of individuals in all their entirety, by their gender, by their sexual orientation, by the colour of their skin and by the religion they follow. That is something worth defending each and every day, and I will continue to do that.

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## ROUTINE PROCEEDINGS

[English]

### COMMITTEES OF THE HOUSE

#### CITIZENSHIP AND IMMIGRATION

**Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.):** Mr. Speaker, discussions have taken place between all parties with respect to the 11th report of the Standing Committee on Citizenship and Immigration which I tabled in the House yesterday concerning the request by the said committee for a 30 day extension to consider Bill C-283.

Mr. Speaker, I believe you will find consent for the following motion. I move:

That the 11th report of the Standing Committee on Citizenship and Immigration, tabled in the House on Monday, June 27, 2005, be deemed concurred in.

**The Deputy Speaker:** Does the hon. member have the unanimous consent of the House to make that motion?

**Some hon. members:** Agreed.

(Motion agreed to)

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## GOVERNMENT ORDERS

[English]

### CIVIL MARRIAGE ACT

The House resumed consideration of the motion that Bill C-38, An Act respecting certain aspects of legal capacity for marriage for civil purposes, be read the third time and passed, and of the amendment.

**Hon. Hedy Fry (Parliamentary Secretary to the Minister of Citizenship and Immigration, Lib.):** Mr. Speaker, the hon. member for Burlington actually gave me a great segue. This always has been and always will be about equality under the law.

Before I came to this place in 1993, I was asked to run as a member of Parliament for the Liberal Party of Canada. I made one condition on my running, which was that we amend the Canadian Human Rights Act to add sexual orientation as a prohibited ground for discrimination. I asked for that condition in writing.

I was here in this House in 1996 when that bill was first passed. Thus began the trip and the move toward equality for a minority group in our country that has been discriminated against from the beginning of time. Finally, in this last debate today, those in that group will see themselves fully and completely equal under the law, as in section 15 of the Charter of Rights and Freedoms.

I feel so passionately about this issue because as a physician, I saw day after day in my practice gays, lesbians, transgendered and bisexual people who were subjected to discrimination under the law. When I met gay and lesbian couples who had been living together for 20 years and who could not even share their medical and dental plans or their pensions, and opposite sex couples who had been living together for a year in conjugal relationships were able to do that, I knew that this group was discriminated against under the law. I saw the effect of that discrimination in terms of mental and physical health on gays, lesbians and transgendered persons. I saw them live in fear. I saw professionals, teachers who were ashamed and afraid that people would know what their sexual orientation was because it meant that they could be fired from their jobs.

This for me is something that I have believed in since I was a practising physician, when I saw what that inequality could do to the health and well-being of Canadians. Today I stand here remembering that in 1996 with the passage of the amendment to the Canadian Human Rights Act to add sexual orientation, it paved the way for benefits for same sex couples in terms of their medical and dental plans. In 2000 when the Modernization of Benefits and Obligations Act passed, 85 pieces of legislation in this country were amended in order to enshrine that equality in law. This is now the final barrier that is going to fall.

*Government Orders*

There is a lot of emotion about this issue and I can understand that. What we are talking about is tradition and very strongly held beliefs that have gone on over time. In fact we all know that it was in 2 BC that the Romans first developed the legal contract of marriage. It was a civil contract. It was only between the very wealthy landowning families in Rome who were allowed to make a contractual arrangement to transfer property and to ensure that the children of those contracts would be the rightful heirs to whatever property was handed down. We saw 100 years later, in the same Roman civil law, that in fact this contract was extended to same sex couples. This is not something that is new; this idea was there in 1 BC.

When we talk about the progression of marriage, we hear people talk a lot about the religious component of marriage. We are not talking here about the religious component of marriage. Under section 2 of the charter, religions are free to marry or to behave in a manner befitting their own dogma or whatever their religious beliefs. Those are minority rights given to people who belong to different religions in this country. We are extending minority rights under section 15 of the charter to a group that has been discriminated against under the law.

The fact is for a long time we felt that children were the result of a heterosexual relationship. Today we know that many heterosexual relationships that are infertile can also have children. Those children have come out of reproductive technologies that have been applied to infertile heterosexual couples to allow them to have children. We have never discriminated against those children. We have never discriminated against those infertile couples. They have still been allowed to marry.

• (1545)

Today we know that by using those same technologies, gay and lesbian couples can have children biologically. I know lesbian women who have gone full term and delivered a child just like any other woman.

The parents of those children need to be allowed to marry so the children can have legally married parents. Bill C-38 would ensure those children are equal, not second class citizens. The bill would ensure that a minority group will have equality under the law.

In a country like Canada, which is made up of diverse races, ethnicities, religions, languages, and colour, it is extremely important to ensure minorities are not crushed under majority rule. Minorities need to have a sense that they belong, that they are respected and that they are equal in every way under the law. The state should have no ability to discriminate in terms of its legal apparatus unless allowing people equality would harm society as a whole.

We know that heterosexual marriages will not suddenly end because same sex couples marry. We are just extending the legal ability for same sex couples to do the kinds of things that we all want to do when we love and are committed to each other. We want to ensure that in the eyes of society same sex couples are deemed to be equal and are living in a conjugal relationship that is secure and strong. We want to ensure that their friends and their community can celebrate with them.

The religious component of marriage only came about, if anyone had bothered to do the research, in the council of Trent in 1563 when marriage was solemnized as a religious institution. It has only been since then that we have had religious marriage.

Clause 2 and the amendments that were made by committee would ensure that religious organizations do not have to marry people if they do not wish to do so because of a couple's sexual orientation.

I was on the justice committee and we travelled across the country and discussed this issue. Many religions want to do this and many do not. Which religion is the state to agree with? Do we support one religion over all others or do we continue to allow religious organizations to be free to behave in a manner that they think is important when anyone tries to interfere in that religion's dogma or institution?

We are finally allowing same sex couples to be equal under the law to other people who live in a committed relationship. We are allowing them to sign a civil contract indicating that they can share property and have all the same rights and responsibilities as heterosexual couples. The children of that relationship would have true equality under the law. Parents would be able to hand down property, as they did in the days of ancient Rome, to their legal and rightful heirs. People will have custody of those children and share that custody if the marriage should break down. This issue is all about the law.

In this country of diversity, it is important that we look to the rule of law. Today we know that almost 90% of Canadians who wish to be married can be married as same sex couples. We are denying that right to 10% just because of the province in which they happen to live. The federal government cannot allow that to happen. We are responsible for the definition of marriage. We cannot define it so that 10% of Canadians cannot participate by an accident of geography.

I support Bill C-38 which is about equality. Finally, gays and lesbians will be able to hold their heads up high and be full citizens within Canada.

• (1550)

**Mrs. Betty Hinton (Kamloops—Thompson—Cariboo, CPC):**  
Mr. Speaker, I listened with great interest to the member's speech and I have a couple of questions.

The member said that the federal government would be failing in its duty but I believe it has already failed twice in its duty. It first failed to step in before all the provinces went their own way and it is failing again now.

I do not know if the member was present for my speech but I made it very clear how I feel about this particular issue. I actually believe it is intellectual property we are discussing and not human rights. However if we are going to go down this road of same sex marriage in a different venue then I would submit to the member that this is actually about protecting religious rights as well.

*Government Orders*

We on this side of the House have said that we accept the fact that the country and the world are changing and that we are prepared to allow same sex couples to have the same responsibilities and benefits that married couples enjoy. However our tantamount concern is that religious freedom, which everyone in the country has valued for years, is in jeopardy. I know the member may not agree with that but I can assure her that the way the legislation is written we cannot ensure religious freedom in the country.

My suggestion is that it might be a better idea to wait until summer has passed and until we have had an opportunity to discuss this more thoroughly so we can put the assurances in place to ensure religious freedom is protected. Religious freedom and freedom of speech have always drawn, do draw and will always draw immigrants to this country. If we fail to protect that with this legislation then we have failed miserably.

I wonder whether the member opposite might share any or all of those views.

• (1555)

**Hon. Hedy Fry:** Mr. Speaker, I do agree with the hon. member that we must continue to protect religious freedom but the charter was written in such a way that the two are not contradictory. Religious freedom would be protected under the civil marriage act, as well as the right of a minority group to have access to probably one of the most major legal and social institutions in this country, the institution of marriage.

It has been shown that the charter has done this in the past. For instance, it says in the charter that one cannot discriminate on the basis of gender and yet the Catholic church does not and will not allow women to become priests. Divorce is legal around the country but the Catholic church and others do not recognize divorce. They have been allowed to continue to do that and it has not been an infringement on the charter in either case.

In 1882 there was a debate in this same House about the right of a man to marry his deceased wife's sister. The bishop of Nova Scotia cited many biblical texts and said that if a man were allowed to marry his deceased wife's sister it would lead to polygamy because he would want to marry all her sisters eventually.

We have seen the raising of the spectres of everything going haywire. None of it has come to pass. We have all seen that sections 2 and 15 of the charter can co-exist. The Supreme Court has said so, all courts have said so and that, therefore, is the rule of law in this country.

**Mr. Bill Siksay (Burnaby—Douglas, NDP):** Mr. Speaker, I think the parliamentary secretary knows that the church I belong to, St. John's United, is in her constituency. St. John's has had a tradition over recent years of solemnizing the relationships of gay and lesbian couples in that church. However until two years ago it was not possible to do that in exactly the same way that it had been done for heterosexual couples. With the court decision in British Columbia, the minister and congregation at St. John's was able to do it for gay and lesbian couples in exactly the same way it was done for heterosexual couples. Indeed, in the last annual report of that congregation, a majority of the marriages performed were between gay and lesbian couples.

It seems to me that is an issue of religious freedom, the flip side of the one that we constantly hear about in this debate. I wonder if the member for Vancouver Centre might comment on the importance of ensuring religious freedom for those denominations and religious organizations that choose to marry gay and lesbian couples.

**Hon. Hedy Fry:** Mr. Speaker, a month and a half ago in Vancouver I was present at the art gallery grounds where many of the major religious groups in Canada were present. The Buddhists, Hindus, aboriginal communities, Anglican, Catholic, Unitarian and United churches came together to support this bill. They said that allowing this bill to pass will allow them freedom of religion to marry same sex couples, which they wished to do.

I think the hon. member is absolutely right in his question. This bill would allow religious organizations the freedom to marry or not to marry same sex couples. It is about choice and it is about having equality of choice under the law.

**Mrs. Lynne Yelich (Blackstrap, CPC):** Mr. Speaker, I rise today on this sad occasion, a day on which the debate on an important issue will come to an end and the legislation will be pushed through by a divided House of Parliament.

It is ironic that the demise of the traditional definition of marriage should happen in the House of Commons, a House that has been built on traditions and customs. While customs are only symbolic, traditions are pleasing rituals whose observance or absence has no substantial impact on the operation of constitutional rules and principles. This House is replete with traditions.

Mr. Speaker, I am sharing my time with one of the other members of Parliament.

While I was thinking about what I would say today, I went to my filing cabinet and brought out the files containing all the different letters and e-mails that had been written to me. I thought how sad it was that all these people had not been heard.

I came across the words of a parish priest, Father Francis Geremia, in a recent news article. Although I found his words strong, I understood the frustration and desperation when a parish priest would go so far as to say that not only was he a former Liberal, but that he was praying that the Prime Minister would lose his riding in the next election because he could not have two faces: either he serves God or he serves the devil.

The words reminded me of this past year and at every opportunity that my own parish priest spoke about protecting the traditional definition of marriage. At Christmastime this year he took the opportunity to talk about the family and how important the traditional family was.

I am also a practising Catholic. When I heard the concerns of the Catholic church I raised them as a legislator and as a member of Parliament, not as a Catholic.

I began to come across letters that I received from many people who the members across the way purport to represent. I thought the only thing I could do today would be to read into *Hansard* some of the letters and opinions that have not been presented in this House.

### *Government Orders*

These letters were written to me by various religions, cultural and business groups, from individuals or on behalf of thousands of Canadians. The first letter dates back to 2003 and it is from the Hindu Society of Ontario. The letter reads:

We are forwarding an appeal on behalf of the Hindus of Canada. We understand that most of the Hindus as well as a majority of Canadians are greatly worried about this legislation, which is going to have an adverse effect in the society.

On behalf of the large numbers of Hindus in Canada, we have prepared this submission with the help of a member of the Hindu clergy family and forwarding it to the attention of the Hon. Prime Minister, Members of the Cabinet, and Members of the Parliament.

Therefore we appeal to all the parliamentarians not to pass this legislation and demoralize the Canadian society. We appeal to them to listen to the majority opinion and act wisely to preserve the integrity of the Canadian nation and ensure a safe and healthy social environment in this country. It would be highly appreciated if you could acknowledge to the above address....

#### Another letter reads:

All the five hundred thousand Hindu families came to Canada hoping to bring up their children in a safe and decent environment. But they are all greatly upset by this proposed legislation to recognize gays and lesbians as married couples, as it contradicts their religion and culture. Not only Hinduism, but also every other religion in the world, such as Christianity, Islam, Judaism, Buddhism, Taoism and Shamanism, disapprove of homosexual marriages. As members of the clergy family, I have had the opportunity to read about all the religions of the world. I am certain that there are no religious tradition accept this.

The members of the Hindu community as well as their clergy do not like to get involved in controversial political issues for fear of any backlash. When elections come round, they are not going to give their votes to any M.P. who say "Yes" to this legislation whatever party they may belong to. We are certain that most of the Canadians irrespective of party affiliations or religious denominations are opposed to this legislation.

• (1600)

#### It states:

The Islamic Society of North America-Canada wishes to express its opposition to Bill C-38, which would change the definition of marriage to include same-sex couples.

ISNA-Canada is the oldest and largest grassroots Muslim organisation in North America, and on this issue, can speak confidently for the majority of Muslims in North America, who are opposed to changing the traditional definition of marriage.

The Act notes that marriage is a "fundamental institution in Canadian society," but fails to take into account what that really means. Marriage as the union of one man and one woman, to the exclusion of others, is an ancient practice that has been stable across history and across cultures. While some cultures have allowed men to marry more than one wife, or women to marry more than one man, marriage cross-culturally, has never been between couples of the same sex.

Marriage is thus an institution that predates the State of Canada, which therefore, has no right to change its meaning in its constitution.

The debate in the press over this issue shows that our Government, as well as many Canadians, are confused about what is at stake.

The argument in favour of same-sex marriage invoked in the Act, centres on the concept of rights, tolerance, and discrimination.

#### The Islamic Society actually says and does not deny that,

...homosexual couples do form lasting bonds of commitment to each other. Let this be an institution other than marriage. The State has recognized common-law relationships in legal aspects, but has denied common-law spouses the use of the term "marriage". Let this be similar for same-sex couples.

It is not discrimination, nor is it a curtailment of a person's rights, to say that marriage is the proper institution for the raising of children by their biological parents.

...The ramifications of changing the definition of marriage to include same sex couples will be profound.

Not enough time has been allowed for the Canadian public to explore and discuss the long term consequences.

An individual from the finance sector made this suggestion. He said:

Mr. Prime Minister, with the concurrence of Members of Parliament and the Senate, you exercise the prerogative to make laws designed to promote national harmony, to ensure that the interests of each individual or segment of society continues to be equal before the law, that one group does not usurp nor impugn the traditional dignity of another, that emerging entities be invested with an identifying title or name that is free from ambivalence, and is consonant with the provisions of any Act of Parliament related to such entity.

#### He advocates:

...that the homosexual citizens of our country be given their own unique appellation, and I submit for your consideration and acceptance that the Bill now before Parliament be called "Contractual Alliance of Two Same-Sex Parties" with entrenched rights, privileges, and concomitant responsibilities analogous to those enjoyed by a man and a woman who have their peculiar definition of—"Married".

#### A constituent wrote to one of my local papers. He said:

Marriage, as currently defined, predates governments, states, courts and charters of rights. The Christian church's definition—"a union of a man and a woman and a communion of the whole life"—comes from the legal Digest of Roman Emperor Justinian.... Marriage existed in pre-Christian civilizations and has always been a union between a man and a woman. The Catholic Church declared marriage a sacrament in the Council of Trent (1545-63).

The Roman Catholic view of marriage is based on the Aristotelian principle of natural law. Although Aristotle originated the concept, Thomas Aquinas, the giant of Christian philosophical thought, gave it theological shape. He defined natural law as participation in the eternal law of the universe by rational creatures with an in-built commitment to doing good.

...Marriage is too visceral a principle and too sacred to many to be left to the courts to toy with. Anything less than maintaining the current definition will betray the trust Canadians have in politicians.

Another individual in southern Saskatchewan puts the woman issue in the proper light, "Are we trying to neuter, water down our language too much?" He states:

In the late 1920's the Supreme Court of the day clarified that a woman was not a person. Can you imagine such nonsense? Well the fight was on and things were set straight. Now, Mr. Prime Minister, you want our courts to redefine marriage as a union between two persons. This is just as ridiculous as a woman is not a person.

• (1605)

This essay was sent to me by John McKellar, the president of HOPE, Homosexuals Opposed to Pride Extremism, in 2003. He said:

We neither need nor want the state in our bedrooms. We neither need nor want to be shackled by rules, regulations or paperwork. We've already won the same-sex benefits battle, so there's no longer concern over matters of pensions or estates. Let the straights keep marriage. We need to be liberated from the mainstream, homogeneous, egalitarian mindset that is destroying what is left of gay culture.

#### So he formed Homosexuals Opposed to Pride Extremism in 1997,

...to expose the...myths, distortions and propaganda of modern gay activism... deconstruct the oppression and victimology politics...give a credible voice to happy, successful and independent gays and lesbians who don't wake up every day finding "hate, bigotry, and discrimination" under the bed and who don't go running to the courts, the governments or the human rights commissions for a lifetime of therapeutic preferences.

#### He went on to say:

Marriage is not an arbitrary convention and is not meant to change with the times. We're not talking about music, fashion or art. We're talking about an institution whose 4 prohibitions - you can only marry one person at a time, only someone of the opposite sex, never someone beneath a certain age, and not a close blood relative....

#### I would like to read on.

Unfortunately, most people's sense of history begins the day they were born, which means all that precedes is outmoded and irrelevant and all that follows is enlightened and progressive.

*Government Orders*

Pastor Daryl Olson of Outlook, Saskatchewan, said:

I am also fearful of what this legislation means for me as a member of the clergy. In Saskatchewan all marriages are performed by ministers of religion and justices of the peace. As a member of the clergy, will I be required to perform same-sex marriages against my conscience?

The Trans-Canada Alliance of German-Canadians also said:

You were democratically elected to the Canadian parliament with a majority of the votes, which includes also German-Canadian. The lesser number did not vote for you.

As the elected Member of Parliament you act for all on whatever is in their and Canada's best interest.

In a certain time you will face again your constituency. If you would like to be re-elected to the Canadian parliament — you will work hard to receive the majority of votes again.

I have received many letters, and unfortunately I cannot read them all into the record. However, I would like to table the concerns of the marriage commissioners, the documents they have received this year in Saskatchewan, so that in history people can see how the language has been neutered in our institution of marriage, how they have had to take out of the marriage licences and the marriage documents the words “bride” and “bridegroom”. It is worth the documents being tabled to show how we have lost the language of the words “bride” and “bridegroom”.

Thank you.

• (1610)

**The Deputy Speaker:** Does the hon. member for Blackstrap have the unanimous consent of the House to table those documents?

**Some hon. members:** Agreed.

**Some hon. members:** No.

**Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC):** Mr. Speaker, it is my understanding that my hon. colleague has first hand experience, through her position as a marriage commissioner, with the rights of freedom of speech and freedom of expression being taken away. I wonder if she could elaborate on that.

**Mrs. Lynne Yelich:** Mr. Speaker, I have not had my rights taken away yet, but I am being denied the right to choose whether I perform a same sex marriage or not. I certainly have not discussed that yet. I have not been performing marriages on a regular basis so I do not know if the government will revoke my licence or not. I am not too sure.

Tabling these documents would show the House how we are losing our tradition.

**Mr. Bill Siksay (Burnaby—Douglas, NDP):** Mr. Speaker, in her speech the member mentioned that she had received a letter from a minister in Outlook, Saskatchewan, who had concerns about his religious freedom as a minister of religion to perform marriages as he saw fit or as his denomination saw fit. I wonder if the member reassured that minister that this legislation goes out of its way to ensure the protection of religious freedom for religious officials.

A number of the preamble clauses, which help interpret the legislation, are very explicit in standing by the religious freedoms guaranteed by the Charter of Rights and Freedoms. They also go out of their way to say that the freedom of members of religious groups to hold and declare their religious beliefs and the freedoms of

officials of religious groups to refuse to perform marriages that are not in accordance with their religious beliefs are protected.

Clause 3, the interpretive clause, was improved during committee hearings to be very explicit about protecting the religious freedom of religious officials to perform marriages based on their understanding, their theology, and their beliefs and doctrine.

I wonder if the member reassured that minister that Bill C-38 goes out of its way to ensure that the religious freedoms of religious officials are protected here in Canada.

• (1615)

**Mrs. Lynne Yelich:** Mr. Speaker, in order to assure anybody that they are protected, I would have to be convinced myself, and I am totally unconvinced that this government could protect the right of religious freedom. That came quite clearly through the comments of the priests in this country, who are starting to be outspoken and who feel somewhat threatened by their outspokenness.

**Mr. Gary Goodyear:** Mr. Speaker, I rise on a point of order. The member has made some statements regarding documents that she has that seem to prove that this government cannot protect the rights of freedom. I cannot imagine anyone in the House not wanting to get to the truth. I would like to ask the member to table those documents.

**The Deputy Speaker:** The hon. member for Blackstrap did try to table those documents once before and was denied unanimous consent. Perhaps at the end of her next answer she could try again, if she would like, and we could seek unanimous consent another time.

We have a question from the hon. parliamentary secretary.

**Hon. Paul Harold Macklin (Parliamentary Secretary to the Minister of Justice and Attorney General of Canada, Lib.):** Mr. Speaker, I noticed during the commentary that was given by the hon. member that she did indicate that she would like to see this bill not passed. However, in fact there has been—

**An hon. member:** No, she didn't. She wants it passed.

**Hon. Paul Harold Macklin:** She wants it passed? Well, then I misunderstood, if that is the truth. I think she indicated that she did not want to see this pass.

The law has already been changed in nine provinces and territories to the extent that it will allow now for equal access to civil marriage for same sex couples, meaning that the law has already changed for a majority of the Canadian populace, and thousands of couples have legally married.

Now the choice, I submit, for this Parliament is either to go forward and make the law uniform for all of Canada or to go back to the past using the notwithstanding clause. I do not think there is any middle ground here. Either same sex couples can marry civilly or they cannot. So if this bill is defeated, what do we gain?

**Mrs. Lynne Yelich:** Mr. Speaker, this gives me the opportunity to express the false sense of security they give to gay couples.

*Government Orders*

Not long ago gays were not allowed entry into the United States. They were denied. They filled out customs forms, and their words were, "We felt it was an affront to our dignity and our rights as Canadian citizens". But they say this pair has no recourse unless they take it upon themselves to challenge the U.S. law. I do not know how we are going to be able to protect these gay and lesbian marriages in this sort of forum. I am just wondering if perhaps they do not have some sort of false sense of security by saying they are protecting gay and lesbian marriages.

**Mr. David Chatters (Westlock—St. Paul, CPC):** Mr. Speaker, I am pleased to participate in this debate. As members may know, my ongoing illness prevented me from having the opportunity to participate in second reading or report stage of this bill so I am grateful to now have that opportunity.

In my 12 years in this Parliament, no other issue, not even the gun registry, has created such a groundswell of opposition to Liberal social engineering. My office has sent out in excess of 15,000 responses to emails and letters and we long ago lost count of the number of phone calls that were received on the issue.

Over 95% of those representations are opposed to the government bill. In fact, to date only one constituent called to say they were supporting the redefinition of marriage. The overwhelming opposition to the bill in my riding makes my decision easier because I personally agree with this majority. I do not accept that this debate is about equality under the charter. It is really about social engineering.

When full equality rights were extended to women in Canada, and a previous Liberal speaker made reference to that, they did not have to be called men to be equal and homosexual unions likewise do not have to be called marriage to be equal. Homosexuals have long had all the rights of heterosexual couples under the law in terms of matrimonial property rights, pension sharing and other separation benefits.

If the Prime Minister and the Minister of Justice really had this genuine passion for protecting equality rights, they would long ago have scrapped their employment equity program. They would be actively fighting for English language rights in Quebec or any of the other state sponsored discrimination to which the Liberal government turns a blind eye.

No, this is not about equality. It is not even about starting down the slippery slope toward moral decay because we are already well down that slope. We started down that slope with Trudeau's "just society" theory which was launched 40 years ago.

As an aside, I would like to remind members in the House, particularly the Prime Minister, that his own father had the moral courage to resign from the Trudeau cabinet rather than support the 1968 bill liberalizing divorce, homosexuality and abortion.

As to the government's pledge to protect the religious rights section of the charter, the provisions of the bill are simply unbelievable. Jurisdiction over the solemnization of marriage is exclusively allocated to the provinces under section 92(12) of the Constitution Act, 1867. I have not noticed, quite frankly, any effort by provincial governments, provincial courts or provincial human rights tribunals to protect religious freedom. In fact, just the opposite is true.

Provincial courts were the first to declare traditional marriage discriminatory with no regard to the religious significance of the institution. Provincial human rights tribunals in B.C. and Saskatchewan have completely ignored religious rights in favour of gay rights in several highly publicized cases. Provincial governments could not comply with the courts fast enough. They are now ordering marriage commissioners to comply or lose their jobs regardless of their religious beliefs.

How could anyone believe the Prime Minister will protect religious freedoms for ordinary Canadians when he will not even protect religious freedom of his cabinet ministers by allowing a free vote on this bill? How could anyone believe anything these Liberals say when in 1999 in a resolution in this chamber they overwhelmingly supported the traditional definition of marriage? In speaking to that motion the Deputy Prime Minister stated:

—the definition of marriage is already clear in law. It is not found in a statute, but then not all law exists in statutes, and the law is no less binding and no less the law because it is found in the common law instead of in a statute. The definition of marriage, which has been consistently applied in Canada, comes from an 1866 British case which holds that marriage is "the union of one man and one woman to the exclusion of all others". That case and that definition are considered clear law by ordinary Canadians, by academics and by the courts. The courts have upheld the constitutionality of that definition....

Let me state again for the record that the government has no intention of changing the definition of marriage or of legislating same sex marriages

• (1620)

What happened to the government? What happened to the minister in the short time since that statement? If the government was misleading Canadians then, what would be the next step down the infamous slope? Will it be legalizing polygamy, or prostitution, or hard drugs or just working for organized crime to import strippers and drugs. God only knows but the one thing we do know is that Canadians cannot trust the Liberals because they do not tell us the truth.

Re-engineering society is not a Canadian priority. Canadian priorities are health care, education, security and taxes. Only the Prime Minister is fixated on same sex marriage.

What is the imperative of pushing this initiative? What is the social benefit to society of tearing down the marriage covenant? If we reduce the meaning of marriage to simply the union of committed, loving individuals, how do we then maintain other existing restrictions to marriage that exist in civil society?

It is important to note that no national or international court or human rights tribunal, has ever ruled that the right to marry is a human right. Just because two consenting adults of the same gender wish to be married, does not make marriage a human rights issue. The agenda of the government on this issue constitutes a huge social experiment with unknown consequences. I believe there will indeed be major consequences for family and for the Canadian society, but those consequences will not be really apparent for a generation.



*Government Orders*

If we examine early trends in another country, the Netherlands, there are already some alarming trends developing for Dutch society. My point is before we rush to follow the Netherlands' example on same sex marriage, legalized prostitution and legalized drugs use, and other examples of liberal extremism, the prudent thing to do would be at least wait and watch what the outcome of the Dutch experience will be.

No where in any culture in the history of mankind is there any example where same sex marriage has been the norm. Why would we put our society and future generations of children at risk for no other reason than the few same sex couples wanting to redefine marriage?

Heterosexual unions provide a whole range of benefits to civil society, only one of which is to create, nurture and raise the next generation. A family made up of a mother and a father is indisputably the most desirable incubator of future citizens. This forum of family is the mortar that holds our society together and those of us who work in these stone buildings know that if we do not maintain the mortar, over time the building collapses.

I urge members to reject this Liberal extremism and this social experiment with yet unknown consequences. If Canadians do not draw the line now, where will they draw the line to protect their children? Where will they draw the line to protect future families? Where will they draw the line to protect our most treasured society?

The Conservative Party is offering a moderate, reasonable and compromise position which I believe most Canadians would support. I urge all members of Parliament to reject the bill in the vote that will come later tonight and to maintain the traditional definition of marriage.

• (1625)

**Hon. Larry Bagnell (Parliamentary Secretary to the Minister of Natural Resources, Lib.):** Mr. Speaker, the member said that this has not occurred before. Unfortunately, he did not hear my seatmate's speech just previously where she explained this already occurred in Roman times in 1 BC.

He talked about the compromise position his party was presenting. Could give us an outline of exactly what that position is, given that same sex marriage is now legal in Canada and will be legal regardless of the results of the vote this evening? It is legal because the courts across the country have deemed it so through the interpretation of the highest law that Parliament has put forward, the Charter of Rights and Freedoms in the Constitution.

What is this alternative compromise position? It can be changed in two ways. One is by changing the Constitution of Canada to deny this right by prohibiting same sex marriages or by using the notwithstanding clause. Fortunately, every party in Parliament has said that it will refuse to do that, with which I am very happy. Maybe the member could outline the details of the compromise position.

**Mr. David Chatters:** Mr. Speaker, I have a number of comments on the member's remarks. I quite frankly do not give much credibility to the comments of his seatmate, given her history of statements in this place. I do not pay a lot of attention to that.

The situation that exists in terms of lower court rulings in the country is as a result of the government's abdication of its clear

responsibility to challenge those courts and to appeal them to the Supreme Court where this issue could have been resolved.

**An hon. member:** That's their hidden agenda.

As my colleague says, that is part of the Liberal hidden agenda on this issue. If the government had done what it was responsible for doing, we would have had a Supreme Court ruling and this whole forum would have taken a different direction. Perhaps we could have had some other alternatives.

**Mr. Bill Siksay (Burnaby—Douglas, NDP):** Mr. Speaker, I want to ask the member about the Conservative Party's compromise position.

As a member of the gay and lesbian community, I find it a little hard to accept there would be any good will toward the gay and lesbian community from that party, given its long history of opposing every major initiative that has come before the House of Commons to improve the situation of gay and lesbian people in Canada.

Every time an issue of our human rights or our full participation in society, or our access to government programs or to human rights protection in the country has come before this place, members from that party have opposed it. Why would we put any faith in the idea that that party could come up with a compromise that is somehow acceptable to gay and lesbian people or to Canadian society as a whole?

Given the record of that party and its predecessors, all the parties that have come together to form that party, why would we have any faith in the ability of that party to come up with a compromise that would be somehow acceptable and would recognize our full citizenship in our country?

• (1630)

**Mr. David Chatters:** Mr. Speaker, it is interesting that the member uses the word faith. Unlike the Prime Minister, some of us in this place live our faith. We are not members of Parliament during the week, then we go home, go to church on Sunday and be religious. The faith we grow up with and the teachings we learned have become part of who we are and what we are.

It is my responsibility, as a member of Parliament, to represent the majority views of my riding and my constituents. I have done that and I have done that without compromise. I have defended the principles of protection of religious freedom and I will continue to do that.

**Mr. Brian Jean (Fort McMurray—Athabasca, CPC):** Mr. Speaker, I want to take the opportunity to thank my colleague, who was the former member of Parliament for my area of Fort McMurray—Athabasca, for the great effort he has taken to be here today.

Since he has not had an opportunity to be here and since I was a member of the Bill C-38 committee, would he comment on some of the procedures that were taken by the committee? In its meetings of less than two months, it heard only 55 witnesses on this crucial issue to Canadians. Many of the witnesses complained that they received less than 24 hours notice to come to the meetings and many received less than seven days. In fact, seven witnesses could not appear because of conflicts and other issues.

*Government Orders*

We only received three or four of the briefs of the experts before the committee meetings. Many of those still have not been translated. I have not received many of them. We will be voting on this very issue tonight and we cannot even hear from the experts and cross-examine their testimony.

Could he comment on that?

**Mr. David Chatters:** Mr. Speaker, when the government has an agenda of social engineering to the extreme, it cannot allow democracy to get in the way. Not only have many of the experts in this field not had a chance to testify, but Canadians have not had a chance to express their opinions on this issue, an issue of social engineering, of basic restructuring of society.

All Canadians should have their say on this. It should either be an election issue before the bill passes or it should be a national referendum on whether this is the kind of society we want.

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**MESSAGE FROM THE SENATE**

**The Deputy Speaker:** I have the honour to inform that House that a message has been received from the Senate informing the House that the Senate has passed certain bills.

I also have the honour to inform the House that a message has been received from the Senate informing the House that the Senate has passed certain public bills, to which the concurrence of the House is desired.

\* \* \*

**CIVIL MARRIAGE ACT**

The House resumed consideration of the motion that Bill C-38, An Act respecting certain aspects of legal capacity for marriage for civil purposes, be read the third time and passed, and of the amendment.

**Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.):** Mr. Speaker, I am delighted with the news you have just given us about the passing of Bill C-43 with customary speed by the Senate. That is great news for the province of Nova Scotia as well as Newfoundland and Labrador, more than fulfilling the Prime Minister's commitment of last year.

I am honoured to speak to Bill C-38, an act to extend the right of civil marriage to gays and lesbians. I will be splitting my time with one of my favourite parliamentarians, the member for Winnipeg South Centre.

The vote that we will take tonight in just a few hours will provide equality under the law for all Canadians, those men and women, our brothers and sisters, our friends and those whom we love. This vote represents one of the most clear opportunities we are likely to have to declare our faith in the Charter of Rights and Freedoms and to support our values of inclusion, justice and dignity.

None of us here have taken this responsibility lightly. Each of us have our own reasons to vote as we see fit. I can only affirm for my part the belief that one's human dignity is non-negotiable. Our responsibility here today is to acknowledge that reality, so that through our actions as legislators we might recognize that which we

all know to be true, that gays and lesbians are fully equal and that Parliament will do the right thing, in my view, this evening.

On March 21 I spoke to the issue of civil marriage and outlined my views. Today I would like to speak about the process that we have undertaken since then, having been a member of the legislative committee dealing with civil marriage, as well as the ongoing discussions and interactions I have had the opportunity to have with my constituents.

Many people have opposed the bill and many have provided reasons as to why we should not vote on the bill tonight in a positive way. I would like to address a few of those issues.

First, some have suggested that we are rushing the bill through. I think the record will show that this is not the case at all. Indeed, some members opposite have, on the one hand, suggested that we are wasting our time on this issue because there are more important issues to deal with, as if equality is not an issue of national importance. Yet on the other hand there are members who have said that this is so important that they would like even more debate.

I believe there has been more than a healthy debate in this country, going back for years. Certainly, we have had ample witnesses appear before the legislative committee and they have expressed their views. How many more bills have had this much attention? I do not think very many. The suggestion that somehow we are rushing this through rings hollow in light of that debate.

Second, an issue that has been of particular concern to me is that it has been suggested that we should not allow this law to pass because people of faith oppose the bill. In fact, we just heard the previous speaker. He is a man whom I respect and whom we know has faced certainly challenges, but has come here to cast his vote. I respect that. But to suggest that the Prime Minister does not live his faith is outrageous. It is outrageous and outdated.

As a member of the legislative committee on civil marriage, we have heard representatives from many religions. We have heard from Catholics, Evangelicals, Sikhs, Jews, Muslims and members of the United Church. There is no unanimity on this issue. Some are against the legislation and some support it.

In fact, in our committee work we heard very positively on this bill from the Unitarian Church, some Sikhs, Rabbis and from the United Church. My own faith is rooted in Catholicism. I was raised by parents who taught me that the gospel message was about love and peace through a living faith.

I support the right of those who, because of their faith, oppose this legislation, but not all people of faith have that same view. In the end we would do well not to assume any one of us have an exclusive domain on what constitutes good morals or family values.

I agree personally with the moderator of the United Church when he suggested that supporting same sex marriage is not an abandonment of faith, but an embracing of faith. This view, expressed in simple terms, captures my own approach. I have not compromised my faith in supporting this legislation. I have embraced it.

*Government Orders*

Another question raised to exclude gays and lesbians from civil marriage was that only two other countries have adopted such legislation. Why would we want to be among the first countries to do so? My answer is, where do we want to be when it comes to embracing equality and recognizing the rights of individuals? Should we strive to be in the middle of the pack or to be the last nation dragged in?

Canada takes great pride in being the first nation to have officially adopted multiculturalism as a policy. There were many opposed to that, but we look back on that with pride and as a turning point for Canada, and that is a good thing.

●(1635)

We are a leader in many other areas: eliminating third world debt and patenting drugs for HIV-AIDS. The fact that we are among the first is not something we should hide. It is something we should celebrate.

Another reason we have heard not to support this legislation is that gays and lesbians do not even want this. So if they do not want it, why are we putting it forward. We have had people in committee tell us that gays and lesbians do not want to be married, but there are many heterosexuals who do not want to be married either. I do not think anyone would suggest that they should not have the right.

A number of gays and lesbians have fought very hard for that right, to have their marriages recognized as equal to those of other Canadians. I salute them. I salute their fight. I salute their courage including people like the former member for Burnaby—Douglas. Today when we vote on this issue, I will be thinking of them including my sister Jane, her partner Vicki, my godchild Rosie and her sister.

Some people feel that religion will be compromised, that religion trumps equality is what we hear. In a truly civilized society religion and equality do not compete. They co-exist easily and they complement each other. No church has been forced by the Government of Canada to marry or not marry people. That has not happened. The Catholic Church, for example, can decide who can enter into the sacrament of marriage. It alone determines who is married in the Catholic Church. That is how it should be. That is how it is. That is how it will continue.

We have even heard some people suggest that our health care will be compromised if we extend the right to marry to gays and lesbians. We have heard if we allow gays and lesbians to marry there will be an increase in all kinds of diseases and HIV-AIDS. The people who suggest that have no idea what the bill is about. The bill is not about sex at all. It is about love and commitment. Anyone who suggests that allowing gays and lesbians to marry, that it will lead to a dramatic increase in levels of sexual activity, should check with their heterosexual colleagues who may be married. They may be disabused of that theory.

We have gone well beyond the issue of whether it is right or wrong for homosexuals to have sex. A great Canadian once said, “the state has no place in the bedrooms of the nation”. We have moved beyond the morality of that issue. This is not about sex. This issue is about love and commitment, and the recognition that gays and lesbians are equally qualified and equally capable of making a

commitment to each other. The moral aspect is an issue we decided in this country a long time ago.

The next argument is that we should have a national plebiscite. If we had a national plebiscite on whether women should have voted, imagine the result considering that those who would have been deciding that would have been men. Or if they had a plebiscite in states like Alabama or Mississippi on whether blacks should have the vote, they still would not.

When it comes to an issue like this, the majority cannot determine the rights of the minority. Alongside the plebiscite argument are people who say we should listen to the voice of the people in our ridings and vote the way they want us to vote. I decided on this issue some time ago.

In fact, it is an issue I have supported and ran on in the last campaign when this was an issue. Rights and justice cannot be subject to a poll. Equality does not find its legitimacy in meaning through a referendum. That is not the Canadian way. I have met and spoken with hundreds of my constituents, both for and against. I have never refused a meeting with anyone because they had a different point of view and I have valued every opinion I have heard.

Today we will vote on the issue of civil marriage, Bill C-38. Today we will decide if gays and lesbians will have equal access to civil marriage as do other Canadians. This week, as we celebrate Canada Day, is a very appropriate week to vote on this issue. On Canada Day we celebrate the best of Canada, the diversity of Canada, a nation of equality, a nation of strength, a nation of compassion, a nation that believes we are stronger together than we are apart, and a nation where we celebrate equality.

Being equal does not mean that we are all the same, far from it. From those who were born here from our founding peoples, to people who came here hundreds of years ago, to people who have just recently chosen to come to this nation, we celebrate our differences. We do not all look the same. We do not all go to the same church. We do not all speak the same language. We do not all eat the same food. We are different. We celebrate those differences because those differences make us stronger. We not only encourage but celebrate those differences.

●(1640)

Today in this chamber we will celebrate the diversity of Canada once again. We will send a statement to the world that in Canada gays and lesbians will not be considered second class citizens. They will not be offered marriage lite; they will be offered full marriage.

When members of this House from all sides look back on this day in years to come, I believe they will see this as one step of the many steps that Canada has made to be a world leader in recognizing that one of the great privileges of freedom is equality. I am proud to support this bill.

●(1645)

**Mr. Myron Thompson (Wild Rose, CPC):** Mr. Speaker, listening to the member who just spoke, there is no doubt in my mind the sincerity in what he says he believes. I appreciate that part of it.

*Government Orders*

However, I want to get into this area of rights. I hear this so much on that side of the House, that it is all about rights. This is not an issue about rights. However, I do not even care to debate that any more because it seems like that is not going to make any difference.

Here we have a party sitting across that is governing the country and professes to be the protector of rights. Let me tell this member something and see how he responds.

I have been here 12 years. I have fought to raise the age of consent from 14 because 14 is too young. It has been defeated by the government at every opportunity. It has never been allowed. Therefore, parents do not have the right to take care of their children if a 14 year old decides to live with an adult under whatever circumstances. The parents would like to meet their responsibilities and take care of that child, but they do not have the right because the government has refused to give it to them.

There are grandparents all across this country crying through our various laws we have in existence. Many members on both sides of the House at one time were trying their best to get the rights of grandparents recognized. It has not been done because that side of the House has not approved it. The government has not given grandparents the right of access to their grandchildren.

I have been here 12 years fighting child pornography. I have listened to all of these rights. However, the one right that never seems to be concentrated on is the absolute right that these children be protected from exploitation. Artistic merit enters into the laws that the government brings in, which takes away that right of serious protection.

Did this member know that natives on Indian reserves have no access to ombudsmen? Everybody in Canada has access to them, except if they live on a reserve. They do not have that right. And when the Liberals had the opportunity to fix it, they voted against it. Not to mention the spousal rights on reserves. All these rights issues have been brought to the government and it has turned them down day after day, time after time.

Why do government members feel that they are the only ones who can rise on their feet and speak about the rights and equality of this nation when they refuse to do it in a very common sense way on so many issues?

**Mr. Michael Savage:** Mr. Speaker, I think it is the first time that I have had a question from the member in the House of Commons. I do not question the hon. member's sincerity. I also have no doubt about the hon. member's commitments or rights. I wish him well in his crusades. He obviously is a person of great passion. If rights are particularly important to him, I would suggest that he take advantage of this bill. If he is not voting on those other ones tonight, he should vote on this one tonight.

We all know that justice delayed is justice denied. Martin Luther King once said that a right delayed was a right denied. We can right a right tonight and vote for that right.

**Mr. Jeff Watson (Essex, CPC):** Mr. Speaker, I wanted to bring a different perspective to this debate for the hon. member opposite.

I am adopted. I do not know my biological heritage, nor do my biological mother and father. Mine is an example of an exception to

the norm of traditional marriage, that is, that male-female marriage is marriage precisely because it has procreative capacity and that marriage is the child-centred and not adult-centred institution that satisfies the lifelong need of Canada's children to know and be known by and raised by their mother and father.

The Liberal government wants to overthrow this norm and establish a new norm of marriage by calling homosexual relationships equal that have no procreative capacity at all. Does the member opposite believe that Bill C-38, with its legislative change from natural parent to legal parent, will satisfy the need of Canada's children to know and be known by and raised by their biological mother and father?

• (1650)

**Mr. Michael Savage:** Mr. Speaker, one of the mistakes members opposite often make is to think that the extension of rights to others diminishes their own. That is not the case. Equality is not like a swimming pool with only a certain amount of room in it. If we want to have a metaphor for equality, have the metaphor of a candle: we light another candle and provide more light in the room.

We are providing new opportunities to Canadians. There are a great many heterosexual Canadians who cannot have their own children. They are adopting and finding other ways of having children. I can only speak on behalf of somebody I know personally, my godchild Rosie, who has two mothers. I do not think they are better than a heterosexual parent, but nobody will tell me that they are worse than a heterosexual parent.

The ability to parent a child is not exclusive to heterosexual or homosexual parents. There are people of all sexual backgrounds who can be quality parents for children. This extends that right to more Canadians.

**Ms. Anita Neville (Winnipeg South Centre, Lib.):** Mr. Speaker, I too am pleased to rise to speak to this important bill, the civil marriage act, and I do so for the first time in Parliament.

As a member of the legislative committee to deal with Bill C-38, along with my colleagues I have listened to the many presentations intended originally to provide technical assistance to the committee. But many clearly did enter into the debate on the merits of the bill.

I have also listened to the many comments from my constituents and indeed from Canadians across the country. I understand that this is a difficult issue for many and I respect their views. Many in my riding support this bill and many indeed are opposed.

My role as a member of Parliament is to consider and balance competing interests in the national context and accordingly cast my vote. I understand that some may oppose my view and that it may cost me support. This is a democracy and I accept that.

I want to indicate today on the record my support for this legislation and the reasons for my support. I support Bill C-38 because it is consistent with my support for the Charter of Rights and Freedoms, it is consistent with my faith and it is consistent with my views of what family is about.

The three aspects of the issue I want to speak to are those of principle, reason and practicality.

*Government Orders*

The principle most clearly involved here is one of equality as provided under the charter. The existing definition of marriage, as determined by the courts in eight provinces and one territory now, discriminates unreasonably and unnecessarily with regard to same sex couples. That there are objections to this view is not surprising.

Yet as has been cited, over the course of human history every advance in equality has been resisted by powerful elements of the community. Whether it was the abolition of slavery in the first half of the 19th century, the extension of the franchise to men who were not property owners in the latter part of the 19th century, the enfranchising of women in the early 20th century, or the coming of the welfare state in the mid-20th century, the objection has always been similar.

Ending slavery, it was argued, would destroy the natural social order, create economic havoc and create an artificial equality between superiors and inferiors. Enfranchising men without property would imperil the existing political order, while enfranchising women would destroy the family and cause women to lose their femininity. Creating a broad system of social supports was simply dismissed or denounced as socialism or, worse, as pure communism.

In short, one is hard pressed to think of any major advancement of human freedom or equality which has not in its time been denounced by someone, and often by those most privileged in society.

The second is a matter of reason as opposed to fear. It has been argued that this bill will somehow directly or indirectly pose threats to those religious bodies that do not as a matter of faith or doctrine approve of same sex marriage. If this were a reasonable fear it would be compelling, but is it reasonable?

As things now stand, no religious authority is compelled to marry persons who fail to meet the requirements of that particular religion. Some, as we know and as we have heard here, will not sanction the remarriage of divorced persons. Yet even though the state sanctions the remarriage of divorcees, the state has never remotely suggested that ecclesiastical authorities are under some obligation to do so and would or could or might face retribution if they failed to do so.

Similarly, the state has long sanctioned divorce itself, yet when has the state ever said, suggested or implied that religious bodies that do not sanction divorce must do so because the state does so? In a country with long and deepening traditions of religious toleration, the suggestion that some religious bodies would face retribution over this issue is, I believe, fearmongering of the worst sort.

● (1655)

Third, it is a matter of practicality. The fact is that same sex marriage, as I have already noted, is now legal and occurring daily and routinely in nine jurisdictions in this country.

That is the case and will remain the case, yet Canadian society seems to be carrying on in the usual way. People go to work. They read newspapers and watch TV. They have and go to parties. They worship God in their own way. There is no rioting in the streets and no unravelling of the social order. In short, people generally and married couples in particular, same sex or opposite sex, are getting on with their normal lives with neither fear nor rancour, nor, let it be noted, often with much concern about what goes on in this House.

Those opposite might wish to address how, if their wishes were to prevail, they would deal with the thousands of same sex couples who are now legally and legitimately married under the laws of their own provinces. An authoritarian government, be it of the right or the left, might not hesitate to impose retroactive legislation to turn back the clock. Is that what those opposite would do if they had power? As with all change, there are those who will fear the worst. I count myself with those who believe in the innate decency and goodwill of our compatriots.

We have heard much about the sanctity of the family and the imperative to preserve the underpinnings of the traditional family as it is defined by some. If I may be personal, I too want to speak of the importance of the family, of a family embracing and supporting all within it, of a family where all members have equal rights and equal opportunities. Like many in this House, some of my best learning has been from my own children.

I have held or sought elected office for almost 20 years. I have been involved in decision making on a number of matters relating to same sex couples, whether it be the extension of benefits or rights, or privileges and opportunities in the workplace.

In 1995, while seeking a seat in the Manitoba legislature, I was being urged by others to stay away from the issue of the day involving the extension of rights to gay and lesbian people because it might affect a byelectoral outcome, at which point my youngest daughter said to me, "Does that mean if I have a child who is gay, you would love it less?". Needless to say, I stepped up to the plate at that time and it is in part why I support the legislation today. I do it for our children and our children's children, to ensure that all of our children have the full benefits and rights of citizenry in this great country of ours.

I recall the words of one of the parents from PFLAG, Parents, Family and Friends of Lesbians and Gays, who said, "The rights and responsibilities and freedoms of my straight son should be the same as that of my gay son". He went on to say, "I find it unfair that there has always been a possibility for my adult straight son to be married, but not my gay son".

I am proud to be part of the debate here today. I am proud to be a Canadian, and indeed a Canadian parliamentarian, supportive of this legislation, as we table and vote on this landmark legislation for our country this evening.

● (1700)

**Mr. Bradley Trost (Saskatoon—Humboldt, CPC):** Mr. Speaker, I listened with great attention to my hon. colleague's comments. In essence she said that this is a matter of human rights and she said that people who do not support it do not support human rights. I hope I am not paraphrasing too far from that point. This is a matter of human rights, that is my understanding of the member's point, and it is absolutely essential.

*Government Orders*

My question for her is very simple. Roughly a quarter of her party's caucus is voting against human rights, if we follow that line of logic. I, for one, do not understand how she can sit in a party with people she believes are violating human rights. If a member of the Conservative Party were opposed to human rights, I would push for that person to be gone. I would go and talk to my leader.

I do not understand this disingenuousness of why she is allowed to have people in her caucus if she believes they are opposed to human rights. What should be done with the members in her caucus who are opposed to what she views as human rights?

**Ms. Anita Neville:** Mr. Speaker, the strength of my party, of this great party of ours, is the ability to respect the diversity of opinion. As I said in my comments, this is a difficult issue for many people. For me it is a fundamental right, there is no question about it, but I respect the right of my colleagues to make the choice based on their faith, their experiences and their views of the charter. That is, as I say, the strength of this great party of ours.

**Mr. Charlie Angus (Timmins—James Bay, NDP):** Mr. Speaker, for many Canadians this is a contentious issue. We hold the idea of marriage as fundamental. Personally, my whole life I have seen it as a sacramental notion of marriage. When I talk with people in my riding who are very concerned about this issue, they are very much concerned about the infringement on our notion of the sacramental sense of marriage.

However, it seems to me that there has been a deliberate blurring of the distinction between the sacramental religious nature of marriage and the civil nature of marriage which exists in Canada today. For example, we have heard member after member state that marriage is procreative in nature. If we accept the sacramental basis of marriage, and I was married in a church based on that, I accept that.

When I hear members standing up saying if it is not procreative then it is not marriage, I would suggest what they are saying is that we are rewriting the civil laws of Canada. Then those who went before a justice of the peace would have to state that they were going to procreate, otherwise it would not be a real marriage.

There is another example I would offer the member. People get married at Blue Jays games. They get married jumping out of airplanes. They get married at the bottom of swimming pools in snorkelling outfits. It is not my idea of marriage, but it is a civilly defined understanding of marriage. I do not think that anybody in this House would stand up and say that members of Parliament have to regulate that.

Is the hon. member concerned that there has been a deliberate blurring of the legitimate religious notion of marriage and a very separate sense of civil marriage throughout this debate?

**Ms. Anita Neville:** Mr. Speaker, my colleague behind me has said that is what is known as a leading question. I think the member himself has in fact answered the question.

I believe that there is quite clearly a distinction in this legislation between a civil marriage and a religious marriage, and the sacrament of marriage. What we have heard and what we have learned is that many religious organizations wish to bestow the sacrament of

marriage upon those same sex marriages. Those that do not wish to are not required to.

What we are speaking of here today is the extension of civil marriage to couples of same sex.

• (1705)

**Hon. Jack Layton (Toronto—Danforth, NDP):** Mr. Speaker, it is a real privilege for me to stand in the House at this important and significant moment in Canadian history in the ongoing evolution and development of equality rights in our country. This issue is about families and it is about equal families. When we think of families, we immediately think of love.

I would like first of all to salute a group which goes by the acronym of PFLAG, Parents and Friends of Lesbians and Gays. It might not seem that remarkable today that there would be an organization called Parents and Friends of Lesbians and Gays, but many years ago when this organization came into being, not only was it difficult for a lesbian or a gay person to come out to his or her family, but it was very difficult for a family member to acknowledge to their broader community that their child was a lesbian, or a gay man. In fact, this is what precipitated the enormous feeling of loneliness which is the single most common sentiment that I have heard over the many years that I have been associated with the gay and lesbian community. They have a feeling of being alone with nobody understanding. In a sense they are fearful of what would happen if who they really were became public knowledge, became known to their family, to their friends, to their community.

There was justification for those fears. Far from a loving environment in the early days, certainly of my awareness of the community, the atmosphere within which gays and lesbians had to live in our country was one filled with hate. That hate was illustrated.

I remember that hate as a young person growing up in my little town in the 1950s and the 1960s. I do not know whether any of my friends in the little school I went to were lesbian or gay, but I do know a lot of insults were thrown toward any young person who was judged to have any gay-like attributes. These were hateful comments. I have learned from many of my gay friends over the years what that felt like. It was like a physical assault, and oftentimes it became a physical assault.

Madam Speaker, I should have mentioned at the beginning of my remarks that I will be splitting my time with the member for Windsor—Tecumseh.

Violence and hatred were all too common and still remain when it comes to the gay and lesbian community, the transgender community, and the transsexual community. I recall in a park in my city when a librarian was killed by a group of high school students who had gone out to beat up a gay man. They beat him to death. Sadly, this is an experience that happens all too frequently.

I want to acknowledge the work of our friend, a former member of the House, Svend Robinson, for bringing legislation forward many times in an effort to have hate crimes named for what they really were. That was finally achieved not too long ago in the House.

We are looking at trying to replace hatred with a concept of love, of affection, of the fundamental equality that underlies the whole notion of love. This takes us into new territory. It takes us into the territory of understanding and defining of relationships.

• (1710)

At the 25th anniversary of Pride Day in Toronto a couple of days ago a couple came up to me and asked if I remembered them. I told them that they looked familiar but that they would have to help me out. They said that they had been celebrating their 15th anniversary together and at a fundraising auction had bought a tour of the city and a dinner with Olivia and me. I had very fond memories of that couple. I asked how long ago that was. They said it had been 15 years and that they were now celebrating their 30th year together.

I know from having spent some time with these men that their family has as strong a bond of relationship and love that we would find in any family. I believe they should have the opportunity to have that relationship, that marriage, recognized on an equal par with any other loving relationship in our society.

Now we are putting that into law. I must confess, I never thought I would have the opportunity to stand in this House and actually vote for such a powerful and important proposition.

As I mentioned in my speech at second reading of this legislation, when my wife and I were married in 1988, we asked that one of our gay friends speak on our behalf and dream about the day when perhaps our lesbian and gay friends could celebrate their relationships in front of all of their friends and in front of the whole community. It truly is a privilege for me today to participate in actually helping to make that dream a reality.

This past Sunday morning one of my favourite pastors, Reverend Brent Hawkes spoke to a church service held outdoors at the 25th anniversary of the Pride Day celebrations. He imagined the day 100 years from now when a historian might be writing about the struggle for human rights over the years and talked about a story that was written about the rainbow people who used to be frightened about their identity and had to essentially keep their identity concealed, because if they allowed it to become public, they would be discriminated against and ridiculed. But they fought back, not so much out of anger, but with a spirit of joy, a spirit of respect, a spirit of pride in who they were.

In fact, Pride Day itself, and not everybody knows this, emerged as a response to a huge police raid which resulted in over 300 gay men being arrested. Very few charges were ever laid, but several of those men committed suicide as a result of the exposure of their identity at the time. Pride Day emerged as a statement by the gay community that they want to be public. They want to celebrate who they are. They will not be pushed back into the corners. They will claim their place in society. Believe me, on the streets of Toronto and in communities from one end of the country to the other, gays and lesbians, their friends, their parents and the community will be out on the streets to celebrate a group of people who used to have to hide who they were, but who can now celebrate their love and their affection for one another.

It is a magnificent transition that is under way. It is one that is also very respectful of the religious traditions that compose Canada. In

### *Government Orders*

fact, the legislation includes quite a number of provisions to ensure that is the case, because not all of the religious communities or even all parts of every religious community feel that the religious aspect of marriage can be expressed in quite this way. There is a provision to ensure that religious diversity, which is fundamental here in Canada, should be protected. That is, of course, vitally important to the success of this particular initiative.

I am thinking about many individuals, friends and groups who have dreamed about the day that is about to come, literally within a number of hours, when finally, lesbian and gay relationships in our communities across this country will be recognized by the whole community for what they are: equal relationships infused with the kind of love that a society frankly needs more of. It pushes away the hatred. It pushes away the discrimination. It says no to second class citizenship. It invites all of us, in all of our family structures, to share in this wonderful and beautiful country in exactly the same way, with the same rights and with the same obligations and privileges that each and every one of us has as Canadians.

• (1715)

It is a privilege and a thrill for me to be able to offer these words in this debate and to say that New Democrats across the country will be celebrating the passage of this landmark piece of legislation.

**Mr. Bradley Trost (Saskatoon—Humboldt, CPC):** Madam Speaker, I will make my question for the member for Toronto—Danforth fairly short. One of the members from his caucus, the member for Churchill, last night voted against the legislation and presumably will do so again tonight.

If that happens, considering how emphatically the member stated this is a matter of human rights, will he allow her to remain part of the caucus or will he stick with principle and say that people who are opposed to his idea of human rights must leave his party? Is she in or is she out?

**Hon. Jack Layton:** Madam Speaker, the vote that the hon. member is requesting my comment on has yet to take place so we will see what happens later on this evening.

**Hon. Larry Bagnell (Parliamentary Secretary to the Minister of Natural Resources, Lib.):** Madam Speaker, I would like to ask the hon. member about religious freedoms. A number of people in the House have expressed a concern about religious freedoms and that this would be a reason to vote against this bill. As the member knows, one of the biggest objectives of the bill is to protect religious freedoms. In fact, the equality right is to a large degree taken care of by the courts. The bill would not change that except for those few jurisdictions where it has not been decided. The leading professors in the country and the Supreme Court already have decided that. It is inevitable.

Another major objective of the bill is to protect religious freedom which is a charter right. Could the member comment on that? This is a reason to support the bill. Some people seem to have misconstrued that as a reason to worry about the bill.

*Government Orders*

**Hon. Jack Layton:** Madam Speaker, the member for Yukon touches on a very important feature of the bill. In a way, it is a very Canadian approach because we are trying to keep track of all the various diverse elements of our society. We are trying to ensure that everyone finds their place here and that diversity is respected. When it comes, for example, to religious freedom, which is a protected freedom in the charter, the bill, including amendments, takes great pains to ensure that religious freedom is protected in the context of this new definition of civil marriage.

That makes it a particularly well crafted piece of legislation, one that reflects the efforts of members of the House from all sides, working over two year process to try to get it right. We are only human. Whether we have achieved perfection in the legislation, probably remains to be seen.

However, what is very interesting about it is the clear effort from the preamble right through to the provisions to anticipate the different aspects that need to be taken into account so that not only in an off-handed way are we speaking about equality and protecting freedoms, but we are doing it in a very substantive, direct and complete way as best as we are able through this legislation.

I thank all the members who were involved in helping us to get to this point.

**Mr. Brian Fitzpatrick (Prince Albert, CPC):** Madam Speaker, our mother country, Great Britain, has one principle in its constitution. It is the supremacy of Parliament. Out of that system, every right that is in the Charter of Rights, whether it is fundamental freedoms, criminal protections, democratic rights or equality provisions, all have roots in that British parliamentary system.

I find it offensive that the leader of the NDP would say to have the majority decide issues in this country is somehow wrong. I say that is part of our tradition. That is part of our British system. Almost all of those principles come from a system in which the majority rules.

The old principle of democracy is that a member of Parliament represents his constituents, but the New Democratic principle is members represent the position of the leader come hell or high water and members have no right to represent their constituents or—

• (1720)

**The Acting Speaker (Hon. Jean Augustine):** The hon. member for Toronto—Danforth.

**Hon. Jack Layton:** Madam Speaker, I think the good news is that despite the various bellowing, interruptions and rudeness from the other side, decency will prevail. Not only that, but the supremacy of Parliament will be realized in a matter of a couple of hours from now on the fundamental issue of human rights.

I thank the member for his history lesson because it would be good to see the supremacy of Parliament recognized and respected in the House. Perhaps the member was inadvertently or indirectly being critical of the government, which on a number of issues has not respected the supremacy of Parliament. In this assessment he and I may agree, for example, in the pursuit of international aid objectives, the Air India inquiry and the question of the appointment of certain officials. There are many cases where the supremacy of Parliament has not been recognized by the government and I acknowledge that problem.

What we are looking at is an opportunity to define, in a very important and positive way, the open relationship we want to have with all of our citizens. That is a very positive development here.

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** Madam Speaker, I rise today fully conscious of the historical significance of the vote that will take place later today. I do it with a great deal of pride because of the role that my party historically has played in advancing the rights of gays and lesbians in our country, but perhaps even more so, with a great deal of humility, recognizing that the work that has been done by other members of this House in the past probably far exceeds what we are doing today.

For me there are three buzzwords as to why we should support Bill C-38 and why we should pass it later today. One is the law, one is love and one is duty.

As a lawyer, I went through this process of watching the charter come into being and having it being applied. Back in the early eighties our country made a concrete, solid decision that henceforth we would have in place a Charter of Rights and Freedoms that would guarantee fundamental rights and that we would have a court system that would act as the arbitrator. It would apply the decisions in a just fashion and determine the rights when there was a conflict between the state, as there is here and has been, and a minority group in our country.

The Canadian public has accepted that method and we have now lived under it for more than 20 years. When the Supreme Court of Canada along with all the other lower courts made the decisions we have seen over the last few years, the Charter of Rights and Freedoms was applied, and I believe applied appropriately, and they came to the right conclusion. For that reason, for the law of this land, all of us should be supporting Bill C-38.

The second buzzword is love. I am a Roman Catholic. I have been married to my wife for 36 years and we have three grown children. My Catholic community in the city of Windsor is a major support for me and has been for all my life. For the last number of years, my wife and I have taught the marriage preparation courses at our church. Having been elected in 2000, there were a number of things I had to set aside but that was one that I could not. It is a great benefit to our marriage, but it is also a great joy to see young couples entering into marriage. If we can do anything to help them do that, it is something that I am very proud to do.

One of my visions is that some day my church will allow those couples to not only be heterosexual but also to be homosexual. My vision says to me that some day this will happen. The Roman Catholic Church in this country and across the globe will follow the precedents that the United Church, the Quakers, the Metropolitan Church and any other number of Christian denominations have taken. This is about love; we will guarantee within our religious services that all couples will be treated equally.



My marriage is probably the most important thing to me, in terms of the relationship with my wife and my children. By allowing for gays and lesbians to marry, it will in no way detract from or minimize my marriage, just the opposite. When I do the marriage preparation courses with young couples, I want to share the relationship that we have been able to develop as a couple, as a family and as a community. Our marriage is very much supported by our community, and I want gay and lesbian couples to be able to share in those relationships.

• (1725)

Finally, the third buzzword is duty. I, like my leader, have known gay and lesbian couples who have suffered. If this legislation moves the celebration of their relationship just a little bit, it is worth passing. I had a friend involved in a mature gay relationship who took his life several years ago. I know what pain and suffering he went through. I know what rejection he suffered from some members of his family and I know the abuse he took in the workplace because he was openly gay.

Until we strike down all the barriers to full equality for our gay and lesbian community, until we do that, we are going to continue to have individuals such as my friend who are going to be pushed to the wall to the point that they take their lives. Bill C-38 is part of that work. I spent Saturday morning with the gay and lesbian community in Windsor. They were talking about the ongoing difficulties that the gay and lesbian youth of our country have in coming out and about the need for us to have services available to them. That is what the meeting was about.

If we put this bill into place, it is not going to be the be-all and end-all of the discrimination that this community has suffered, but it will advance the cause.

Therefore, my duty as an individual member of Parliament, as I pledged it when I spoke at my friend's funeral, is to support Bill C-38, to get it into play and then move on, again so that at some point in the future, like those young couples my wife and I helped prepare for marriage, we will be able to celebrate all marriages, whether they be gay, lesbian or heterosexual.

• (1730)

**The Acting Speaker (Hon. Jean Augustine):** It being 5:30 p.m., the House will now proceed to the consideration of private members' business as listed on today's order paper.

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## PRIVATE MEMBERS' BUSINESS

[English]

### CRIMINAL CODE

The House resumed from May 20 consideration of the motion that Bill C-313, An Act to amend the Criminal Code (prohibited sexual acts), be read the second time and referred to a committee.

**Mr. Myron Thompson (Wild Rose, CPC):** Madam Speaker, we have a change of subject for a few minutes with this private member's bill which is once again before House. It is an effort by this party through our member for Lethbridge and in conjunction

### Private Members' Business

with our member for Calgary Northeast and me. We have made proposals in regard to raising the age of consent from 14 to 16.

It is fairly good timing to talk about this particular bill, because what I have heard all day about on that side of the House is rights. The Liberals are really concerned about rights, particularly with the issue that is before the House today and which we will be voting on tonight. They keep talking about how important rights are.

I listened to TV just a few moments ago. I was watching the Don Newman show and there was our Prime Minister talking about rights, saying a right is a right. Rights: that is what we are all about, he said, and we are going to protect rights.

I have been here 12 years during which there have been several attempts by this side of the House to have the age of consent raised, because, as members know, when 14 year olds or 15 year olds decide they want to live with an adult, they have the right to make that decision. Guess what, though: the parents of those 14 year olds and 15 year olds have no rights at all in trying to get them out of a possibly very dangerous situation, or a very sad situation, when they are living with an adult twice their age or older.

The parents do not have the rights. I want to express that. The reason they do not have the rights is that time after time this Liberal government has rejected raising the age of consent. The Liberals have done it again with the latest bill, Bill C-2, the child protection act, when they would not amend the bill to raise the age of consent. The Liberals do not allow the parents to have the right to have a say on what to do with a child who is 14 or 15 years old who makes the decision because the age of consent law allows it. That is pretty hypocritical, if you ask me, Madam Speaker.

We talk about grandparents' rights. I know that every member in the House has had to talk to grandparents who have had trouble with access to their grandchildren because they do not have that right under the divorce and separation laws, which the government has had the opportunity to fix time after time. It has refused to do that. The Liberals do not want to give the grandparents the right.

The Liberals talk about rights all day long. They talk about how important it is to protect the rights. I have never seen once, anywhere, that marriage was a right, but I sure have seen a lot of cases where not only it is a right to protect our children, it is essential. It is a responsibility. We are not allowing these parents to take care of their responsibility because they do not have the right to do it. There is something wrong with this whole big picture.

Child pornography is another "right". We have to protect them with artistic merit because the courts say so; some judge sitting somewhere in some courtroom made a decision that there could be some artistic merit. The right of protecting the children, the children's right to be safe from that evil stuff, is not fully protected because the government believes they should not have that right. It continually gives defences to the people who are engaged in this activity.

*Private Members' Business*

I am really sick and tired of hearing people continually rising on that side of the House and talking about the rights, the rights and how important the rights are. I can point to dozens of things that we have seen over the last 12 years on which the government has refused to give the right to certain individuals who should have that right, particularly when it comes to protecting our kids and those most vulnerable.

I have been in education for 30 years. I have been dealing mainly with children through the teenage years. I can tell members that there is a big difference between a child who is 14 and a child who has reached the age of 16. There is a lot of maturity in those two years. The age of consent should probably be even higher, and the children older, but if these people would just come to their senses we would settle for 16.

● (1735)

The Liberals do not recognize the fact that there are parents across the country who are fit to be tied because they have absolutely no way to get their children out of these situations they are engaged in, which in some cases are extremely dangerous. The Liberals have something wrong with their heads.

We have brought this before the House time and again. Who rejects it? Who votes against it? It is the people who are professing "rights" all day and all week long on another issue. It is double-talk, it is hypocritical and it is absolutely a shame that it continues day after day.

Indians on a reserve do not have a right to an ombudsman, Madam Speaker. You do. Everyone in this House does and every Canadian does, but for those living on a reserve there is no right to an ombudsman. A bill was brought before the House that would have given those people that same right, that same equality. Who rejected it? The Liberal Party rejected it. Many of the NDP rejected that same proposal.

**An hon. member:** We have to wonder.

**Mr. Myron Thompson:** It makes us wonder. What in the devil are we are talking about? The Liberals are in here saying, "We are the party of rights, we are the party of equality, we are the great ones, we are the wonderful ones". But time after time they reject the very commonsensical rights that ought to have been in place long before this.

I am not even going to talk about the spousal rights of the Indians on the reserves. It is pathetic. The government is not doing anything about it. When the Liberals have the opportunity, they reject it. They vote against those rights.

Now we are going to give them another chance. Collectively, my good friends from Lethbridge and Calgary and I are working together on this. We want this bill passed for the sake of the parents who are struggling with their kids and trying to save them from these very situations that they need not be in. We can do it.

But what about our Prime Minister? This is so good that I just have to reiterate it. Our Prime Minister was on TV a minute ago saying that a right is a right is a right. He was asked the following question on the Roy Green show: "Why doesn't your government support raising the age of sexual consent from 14 to 16?" Here is his

answer. I am going to read it again for members. It is worth quoting. He said:

Well, this is an...this is an issue that...that, you know, that...that Parliament is in the process of debating. These are...these are very important social issues, and I think that what we've got to do is allow the debate to allow it to unfold. One of the...one of the ways in which the changes I wanted to bring Parliament is to give parliamentary committees the ability to go out, to reach out and discuss all of these issues. And again, the whole question of the parliamentary...you know, the democratic deficit, is something that the House leader is working so hard on.

I listened to that along with many people in radio land. The Roy Green show played the answer and held a quiz for all the people listening. If they could guess what the question was, they would win a big prize. Nobody could guess. That was from the Prime Minister who said that a right is a right is a right and that the Liberals are the defenders of rights. That was his answer about raising the age of consent. If people do not believe it they can get the tape and listen to it and really get a shock.

That is not the way we deal with the problems of our nation.

Parents have gone to the police to say their 14 year old daughter is living with a 36 year old man, that she gave consent and she will not leave. The father went into the house to remove his daughter but was charged with trespassing. He was interfering with the law. He was infringing on the rights of the old man who was living with his 14 year old daughter. He was arrested, charged and convicted. Thanks, Liberal government, that is what has been given to us.

If people have not guessed by now, this is a desperation speech, because we have given this speech over and over again and the Liberal government, over and over again, refuses to do anything about it.

● (1740)

This private member's bill gives the government the opportunity to raise that age of consent. This would help parents who desperately want to meet their responsibilities, instead of being arrested, going to jail and charged with trying to do what is right for their child.

I say shame on members forever if they do not support the bill. If they are so interested in rights now is the time to do something about it and fix it.

**Mr. Ken Boshcoff (Thunder Bay—Rainy River, Lib.):** Madam Speaker, I rise today to join in the debate of Bill C-313, an act to amend the Criminal Code, prohibited sexual acts.

Bill C-313 has as its purported objective enhanced protection for young persons against sexual exploitative or predatory conduct.

As I understand the arguments advanced in support of the bill, it seeks primarily to better protect some youth, namely 14 and 15 year olds, against sexual predatory conduct by adults and it is premised on the belief that our existing laws and proposed reforms do not adequately protect youth against this kind of conduct.

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The Canadian Centre for Justice Statistics, April 2005 Juristat, "Children and Youth as Victims of Violent Crime", recently reported that children and youth accounted for 61% of all victims of sexual assault reported to police and that half the sexual assault victims under the age of six were assaulted by a family member. Sexual assaults against children and youth were committed by strangers in only 5% of these reported cases, with the majority of the victims aged 14 to 17.

We must remain vigilant to ensure that our criminal laws are current and responsive to all forms of sexual abuse and exploitation of children and youth, and so I appreciate the opportunity to participate in this debate.

Would Bill C-313 better protect children and youth against this type of sexual abuse and exploitation? We should recall that under the existing Criminal Code protections against sexual assault, any non-consensual sexual activity, regardless of age, is a sexual assault. It is also important to understand that all of our existing prohibition against sexual assault, including the child specific sexual offences, apply to all sexual activity ranging from sexual touching, such as kissing, to sexual intercourse.

The Criminal Code does in fact protect children and youth against sexual exploitation, specifically it already prohibits sexual exploitative or predatory conduct toward children and youth under 18 years where it involves prostitution, pornography or where it involves a relationship of trust, authority or dependency.

As well, the Criminal Code already prohibits the use of the Internet for the purposes of communicating with a child to commit a sexual offence against that child.

Looking at Bill C-313, we see that it purports to strengthen these protections only for 14 and 15 year olds, only for some offences and only by focusing on the apparent consent of these young persons.

Bill C-313 seeks to provide this additional protection by increasing the age of consent for non-exploitative sexual activity from 14 to 16 years for some but not all related offences. It does not, for example, propose to amend section 172.1, Internet luring, even though such conduct has been identified as some of the predatory conduct that Bill C-313 is intended to better address.

It also does not propose to amend section 810.1 of the Criminal Code, which is a preventive measure that enables the court to prohibit a person from attending places frequented by children under 14 years or from using the Internet to communicate with children under 14 years where there is a reasonable ground to believe that person may commit a sexual offence against a child.

In raising the age of consent, Bill C-313 would also expand the existing close in age exception for 12 and 13 year olds to include 14 and 15 year olds. In doing so, it would maintain the existing prerequisite conditions that the other person must be less than two years older and under 16 years of age and that there cannot be any relationship of trust, authority or dependency. The apparent intent with this amendment is to allow close in age peers to engage in consensual sexual activity and yet this peer group exception would result in criminalization of consensual peer sexual activity.

● (1745)

For example, under the proposed exception in Bill C-313, a 15 and a half year old girl could engage in sexual activity with her 15 year old boyfriend but she would be prohibited from doing so on the day of her 16th birthday. Under Bill C-313, what was legal on one day between two consenting teenage peers, would become illegal on the next.

In contrast, the government's response to this issue, which we find in Bill C-2, the protection of children and other vulnerable persons, would provide increased protection against sexual exploitation to all youth between 14 and 18 years of age without criminalizing typical consensual sexual activity.

Bill C-2 focuses on the wrongful conduct of persons who exploit or prey upon vulnerable young persons and not on whether the young person consented to that act. Bill C-2 would do this by requiring the courts to infer that a relationship with the young person is exploitive of that young person by looking to the nature and circumstances of that relationship. The bill would direct the courts to consider specific indicators of exploitation, including 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. In other words, Bill C-2 accepts that there are different indicators of exploitation.

The chronological age of the young person is one such indicator. Bill C-2 tells the courts to consider this factor, but there are others. For example, if the other person is much older than the young person, this is likely an indicator that the relationship is exploitive of the young person. Bill C-2 tells the courts to consider this age difference.

How the relationship evolved is another factor. For example, did it evolve secretly and quickly over the Internet. Bill C-2 tells the court to consider this as well.

Bill C-2 is the way we will be able to better protect all young persons against predatory and exploitive conduct, not Bill C-313. For those reasons I do not support Bill C-313.

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** Madam Speaker, I feel like a broken record because, as the member for Wild Rose has already mentioned, the Conservative Party has spoken to this issue repeatedly and as recently as yesterday. I spoke against the private member's motion yesterday and I am speaking against Bill C-313 for basically the same reasons.

The first thing I want to say to the Conservative Party is that if it perhaps got its act together maybe we could deal with the age of consent. When it does this holus-bolus, scattergun approach it just does not work and it will not get the support of the rest of the members of the House.

I want to acknowledge the work that its member for Provencher did with regard to Bill C-2. He did some significant work on dealing with the age of consent and introducing amendments that I was prepared to support as a member of the justice committee for my party and in fact did support the amendments. The Liberals and the Bloc chose not to support them and to go on with this methodology that they have used.

*Private Members' Business*

I want to touch on this. I do not think the Conservatives get it. They have to get their act together. They can respond with emotion, yell in the House and try to shame the rest of us into doing it, but if they practically dealt with the problem maybe we could reach a resolution.

We really are talking about social engineering. Until the late 1800s, the age of consent in Canada was 12 years of age. We raised that in the early 1900s and have not touched it since then, except playing with it in a few areas with regard to specific offences.

What began happening in the late 1960s through to the late 1970s was that successive governments, mostly Liberal but, quite frankly, some Conservative, at the federal level began to tinker with it. The option they went for was the exploitative dependency relationship.

In the course of the witnesses and evidence we heard on Bill C-2, we heard from a number of police officers and, more important, from a number of prosecutors who dealt with the sections that were based on the relationship being of an exploitative nature.

What they told us repeatedly from both their own experiences and that of other prosecutors across the land was that the methodology, if I can put it that way, in social engineering simply did not work. They could not get convictions. It was just too difficult to prove.

I was convinced at that time by the witnesses, I have to say, and not by the Conservatives on the committee, that in fact we should be looking at using a different methodology.

The basic problem we have of fixing rigid ages, and we heard it from the Liberal member who preceded me, is the risk of criminalizing a large number of our youth. I am going to throw some numbers out because it is something the Conservatives did not do.

We the following are some figures we asked for and received. There are roughly 800,000 youth in the country at any given time who are 14 and 15 years of age. Of them, close to 50%, are engaging in sexual relations. Of the ones who are engaging in sexual relations, roughly 41% of them are engaging in sexual relations with an older person. It does not matter whether it is male or female. This is something that changed from my generation because it tended to be and still is the stereotype we hear from the Conservatives that it is always the male who is the older person.

The reality is that it is almost exactly equal. Of the 50%, and we are talking now about 150,000 to 180,000 youth, 41% are engaged in a relationship where the age gap between them is more than two years but less than five. We have an additional group of almost 5% who are engaged in a relationship with an individual who is six years or older than they are.

• (1750)

This is where I want to acknowledge the work of the member for Provencher from the Conservative Party. He brought forth an amendment that said we are going to put into the Criminal Code the age of consent by fixing it at 16 from 14, which is where it is now, but we are going to allow a defence to the other youth engaged in the relationship if the age gap is five years or less.

When I saw that, I thought that was a reasoned approach on his part. However, I do not see that in Bill C-313 and I did not see any concept of that in the motion yesterday. Those members just did not do their work. They are quite prepared to criminalize as many as 100,000 youth for engaging in sexual contact. Those are our children. They are not the pimps in downtown Toronto. Those are kids who go to our schools. And they are going to criminalize them.

So when the member for Wild Rose gets up and says, "Shame on you", I repeat that back to him and to his party. If they got their facts straight and they dealt with this, as they have tried to do, based entirely on emotion, it is never going to go any place. If they did it on facts, if they took a proper and reasoned approach to this, got away from the emotion and feeding their own egos, maybe we could get this problem resolved.

Our party supports the member for Provencher. We could not convince the Bloc or the Liberals to do it, and I blame the Conservatives for that. If they had over the years taken a more reasoned approach, we probably could have brought some of them on side and we could have got that bill, Bill C-2, back to this House with an age of consent and that age differential defence in it. We could have passed it.

That bill, by the way, is before the Senate right now. It may in fact have passed in the last day or two, I am not sure. So we could have actually had it in place. But because the opposition wanted to deal with emotion, we did not get it through.

One of the other things they did not consider was that we still have a problem even if we do fix the age at 16 and we put in the near age defence. We would have a constitutional problem between ourselves and the provinces. One of the territories still has the marrying age set at 15. We are going to have this anomaly if we fix the age of consent at 16. We are going to have people in the north who can get married at the age of 15, but be charged if they engage in a sexual relationship with their husband or wife.

**An hon. member:** That is nonsense.

**Mr. Joe Comartin:** It is not nonsense. Again, it is typical that we hear that from the Conservatives. They did not even look at it. That is the law of the land.

On top of that, we have this situation in every province in this country. It is the constitutional right of every province in this country where one can go into court and if the young woman in the relationship is pregnant, one can apply to the court and have a marriage take place under the authority of the court, the parents or guardians. That exists in just about every province. I do not think I checked Quebec, but all the other provinces have that provision.

So again, we could have this anomaly where at the federal jurisdiction we fix the age of consent at 16. I think this one is really quite interesting that we have not dealt with and we are going to have to if we ever get this methodology into play. We are going to have judges who are going to be one day authorizing the marriage and the next day being faced by the prosecutor and the police bringing the same couple before him, one of them, whoever is the older, and charging him or her because of the age not being there as a proper defence.

*Private Members' Business*

So there are problems with this. It is not anywhere near as simplistic as we always hear from the Conservatives when it deals with a law and order matter. It is more complex than that because the human scene in this country of course is more complex.

Bill C-313 does not cut it. If the Conservatives went back and maybe spoke to their member for Provencher maybe they could get some amendments at some point. However, as long as they go on a motion, we are not going to get this problem resolved.

• (1755)

**Mr. Art Hanger (Calgary Northeast, CPC):** Madam Speaker, I appreciate this opportunity to speak to Bill C-313. I appreciate the fact, with all sincerity, that my colleagues on this side of the House, at least, have offered their support for this particular bill.

I have personally introduced several times a similar bill to raise the age of consent. It is something in the neighbourhood of six times. The member from Lethbridge, of course, was higher up on the order paper in private members' business and was kind enough to put it on his agenda. The member from Wild Rose, of course, has also fought this particular issue since he here in 1993. Both members have concerns for what has unfolded in the streets of our country when it comes to the age of sexual consent.

I have listened to the members on the opposite side, including the member who just spoke from the NDP. This is not the sky-is-falling type of situation he seems to portray in his delivery, although I would have to say that there is a sense of urgency to this matter, given the fact that law enforcement, for instance, has been trying to deal with issues around the age of sexual consent. It has been trying to help the parents whose children have left the nest, if you will, for whatever reason, and are being manipulated, enticed by those unsavoury characters who think nothing of exploiting a young girl, sometimes a young boy, who may be 14 years of age.

I think on that particular issue alone this bill should proceed and should not be delayed any more by red herrings that have been thrown into this debate by members on the opposite side of the bench.

I would ask my colleagues to quickly act to protect children of this country. I say "quickly" with a sense of optimism, for once. That certainly does not have its basis on past performance of the government or other members in the House. I have risen in the House on numerous occasions to debate the bill, as I had mentioned before, all with the express purpose in mind of ensuring that our children were protected.

I am not about to get into the legalese, and there have been lawyers speaking on this issue time and time again, about what is acceptable and what is not acceptable on the legal side of things, but there have been judgments made in the courts of this land that take precedence and address all of the concerns that have been expressed here.

The NDP member says that we on this side want to deal only with emotion when it comes to this issue. Well, let us look at it from the other side of the coin here. There is a reality that is happening out there that members on the opposite side have not come to grasp yet.

They have not grasped the reality of what is really happening out there in the world. They are looking at things through rose-coloured glasses, where 14 year old girls often run away, who are being exploited time and time again by manipulative older men, and all in the name of sexual consent. The police cannot touch them and take them out of that very trying situation and bring them back home because the argument, as put forward, is that they consented, so it is out of police jurisdiction and they cannot do anything about it. That is the reality.

This has been the case throughout the years that I can remember and as long as I have been a police officer. Prior to this job, that is exactly what I did for a living. Cases of this matter were brought before the courts. Even when it came to the judgment of police officers looking at two teenage kids involved in sexual activity, the courts already set precedents in the matter.

• (1800)

It does not have to deal with a red herring section that the NDP says is missing in this legislation, a red herring that the Liberals, and now the NDP, are acting upon saying that children who will engage in sexual activity will suddenly be criminalized. The courts have already decided that. Precedents have already been set.

What these members are now saying, to divert attention from the bill and its effectiveness, is that this provision of charging and criminalizing youngsters for sexual activity is not included in the bill and is not going to protect them. That is a bunch of nonsense. I am absolutely surprised as to how the NDP member can even suggest that. I believe that member is a lawyer, is he not? He is a lawyer and should know better. Shame on him because he should know better, as should the Liberals.

This is not new. These red herrings have been thrown into the debate, not by us, not by those law enforcement officers across this country, not by the parents who grieve because they cannot get their children out of the clutches of adult men, but by the Liberals. They have chosen to throw this into the mix, and deflect away from the real purpose of why this legislation is here before us.

I would like to touch on a couple of rather odd instances that I do not believe the Liberal's Bill C-2 legislation for the protection of children will address. There was one situation that came up with a Mr. Beckham out of Texas, a 31 year old man who had lured an Ottawa boy to a hotel room for sex. It just shows where we are at here with our legislation and the fact that the members on that side of the House, the governing party, never intended to ever address.

Under Canadian law, 14 year olds, and everyone knows it because this is what the debate is all about, are qualified to consent to sex, unless they, of course, are with a person of trust or authority, or unless it is anal sex in which case the Criminal Code says everyone involved has to be 18 or older.

That law, the latter part of what I just read there about anal sex, has been ruled unconstitutional by two Canadian courts already. Guess what is going to happen? Do members think that this law will ever be challenged and put into the right perspective by the government? No. The government has consistently gone the other way. It has consistently rejected the common good when it comes to our youngsters, and it will not challenge it.

*Private Members' Business*

Canada's basic law regarding age of consent is 14 for non-anal sex, so as not to criminalize most sex acts between teenagers. Now, the law even allows for children as young as 12 to consent to sex in some circumstances. That is the law. Do you see the trend, Madam Speaker? It is going the other way. It is not reaching out to protect those youngsters. It is going the other way and opening the door so more of them can be exploited, as young as 12. I think that is absolutely shameful.

Given that trend, given that concern raised by so many people in this country, and given the fact that the government here has no intention of protecting our children, with all the rhetoric and red herrings, we can tell that the government is not serious about this particular bill. This is the concern we have on this side of the House.

• (1805)

I know this is the concern that law enforcement officers in this nation have. I ask all members in this House to rethink their position, especially on that side of the House. For the sake of our children, support this bill. Get behind it.

**Hon. Sue Barnes (Parliamentary Secretary to the Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians, Lib.):** Madam Speaker, first of all, I would like to recognize the hard work that does go into private members' legislation. I had the pleasure to work with the member opposite from Lethbridge when I chaired the finance committee and he was a member of that committee. He does hard work and I respect him as an individual. I know that every good intention was put into this legislation.

I currently work on aboriginal affairs as the parliamentary secretary. In the last Parliament, before the election, I was the parliamentary secretary to the Minister of Justice. And before I hear the catcalls, yes, I was a lawyer for 15 years in a previous career. I enjoyed that, and I bring that training to this Parliament too. I also taught law at the local university part time and also for the bar admissions.

That is not what this is about. This discussion today is to try to come to grips with the activity of teenagers and differentiating that from criminal activity that occurs as the sexual exploitation of children, which we are all concerned about.

Many times over the last dozen years while I have been in this Parliament I have heard that we have been delaying this. I want to take people back to the point before the last Parliament, when I stood up in this chamber many times, in fact day after day, trying to get what is now Bill C-2, which is the act to amend the Criminal Code, protection of children and other vulnerable persons, and the Canada Evidence Act, through this Parliament then.

This Parliament just passed Bill C-2, which gave major protections on the subject matter we are talking about. It could have been passed in the prior Parliament. I will say what happened here, because I need to refresh, and maybe the people who were not here at that time need to be advised that that bill had basically the same format. Now there have been a few minor changes as it travelled through this time around in committee.

Basically, that bill was subject to a procedural hoist motion, which means it was postponed. It was postponed by the opposition and we

did not get that bill. That bill not only had sections respecting the protection of children and child pornography, it had voyeurism sections. It also had really important sentencing sections, and it had the facilitating of testimony for children, so they did not get retraumatized when they had to go through the court system.

We are not in any party of this House immune from what happens to our children. I am a mother. I have a 16-year-old. I have kids in university too. We are all trying to do the right thing. But we cannot take that "I am better than you" position. What we have to do is look at this in an objective way and look at not only the good a piece of legislation can do, but also the unintended consequences that could affect our children for a long time.

That is why I am very much in favour, when we look at criminal activity, of looking at the activity of the person doing that activity and judging that. That is what Bill C-2 did, and it is now in the Senate.

I know what the hon. member's intention was to do here. It was to allow that close-in-age exception for an accused who is 12 or more but under 16. The reality in homes across this country is that we have teenagers who could get into trouble with this bill, serious trouble that will affect them. It will give them a criminal record and it will affect their ability to get into college or university or to get into employment with the government, or a whole pile of other things.

I am not only talking about the trauma of what happens, but under this bill as it is currently written, I want to give members the scenario of what could happen.

Under Bill C-313, a 15-year-old boy could engage in consensual sexual activity with his 14-year-old girlfriend, but on the day of his 16th birthday the boy would be committing a sexual offence even if he kissed his girlfriend. Remember, we are not talking rape here. Rape is rape, and that is a criminal offence and it does not matter at what age. What we are gathering inside this net is something that was not intended.

• (1810)

We have to be very careful, because when you take a net widening in the Criminal Code, you put not only all of those emotional situations on the children involved and the parents, but you have financial implications in the criminal justice system and the social service system. That is what happens when you get that scenario of the charging prosecution.

I used to work with young children in the court system, and it is not easy when they go there. It is certainly not easier on their parents and their guardians. We have to be concerned, and we have to do this in a logical manner.

The member who spoke before me talked about Bill C-2. I will go to Bill C-2 because the section the hon. member's bill tries to get at is in Bill C-2. It is already there. It just passed this House; it is in the Senate. As I said, it could have passed in the last Parliament if it had not been hoisted by the opposition, because they did not want this bill before they went into an election.

Bill C-2 proposes the creation of a new prohibition to better protect youth against sexual exploitation. Under the prohibition, courts would be directed to infer that a relationship with a young person is exploitative of the young person by looking to the nature and circumstances of that relationship, including specific indicators of exploitation. Those indicators could involve a number of things. First is the age of the person. Obviously the younger, the more there is a presumption of exploitation. Next is the age difference between the child and the accused. Obviously the greater number of years between their ages, the child's age and the accused's age, the greater the amount of exploitation that could probably be inferred, especially if it is a person in a position of trust. Another is the evolution of the relationship, how the fact situation in that particular situation occurred. Then there is the degree of control or influence exercised over the young person. These are all elements that the criminal mind has to be appraised of, that the court has to look at, and in actual fact it gives a greater amount of probability of success in the conviction of a true exploitation. It eliminates that situation where you could have young people doing things that maybe as a parent I do not want my 16- or 14-year-old doing, but, ladies and gentlemen, they are doing them, and that is reality.

We live in a real world where teenage youth in this country are engaging in something every day. It might not be what we want, but it is also not criminal activity—not criminal activity with lifelong criminal sanctions. I think we have to deal with that.

I want to talk about the benefits that were in Bill C-2, which just passed. These were some of the additions that were put in Bill-2. It proposed significant reforms to ensure that sentencing in cases involving the abuse and sexual exploitation of children better reflects the serious nature of crimes. And this was just passed. This work was done. It is complete in this House. It is now in the Senate. It increased the maximum penalties on summary conviction for child-specific offences from six to 18 months. It doubled the maximum penalty on indictment for sexual exploitation of a young person from five to 10 years. That is serious time in our system of justice. It increased the maximum penalty on indictment for failure to provide the necessities of life and for abandonment of a child from two to five years. And it increases the maximum penalty on summary conviction for all child pornography offences from six to 18 months. That is what was done. I do not want anybody in Canada to believe that this House has not been paying attention to these issues.

Why did we do Bill C-2? The Speech from the Throne committed to crack down on child pornography. It proposed criminal law reforms that strengthen child pornography and sentencing provisions of the Criminal Code, and it created a new category called sexual exploitation. In other words, something was added to the Criminal Code that focused on this particular activity that should not be occurring with our children in this country. It facilitated testimony by children and other vulnerable victims and witnesses, those with an impairment of some type, and it created new voyeurism. Those little photo cameras? There is now a criminal offence that goes with those cameras and any voyeurism offence.

• (1815)

I think we have done a good job in Bill C-2. I am very pleased it passed the House this time. I wish it would have passed over a year

### *Private Members' Business*

ago, as it could easily have done if we had not been so interested in delaying it so that another party could claim victory down the road.

I am not going to take anything away from the member who worked on this bill, because I know him and I know what he is trying to accomplish. I just do not think that this bill is complete enough, and it creates as many problems as it could solve in this country.

• (1820)

**Mr. James Lunney (Nanaimo—Alberni, CPC):** Madam Speaker, I am sorry to see the member leaving, because I wanted to address her remarks.

She will hear them from inside, she says.

What is disturbing on this side is that the hon. member comes forward to extoll the virtues of Bill C-2, which has just passed, which does not deal with the age of sexual consent that this private member's bill, Bill C-313, addresses, raising the age of sexual consent from 14 to 16.

Members on the opposite side simply do not want to deal with that issue. The member makes a great point of talking about how the government has raised these maximum penalties, and she gave a list of all the things it has raised the maximums on. It is hard to find a single case in the last five years where maximum penalties have ever been used for anything. It makes good rhetoric, but there is no substance.

I asked what are the minimums—

**Hon. Sue Barnes:** They don't work.

**Mr. James Lunney:** So there are no minimum sentences, but the government has put in maximums that are never used.

That is nice language, but it gives Canadians a false sense that we are taking action when in fact we are not. That is what we object to on this side of the House.

We are concerned. I have had petitions come in from concerned citizens in my community who want to see the age of sexual consent raised. This is not about close-in-age relationships. It is not about grabbing those teenagers and throwing them in jail. That is not what it is about. It is about difference in age. It is about the adults who exploit our teenagers. This is a very significant concern in our communities.

We have gangs that are targeting our young girls. They are not even out of middle school yet. They are just at the age of puberty. Some of them are maturing early these days, but they have not had much life experience. We have gangs that are there, older young men with their fast cars, with their drugs, and they are trying to lure those young girls. They will buy them clothes; they will take them out for dinner and treat them like a queen. The same happens with young boys too, as a matter of fact. They will take them and seduce them. Once they have compromised their person and their sexuality, they will then use them.

*Private Members' Business*

We have heard examples of that. I will give an example from my own community. A man called who was really upset. He found out his 14-year-old daughter was in a motel room in one of the communities I serve. She was with a 21-year-old man from a neighbouring community, and they met on a chat line. Here is this 21-year old-who has this 14-year-old in the motel room. The man goes down madder than a hatter. His daughter is in there. His young girl was 13 and now she is 14. These are very young girls who are being exploited. The dad is pounding on the door of the motel office wanting to know what room they are in, and they call the police and the dad gets arrested.

Canadians are concerned about this, and my constituents are concerned about it. This man was very concerned. He could not believe this. No one in the community could believe that the man's 14-year-old daughter could be lured in there by someone who she met on an Internet chat line and the dad is the one who is in trouble with the law.

So our communities are concerned. As I said, I have had hundreds of signatures on petitions in my office that I have presented in the House on this issue and banners that have come in from others in other forms trying to get their concern expressed.

In Conservative Party policy we call it the age of protection. It is about protecting our young people from sexual predators.

I have already made the point about Bill C-2, which the member has said has all these maximums. Frankly, it becomes meaningless because maximums are simply not used.

There are many examples. There are exceptions made under the current law for children as young as 12 years old, as long as the person who abuses them is under the impression that they are at least 14 years old. There are so many loopholes in the law that it makes the lawyers happy, but it gets people off without any significant consequences.

My hon. colleague mentioned a 31-year-old man who travelled from the United States to Ottawa for the express purpose of having sexual relations with a 14-year-old boy. Again, it was an Internet relationship.

There are protections in the United States against crossing state borders and against crossing international borders for exploiting young people, but we do not have those protections here.

• (1825)

I know my time is short, but I want to commend my colleagues, the member for Lethbridge, the member for Wild Rose who spoke and had passion about this issue, and the member from Calgary.

We are concerned about this. It is surprising that the member from the NDP would accuse our members of using emotion in this debate. It is an emotional issue. Our young people are being abused by adults who target them for sexual exploitation and we need to take action to stop it.

**Mr. Rick Casson (Lethbridge, CPC):** Madam Speaker, I want to thank everybody who took part from all parties. In the first hour of debate NDP members did not speak at that time, but they were able to be here today.

First, I want to thank the member for Wild Rose and the member for Calgary Northeast for the work they have done on this in years past. When the member for Wild Rose speaks, he speaks with a great deal of passion about this issue. He is a former educator. In his other life he was a school principal. He worked with young people all his life. He understands the problems that young people face as they mature and grow. The fact that they can be preyed upon by adults at the young age of 14 is absolutely unbelievable to him as it is to me. I congratulate him on his good work and continued work in this area.

The member for Calgary Northeast was a former police officer. He too has had experience dealing with maybe some of the lesser types in society, people who prey upon young people. He fully understands these situations can exist. He has seen them. He is very concerned with this as well.

One of the members earlier said that a part of what is so troubling about this is when we talk about close in age sex. That is absolutely not what we are talking about here. We have made that point over and over again. We are trying to protect children from adults who prey upon them. For the life of me I do not understand why members opposite cannot get that idea.

Let us not bring in all the convoluted reasons why we cannot do this, such as a marrying law in one of the provinces. That can all be dealt with when laws are prepared. What we are trying to do, and the ultimate focus of this bill, is to protect children. It is obvious that all other parties in the House are against this. When the bill comes back in the fall, as hard as it is to believe, they will not support a bill which would go quite a ways to protect children.

One of the really alarming aspects of what presently exists in our law is that an adult can have sex with a child as young as 12 years old, as long as the adult thinks that child is 14. It is almost unbelievable that this would be part of a law and allowed to happen in a country of which we are all so proud. It is an absolute travesty and it needs to be changed.

Time and time again this party has stood in the House and brought these issues forward. Time and time again they have been thrown out, even to the point where a member from the NDP has said that we always try to simplify the law. Should we not try to make a law that will just simply protect children? That is all that we are trying to do. To bring all these other things into it is just smoke and mirrors and it is very unfortunate.

I am proud to be part of a party, the Conservative Party of Canada, that has in its recently adopted policies, a policy that states that we support what we call the age of protection being 16 years of age. I think when Canadians realize some of the situations that can exist presently under the law, which are being defended by the Liberals, the NDP and the Bloc, and when they fully understand that adults can legally have sex as young as 12, they will know there is a party willing to stand on principle. When we become government, we will put in a law that will protect children until they are 16 years of age.

**The Acting Speaker (Hon. Jean Augustine):** It being 6:30 p.m., the time provided for debate has expired.

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

**Some hon. members:** Agreed.



*Royal Assent***ROYAL ASSENT**

**Some hon. members:** No.

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

**Some hon. members:** Yea.

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

**Some hon. members:** Nay.

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

*And more than five members having risen:*

**The Acting Speaker (Hon. Jean Augustine):** Pursuant to Standing Order 93, the division stands deferred until Wednesday, June 29 immediately before the time provided for private members' business.

● (1830)

[*Translation*]

**The Acting Speaker (Hon. Jean Augustine):** Order, please. I have the honour to inform the House that a communication has been received as follows:

Rideau Hall  
Ottawa

June 23, 2005

Mr. Speaker,

I have the honour to inform you that the Right Honourable Adrienne Clarkson, Governor General of Canada, signified royal assent by written declaration to the bills listed in the schedule to this letter on the 28th day of June, 2005, at 5:30 p.m.

Yours sincerely,

Curtis Barlow

Deputy Secretary, Policy, Program, Protocol

The schedule indicates that royal assent was given to the following bills: Bill C-43, an act to implement certain provisions of the budget tabled in Parliament on February 23, 2005, and Bill S-18, an act to amend the Statistics Act.

[*For continuation of proceedings see Part B*]

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CANADA

# House of Commons Debates

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OFFICIAL REPORT  
(HANSARD)

**Tuesday, June 28, 2005**  
**Part B**

—  
**Speaker: The Honourable Peter Milliken**

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# HOUSE OF COMMONS

Tuesday, June 28, 2005

## GOVERNMENT ORDERS

*[Continuation of proceedings from Part A]*

\* \* \*

*[English]*

### CIVIL MARRIAGE ACT

The House resumed consideration of the motion that Bill C-38, An Act respecting certain aspects of legal capacity for marriage for civil purposes, be read the third time and passed, and of the amendment.

**Mr. James Lunney (Nanaimo—Alberni, CPC):** Madam Speaker, I was here for the member's speech about an hour ago, before we went to private members' business. During private members' hour he accused the Conservatives of speaking with passion on this issue. He himself had a rather impassioned speech in his support of same sex marriage.

However, the member is a lawyer. Does he not share the concern that many of my constituents do? Are people in his own riding not expressing the concerns about protection of religious freedom, which is very much under attack through this bill?

For example, is the member aware of the case of Chris Kempling, a school counsellor in Quesnel, B.C.? A judgment was passed on June 13 by the appeal court of British Columbia. Mr. Kempling wrote a letter to the editor objecting to Bill C-38 based on his religious convictions. He was suspended without pay for three months. He is not expounding this in the classroom. He is simply entering a public debate about the social policy change that those folks are abrogating, the members opposite in the coalition, to change the definition of marriage. What about his section 2 charter rights, which our charter calls fundamental rights?

The party the member represents and the members opposite purport to be defenders of the charter. Are those members not concerned that the courts are not protecting rights, which are clearly defined charter rights, of others who object to this bill?

• (1835)

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** Madam Speaker, I would like to think all parties in this Parliament and in the country are defenders of the charter. It is pretty fundamental law in our country, as fundamental as we can get. I would like to think the Conservatives, the Bloc, the Liberals and we all support it, as do other small parties who are not even represented here.

To deal with the issue of religious freedom, I have read a lot of decisions over my career. I practised law for 27 years before I was elected. I read a lot of decisions of the Supreme Court of Canada. I can say without equivocation that the decision on the same sex marriage issue as rendered by the Supreme Court of Canada was as clear, as forceful and as strong as any decision it has ever written with regard to religious freedom. The judges made it absolutely clear that religious freedom would not be abrogated in any way or in any fashion.

I want to be more specific about this. The judges had never done this before in any case that I read. They went through it and asked about the this situation. Courts do not write decisions that way, particularly the Supreme Court of Canada. The judges painstakingly went out of their way to say to our churches that the legislation would in no way interfere with their rights as religious institutions. I can say that without equivocation.

I am just barely aware of the case to which the member refers. I do not see it so much as an issue with regard to charter rights as it is an issue with regard to employment and the loyalty of the individual to his employer. That may be beyond the questioner's ability to comprehend. It is a very technical area of law, but it is not a fundamental right issue or charter issue.

**Mr. Bill Siksay (Burnaby—Douglas, NDP):** Madam Speaker, I want to thank my colleague from Windsor—Tecumseh for his fine speech on the theme of law, love and duty. It was an important contribution to this debate.

We are probably a few hours away from seeing the bill pass through the House of Commons. It is an important step along the way to full equality and citizenship for gay and lesbian Canadians. Could the member for Windsor—Tecumseh think beyond the passage of this important bill to what needs to happen in Canadian society, and maybe even here in Parliament, to follow up on the passage of it?

**Mr. Joe Comartin:** Madam Speaker, unfortunately, I only have a short period of time. My colleague from Burnaby worked very hard in the committee to get Bill C-38 to the House. I think it is fair that we are all accused from time to time of using too much passion in this debate, but it is a passionate issue.

We have a history when we have dealt with issues as controversial as this. I hope over the next decade and generation that we will come to realize that this did not imperil marriage in our country, it reinforced it. I hope all people approach it that way.

*Government Orders*

• (1840)

**Hon. Sue Barnes (Parliamentary Secretary to the Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians, Lib.):** Madam Speaker, on this historic last day of debate in this House on Bill C-38, I am pleased to have the honour of speaking in favour of the civil marriage act.

The debate has been a long one. A full range of arguments both for and against the extension of civil marriage to same sex couples has been articulated and discussed in many forms, and not just in this House. It has also been in the legislative committee of the House, which recently re-examined the bill, and in the standing committee that discussed this question in 2003. The issue has also been discussed in the courts, in different jurisdictions, in the media, and of course in the public sphere.

I would like to use my time today to quickly review the legal framework of the bill for tonight's vote.

As the Minister of Justice pointed out this morning, the bill is organized around two very fundamental rights and freedoms in our Canadian Charter of Rights and Freedoms. The first is the charter protection of equality and minority rights, in other words, the extension of access to civil marriage to gays and lesbian couples. The second is the charter protection of religious freedom, in other words, the assurance that religious groups would remain free to follow their beliefs and make their own decisions about what marriage is within those beliefs, and that no religious official can be forced to perform marriages that are contrary to his or her beliefs. Both of these charter principles are fully respected and affirmed by this bill, which is rights protecting legislation.

Courts in eight provinces and one territory have already changed the law to extend equal access to civil marriage to same sex couples. Thousands of same sex couples are now legally married in this country. As a result, the decision now for the Parliament of Canada is not only whether to extend these rights, but whether to take away charter rights from a minority group.

Some Canadians have expressed concerns that the courts have made this decision rather than the elected Parliament. Although it is the court decisions that have changed the law, it remains up to Parliament to make the final decisions.

Under the Constitution, Parliament and the courts both have important and complementary roles. It is an important part of the courts' mandate, given to them by Parliament when the charter was passed democratically, to examine current laws to determine if they meet the requirements of the Canadian Charter of Rights and Freedoms, a document that Parliament itself approved through a democratic process.

At the same time, Parliament is best situated to look at the complete picture in designing a Canada-wide approach that meets both the equality and freedom of religion guarantees of the charter.

I am a member of Parliament from Ontario where this has been the law for nearly two years now, and nothing is going to change in my province. Whether we vote one way or another, the law has already been changed in my province and in many other jurisdictions in Canada. It is critical that this Parliament take responsibility to act to

provide a uniformity of law across our country, rather than leaving this to the courts alone any longer.

Many members have again indicated during the last days of debate that they would prefer that the legal recognition given to same sex unions be some term other than marriage, such as civil union. The Minister of Justice reminded us this morning that civil unions are not a workable option in a Canadian legal and constitutional framework. Although theoretically possible, creating a separate institution in addition to civil marriage must be done under provincial and territorial laws, not federal laws, and so cannot respect the right of same sex couples to equality without discrimination, meaning that it would still be in breach of the charter.

As the opposition has stated, Parliament has legislative jurisdiction over civil marriage, but it does not have any jurisdiction to establish an institution other than marriage for couples of the same sex. As only the provinces and territories have jurisdiction to create civil unions, the inevitable legal patchwork caused by some 13 different forms of civil unions could well result in legal confusion, but it will not result in equality.

• (1845)

The Supreme Court declined to answer the fourth question in the reference and returned it to us to decide, but it did not do so in a vacuum. That is important to understand. It clearly indicated, as the member just reiterated, that Parliament must exercise its jurisdiction over civil marriage in a way that complies with the Constitution and the charter.

The Supreme Court also clearly told us that it refused to answer the question not because it disagreed, but because courts in eight provinces and one territory had already made binding decisions and thousands of couples had married in reliance on those decisions. The government is not only bound by decisions of the Supreme Court but by decisions of all courts. That is how the law changed in Ontario a couple of years ago. It was not a Supreme Court decision. It was another decision of another court of compelling authority in my province.

Unless we are willing in this Parliament to use the notwithstanding clause to overrule those findings, this is not going to change. As the Minister of Justice reminded us again, the courts' decisions did not only address the common law but two statutes of the House, the harmonization act for Quebec and the modernization act, both of which set out a legislative definition of the opposite sex requirement for marriage and which were also declared unconstitutional.

The government's commitment to uphold the right to equality without discrimination precludes the use of the notwithstanding clause which would deliberately deny the right of couples of the same sex to equal access to civil marriage. If one minority can have its rights taken away by deliberate government action, then all other rights are potentially at risk.

*Government Orders*

As Canada is a nation of minorities with a history of tolerance and acceptance of differences, this is incompatible with responsible government. I believe it will be shown tonight by a vote in the House that is the accepted will democratically elected members will make.

For those Canadians who are concerned about the impact of the bill on freedom of conscience and religion, the government will uphold freedom of religion. I would not vote for this bill if I did not think this bill would not have that effect. It is an equal charter right.

I belong to a Christian faith that supports this bill. One of the things that has been difficult to take during this lengthy debate is someone telling other people they are unchristian or they have no faith just because they disagree on a rights issue. That is not the case for many members in this chamber and I think we should be respectful of each other in the way we express our views.

The Supreme Court was categorical. The Canadian Charter of Rights and Freedoms already protects freedom of religion. This protection is clearly echoed in the bill to extend civil marriage to same sex couples now in five separate places, asserting the government's commitment to religious freedom by stating that everyone has the freedom of religion under the charter and that officials of religious groups are free to refuse to perform marriages that are not in accordance with their religious beliefs. The bill only applies to marriage for civil purposes and will not have any effect on religious marriage in any way.

To extend this protection, further specific guarantees could also be made under provincial and territorial human rights acts and marriage acts. The Minister of Justice has already asked his provincial and territorial colleagues for their cooperation in any necessary amendments that those provinces or territories choose to do. I know that legislation passed in Ontario.

As the Minister of Justice has said, the charter is the expression and the entrenchment of our rights and freedoms, the codification of the best of Canadian values and aspirations. We are all its beneficiaries, and that includes the minority groups who live in my riding and who I have been elected to also represent. It is not a question of percentages or numbers. Even if there are very few as a percentage of population whom this bill protects, it is also my job to protect them. I take that responsibility seriously.

● (1850)

When people come to me and tell me their stories, whether it is orally in my office or through their letters, I know that many people have been suffering because they did not feel the dignity of equality. They do not want to take anything away from someone who disagrees with them. They are not asking to take away any benefit from another person. They are just asking for the legal extension of the same benefits.

The charter defines who we are as a people and what we aspire to be. It is in that spirit that the legislation has been tabled and in which the democratic debate and exercise in democracy will be carried out. It is also in that spirit, and I would suggest my hope, for equality the rights of minorities and the protection of religious freedoms that I trust the legislation will be enacted.

This is not about social experimentation. This is about charter rights for all, including what to some are unpopular minority groups in this country.

In my home constituency, it was the same charter and protection of minority rights that I went to when I was looking at anti-terrorism provisions that we were debating. I talked to minority groups that felt threatened. I used those provisions to bring areas into the legislation and to change legislation in the House with the help of others. We brought in sunset clauses to the legislation that I had found a little close to draconian at the time.

It is that same charter that gives those individuals and those communities the protection. We do not know when we will need our charter rights. There are many countries around the world that do not have those protections. Many of us have young folks who are travelling abroad. If they get into trouble in another country, those charter protections and justice system are just not there in some parts of the world. We are very fortunate in this country. I celebrate having a charter.

The right to equality, in my view, is an extremely important fundamental right guaranteed by the charter. I know that some people at different times have made comical comments, or at least they thought they were, or they did not understand how the charter could protect them and their families. I think the majority of Canadians do celebrate this piece of legislation.

Rights are rights. It does not matter if we do not like the phrase, it is still true. None of us can, nor should we, pick and choose whose rights we will defend and whose rights we will ignore. The government must represent the rights of all Canadians equally. This bill is the only way possible to fully protect both the important charter rights involved here, religious freedom and equality. One right does not trump another right. They have to coexist.

The House has a duty not only to those opposed, but to those in favour, not only to those religious groups who do not wish to perform same sex marriages, but also to those who do.

In the discussions surrounding the 1968 Divorce Act, religious groups took sides, some urging the government not to pass the civil divorce law for Canada, fearing the impact on religious practice, and others urging the government to go further and include a ground for divorce based solely on marital breakdown.

Bill C-38 already represents the Canadian compromise, the change to the civil law, while at the same time respecting the right of religious groups to determine religious law in a way that is consistent with their beliefs. I would just as forcefully argue for that protection as I would for the equality and protection of a minority, and so should every member of this chamber.

Now, as then, it falls to the civil authority to legislate in a way that allows all religious groups to continue with their respective beliefs. The way to do that is the bill before us today. I fully understand, and I do not think any member could have worked in this House for a number of years without understanding, that this issue of extending equal access to civil marriage to same sex couples is one that evokes strong feelings. That is a given. A number of my constituents as well as my own circle of family, friends and colleagues have struggled with this issue.

*Government Orders*

●(1855)

I want to remind those on all sides of the debate that there is a human face on this issue at all times. It is not just about rhetoric or about words. It is not just about invoking the Charter of Rights. It is about the people inside of those rights. What we decide here will impact on the lives of real people.

I have talked to many who have felt that some of the debate over the time that we have debated this have used words and thoughts in the debate that have hurt them. Some gay and lesbian couples felt that some of the debate had crossed the line. I think that was unfortunate and I hope that none of it was intended. I would like to think none of it was intended. I think sometimes some people get carried away.

Some, I know, contend that the small number of gay and lesbian people just proves that this group is so small that they do not warrant the attention and consideration being given to them by the courts and the legislatures throughout the country.

As the Vanier Institute of the Family pointed out in its presentation to our House of Commons Standing Committee on Justice and Human Rights when it studied this issue in early 2003, this argument is dangerously misguided.

A democratic and a just society must measure itself, not only by reference to the majority but equally by reference to how it respects each and every individual citizen, regardless of their differences, their heritage, their religion, their abilities or disabilities, their gender, their race or their sexual orientation. Surely history has taught us something, that we cannot distribute justice or fairness on the basis of numbers.

Others are concerned that gay and lesbian couples do not remain in long term relationships. While we may have little scientific data on this to date, it is interesting to note that all the court cases against the government seem to be couples who have been together for 30 years or more. Sure, not all same sex couples may stay together for 30 or 40 years, but as long as some do how can they be treated any differently on that basis?

Are children part of these couples' lives? The 2001 Canadian census indicates that 15% of households headed by lesbian couples had children, versus 3% among male same sex households. That means that at least 3,000 same sex couples are raising children in Canada today.

The children become members of these families in a variety of ways. The Vanier Institute of the Family reviewed the research available and noted that the majority of these children were born into a mother-father unit that ultimately ended in divorce or separation and the parent with care of the child then re-partners in a same sex relationship. That is not the only scenario but it is one that does occur.

How are the children faring in these households with same sex parents? This is a question of great concern to many Canadians, and it should be. They can accept that adults should be free to choose partners of their choice but they are rightly concerned about the children being raised in these relationships.

While no large-scale, definitive study exists, all the research to date suggests that the quality of parenting is a more important factor in the success of children than the sexual orientation of the parent. Indeed, as we all know, most children do not want to know about their parents' sex lives or even that they have a sex life. Maybe if one is in Parliament, one does not, I do not know.

However what makes a good family good for a child is not just the make up of that family, the married couple, the common-law, the single parent, the extended family, the only child, but that the family loves, cares and supports these children and, by extension, the community has to love, care and support these children.

We all know instances where a married heterosexual couple may be the best place for children to be raised but we all know instances where it is not. Whoever their parents are, all children need love and supervision. They all need to be sheltered, fed, taken to school and so on.

●(1900)

Children need and deserve the full support of government, not only for themselves but for their real families, not some make-believe family but their real families existing today on every street in Canada.

**Mr. Werner Schmidt (Kelowna—Lake Country, CPC):** Madam Speaker, I would like to make certain comments on some of the points the member has raised. The issues I want to address concern the ethics, the legality and equality.

I think the hon. member suggested that civil unions somehow would not be a legal situation under the charter. I would like to suggest that in the proposed legislation, we are dealing with committed adult relationships and these relationships are different. A man married to a woman is one relationship and two people of the same sex together is a different relationship.

I do not think anyone in this place would argue the fact that men and women are different and yet before the law they are treated equally. It is the treatment that is the important thing and this is where the equality rests, not in the fact that they are the same.

When it comes to human relationships I think the mistake is often made that somehow equality means the same. Well I know and I am sure everyone in the House knows that men and women are clearly different, and that the relationship between a man and a woman who are married and two men or two women together in a relationship is different. What is significant is that it is the treatment they receive that makes them equal.

The obligations, the privileges and the benefits given each couple are the things that ought to be equal between the two particular arrangements. However there is nothing wrong with identifying these relationships as being different and they can be separate.

I know some would argue that if the situations are separate then they are not equal but that simply defies the reality of life. Men and women are different. Men and women can be treated equally before and under the law and there is nothing wrong with that difference between men and women. In fact, that is a good difference.

*Government Orders*

I would like to suggest that in recognizing same sex unions and according them the same rights, privileges, protections and obligations as heterosexual couples, the equality argument falls away. It is perfectly consistent with the provisions of Canada's Constitution because it shows respect and tolerance and is therefore clearly non-discriminatory. The recognition clearly accepts that while different, same sex couples are and should be treated the same as heterosexual couples.

The issue is one of a clear differentiation on the basis on which sound policy and laws can be formulated. Hence, the issue is to recognize that in adult relationships and relationship laws, the equality is not found in sameness of relationships but rather in the equality of the treatment of those relationships.

**Hon. Sue Barnes:** Madam Speaker, the gist of the member's comments had to do with equality. Equality also brings in the concept of dignity of an individual.

I am of an age where I can remember in my childhood that in some states in a country to the south of us there were some separate but equal things called water fountains; fountains for white people and fountains for black people. The equality in that situation was not there. Because they both delivered water did that make them equal? Absolutely not. Can anybody in this Chamber tell me that they were equal? Would anybody be proud to say that was the same level of dignity?

What the member just said could have the same results. Although they would get all the benefits, they would not be getting the benefit of a civil marriage. That is what is missing and that is what we will correct.

• (1905)

**Mr. Randy White (Abbotsford, CPC):** Mr. Speaker, I would like to have this put into some perspective because I am sure a lot of Canadians are wondering where politicians are taking them these days.

The House of Commons lowered the age of sexual consent from 16 to 14. It is currently changing the definition of marriage. It is studying the legalization of prostitution. It currently has Bill C-17 in the House of Commons which would decriminalize marijuana and ultimately legalize marijuana, and a bill to legalize euthanasia is also in the House of Commons.

Does the member feel that these issues are rightfully in the domain of the House of Commons, where there is voting by party politics, by whip votes or from a mandate to vote a certain way? Does she not think it would be better, for the safety, security, and peace of mind of all Canadians, to put issues like these out to Canadians in a public referendum where they could have a say and we could get away from the obvious partisanship of party politics in the House of Commons?

**Hon. Sue Barnes:** Mr. Speaker, I will put this exactly in perspective. This is the member who, before the last election, an election that I fought partially on this issue, spoke about the charter in very derogatory ways, in my opinion. That is why the government has allowed me, as a member of the Privy Council and as a parliamentary secretary, to have a free vote tonight. I will be voting in favour of this.

**An hon. member:** Answer the question.

**Hon. Sue Barnes:** I will not try to out yell you. I am sorry but I will not fall into your trap. The perspective is that—

**The Acting Speaker (Mr. Marcel Proulx):** Order, please. May I remind the hon. member that comments have to be made through the Chair.

**Hon. Sue Barnes:** I apologize, Mr. Speaker. I just want to say that my election was a democratic election, as it was for every member in this Chamber.

Since 1993 I have been very clear on my stance in every vote in the House and in every discussion with my constituents.

Members of a religious delegation opposed to this legislation came to my office. They wanted to demonstrate in the parking lot. I invited them in. I listened for over 30 minutes. We talked and I respectfully told them why I would not vote their way.

I also know that they are my constituents and if there was an infringement on their religious rights that they could come back to me and we would be there to do that.

**Mr. John Cummins (Delta—Richmond East, CPC):** Mr. Speaker, the hon. member opposite addressed the issue of the Supreme Court's comments on this particular issue. In particular, she mentioned the court's refusal to answer question four. She is fully aware that in the Egan case the court did comment directly on marriage and it recognized the traditional nature of marriage, and commented that marriage was by nature heterosexual. That was the Supreme Court of Canada.

We have lesser courts in this country who have gone the other way, and some would say that their interpretation or view of the charter is that it is a living tree. The problem with that argument is that whenever a court or politicians use this notion of the Constitution being a living tree, they are intending to take off on a path that was unintended by the Constitution.

They seem to forget where that notion of a living tree came from. Let me remind the member opposite that it did come from the Persons Case that went to the privy council in London. In that particular case, although women had been allowed to vote for years, our Constitution had always been taken to mean that only men could vote. The Persons Case was heard in about 1930, long after women were voting, so the issue became whether the actual words in the Constitution would prevent their appointment as senators, and the court said no. It used this notion that the Constitution was a living tree and could tolerate the interpretation that persons meant women, so it is not a big stretch for us today to say that persons means men or women.

My comment to the member opposite is that the living tree doctrine is dangerous when judges take it to mean licence to rewrite a statute or the Constitution, but very workable if they are simply trying to make sense out of a word that might have several interpretations, as the word person would.

I wonder if the member opposite would concur that it is dangerous when courts take these liberties and use as justification the notion of a living tree, rather than using that notion of a living tree as it was meant in this case back in 1930.

*Government Orders*

•(1910)

**Hon. Sue Barnes:** Mr. Speaker, the fabric of Canadian society is very complex. Canada today is different than it was 20 years ago. We can look at a city like Toronto which is now the most multicultural, multifaith city in the world. We are a changing society. Living tree concepts and our laws cannot stagnate in time, but we do have fundamental charter rights that have the foundations of what Canadian values embrace as a society. We are proud, most of us, in this country, and celebrate that we have charter rights and charter freedoms.

That is the Canadian way of balancing different priorities. My priorities or my constituents' priorities can be very different than someone I do not know, but that does not invalidate their priority, it does not denigrate from where they want to be with their faith or their beliefs and actions.

I would not like it if this bill tonight took away from anybody's rights. I do not see this as taking away a right. I see it as extending a right. That is what I believe. I will be very proud of my vote tonight, and I know that some people will disagree, but that is fine because I will live with my conscience and I will do what I think is in the best interests of all of my constituents. I appreciate that the members opposite have the right to vote in the opposite way, but it is going to end with a vote. It is not going to end with another delay.

**Mr. Alan Tonks:** Mr. Speaker, I rise on a point of order. I seek the unanimous consent of the House to table a committee report.

**The Acting Speaker (Mr. Marcel Proulx):** Does the hon. member have unanimous consent to table the report?

**Some hon. members:** Agreed.

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## ROUTINE PROCEEDINGS

[English]

### COMMITTEES OF THE HOUSE

#### ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

**Mr. Alan Tonks (York South—Weston, Lib.):** Mr. Speaker, I have the honour to present, in both official languages, the seventh report of the Standing Committee on the Environment and Sustainable Development. The report is entitled "Finding the Energy to Act: Reducing Canada's Greenhouse Gas Emissions".

In accordance with the permanent mandate under Standing Order 108(2) and the motion adopted by the committee on November 23, 2004, the committee undertook a study and heard hearings on the subject matter of Canada's implementation of the Kyoto protocol and agreed to it on Tuesday, June 28.

The committee held nearly 40 meetings with respect to Kyoto. I am very pleased to present this report on behalf of the committee. I would like to thank all members of the committee. This is a report that outlines a strategy for the implementation and the accountability of the committee as part of it.

## GOVERNMENT ORDERS

•(1915)

[English]

### CIVIL MARRIAGE ACT

The House resumed consideration of the motion that Bill C-38, An Act respecting certain aspects of legal capacity for marriage for civil purposes, be read the third time and passed, and of the amendment.

**Mr. Richard Harris (Cariboo—Prince George, CPC):** Mr. Speaker, from all across my riding, and across Canada for that matter, I have been receiving letters, emails and phone calls that have been asking me these questions. With all the other problems, concerns and disparities that we have in Canada, what on earth possesses the Liberal government to be so obsessed in its drive to put through Bill C-38? Is this more important than our health care system which is practically in a critical condition itself? Is this more important than the poverty that we have in our country, and the families who are living on less than poverty levels of income trying to raise their families?

The Parliamentary Secretary to the Minister of Indian Affairs and Northern Development was just here and she spoke. I must ask her, is it more important to talk about Bill C-38 than the fact that despite the hundreds of billions of dollars that have been put into aboriginal programs over the last 30 years, the quality of life among aboriginals in our country, particularly on the reserves and in the cities, is at a worse level than it was 30 years ago? Is it more important than that?

Mr. Speaker, I will be splitting my time with the hon. member for Palliser.

I think the people who have been sending me these questions have a right to ask them and the government has not answered. Why is this so important to the Liberals? What is their hidden agenda?

I want to talk about three issues. I want to talk about intolerance, religious freedom, and how the government has abrogated its responsibility to uphold decisions that are made by Parliament.

I watched the debate today and was appalled at the way that the word intolerance fell from the lips of government members who are supporting the bill. They were calling anyone in opposition to the bill intolerant because of us in the House, who dared, by reason of our own personal conviction, by reason of our own faith based belief, or by reason of the input we have had from our constituents, stand in the House and defend the traditional definition of marriage. Or, in the case of our citizens, who dared to send emails to the Liberals, the Bloc and the NDP members who are supporting the bill, they too were branded as intolerant.

The hypocrisy of it is appalling after seeing the greatest display of intolerance, perhaps if I can use that word, by the Prime Minister himself when he showed that he was and is intolerant of any of his cabinet members who would want to have a free vote, threatening that they would be dismissed from cabinet if they dared to vote against the bill.

*Government Orders*

The proof came today. The intolerance of the Prime Minister was shown today when one of his cabinet ministers, because he was so convicted that he had to speak and vote against the bill, took the personal step to resign from cabinet in order to do so. Otherwise, he was not permitted. Those members over there who want to talk about intolerance just have to look around their own caucus and in particular at the Prime Minister's Office. There is the intolerance.

● (1920)

There is, being perpetuated by those who support this bill, what some have referred to as the big lie when it comes to religious freedom, the big lie that is being used to convince people that there is some protection for religious freedoms in this bill.

The government is using the Charter of Rights and Freedoms to say that of course religious freedoms will be protected because they are protected in the charter. I would suggest that one has only to look at the case of Chris Kempling from Quesnel, who is a constituent of mine and who, because of his deeply held religious beliefs, decided that he wanted to speak out against the same sex marriage issue.

He dared, because of his personal beliefs, to write an article in the local paper saying that same sex marriage, in his opinion, was wrong and that this country should uphold the traditional definition of marriage. He was, for his efforts, given a three month suspension by the B.C. Teachers' Federation, which he appealed in a courtroom.

He said that he was protected by the Charter of Rights and Freedoms because it says in there that it guarantees him freedom of religion and freedom of speech. His appeal was lost because, the judge said, notwithstanding that the charter guarantees freedom of religion and freedom of speech, he felt that society was able to place—and by society he meant the court—a reasonable restriction on my constituent's fundamental rights of freedom of religion and speech.

The Liberals, the Bloc and the NDP are telling us not to worry about it, that we do not have to specifically put it into Bill C-38 because, after all, the charter is going to protect us. Let us ask Chris Kempling from Quesnel, B.C. whether the charter protected him. It did not, in the same way that the charter will not protect one's freedom of religion or, in this instance, freedom of speech, no matter how the big lie is perpetuated by the supporters of this bill. It will not.

Let us just ask Bishop Henry of Calgary about it. Because he dared to speak out against the same sex marriage bill, Bill C-38, because he dared, he got a visit, not from any of the Liberal members as they are too sly for that, but from the Revenue Canada people, saying in essence that he might want to calm down his talk about his opposition to same sex marriage because he represents a charitable tax organization, after all, and quite frankly there might be some members of the Liberal Party and some in government who might think that he is using his tax status in an inappropriate political way. Freedom of speech is not there in the charter.

I said that the government had abrogated its responsibility in defending parliamentary decisions. It did. The lawyers over there will know about the 1919 Nickle case, which was successfully used by the Chrétien lawyers to block Conrad Black's quest to become a

knight. The Nickle resolution says that no Canadian citizen can be made a knight of the British Empire.

● (1925)

Lawyers argued that it was a duty to defend the decisions of the Parliament of Canada in any court where an issue conflicted with parliamentary decisions.

The decision stood, by a vote in 1999 and one in 2003, that this Parliament recognize marriage as the union of a man and a woman to the exclusion of all others. When the lower provincial courts made their decisions, the government did not challenge them. It was the government's responsibility to challenge those lower court decisions at the Supreme Court. It did not. The Liberals walked away from it. They abrogated their responsibility to the people of this country and to this Parliament. Shame on them.

**Mr. Paul Szabo (Mississauga South, Lib.):** Mr. Speaker, I respect the member's right to talk about anything he wants to talk about, but I wonder if he would care to make any comment about the attack that is put on marriage by this bill and about the fact that it de-links children from their parents in that the consequential amendments replace biological parent with something called a "legal parent". Would he care to comment on the implications this will have for the family?

Also, would he care to make any comment whatsoever about the serious problem we have with judicial activism and particularly now the threat that will be forthcoming with regard to the challenge to the protection for religious beliefs and particularly for those religious groups and their right to refuse to perform same sex marriages?

These seem to be substantive issues within the bill that he has not yet commented on. Maybe he would like to make some points.

**Mr. Richard Harris:** Mr. Speaker, marriage is of course understood as a heterosexual and procreative institution existing independently from the state. It always has been an indispensable bastion of freedom in our civil society, going back 140 years.

I believe, of course, that marriage is fundamental to our society. People of the opposite sex marry, bear children, and nurture those children in the best way they can. That is the way this world has been. It cannot continue to exist without that process taking place, that union of a man and a woman.

I believe that Bill C-38 really has nothing to do with the rights of minorities. At this point same sex couples are pretty much granted every legal right we can imagine. They are recognized for taxation purposes, for pensions and for everything else that heterosexual married couples are.

I believe that this is the beginning of a slippery slope. Notwithstanding what the supporters of the bill claim, which is that everything is going to be okay, I believe that if Bill C-38 passes it is going to have a direct impact on our society. It is in direct conflict with the traditional way civilization has grown. It is in direct conflict with the traditional foundation of society: man, woman, children, jobs, mortgage, bills, the way our society was built and built to a strength. It seems to me that Liberal prime ministers of the past and present have for some unknown reason done everything they could to break down the strong foundation that built our society.

*Government Orders*

• (1930)

**Hon. Larry Bagnell (Parliamentary Secretary to the Minister of Natural Resources, Lib.):** Mr. Speaker, before I ask my question I would like to go on record as saying that I have asked a number of times if anyone's mind would be changed in this debate if we carried on with it. Not one member of Parliament has said that it would, so it is good that in 45 minutes we are going to vote.

The member talked about emails he has received from people across the country. During the last 45 minutes of this debate I would like to get into some input from youth. I will ask the member what input he may have received from youth.

I will read from an article written by a young girl who is the granddaughter of one of my constituents, Sydney Walsh, from the April edition of the Lancer Ledger, in order to put some of the opinions of youth on the record.

I will read a very short part of it: "The Canadian Charter of Rights and Freedoms guarantees that everyone has freedom of conscience and religion, as well as thoughts, beliefs, opinions and expressions. The Charter discriminates against no one, so why should we as a society discriminate against same sex couples? Same sex couples should have the right to be married. The Charter of Rights and Freedoms was designed as a balancing act between the rights of society and the rights of the individual. Since same sex marriage does not infringe on anyone's rights, there should be no reason why it should not be allowed".

I am curious as to what input the member may have received from youth.

**Mr. Richard Harris:** Mr. Speaker, I do not usually discriminate among youth or seniors or middle aged people. Every opinion is as important to me as any other. I will tell the member that of all the emails, letters, phone calls and visits to my office, the percentage of people in my riding that are opposed to this bill is in the high nineties. I feel very proud in representing that consensus of my riding. Of the number of written surveys I have done since 1999 that were returned to me, it was quite a substantial number every time, over 80%, opposed same sex marriage.

Whether it is youth or seniors or in between, I can tell the member that in my riding the opposition to this bill is overwhelmingly strong. I also suggest to him that across Canada opponents of the bill are in the majority compared to those who support it.

**Mr. Dave Batters (Palliser, CPC):** Thank you, Mr. Speaker.

It is indeed a privilege to rise tonight in the House of Commons to represent the people of Palliser and to contribute to the important discussion on Bill C-38.

As always, I would like to thank the people of Palliser for the trust they have placed in me. I would also like to thank the thousands of people who have contacted my office and responded to the questionnaire on the definition of marriage that was included in the householder I sent out to constituents this spring.

Over the past year I have received a great deal of input on the issue of marriage from the people of Palliser. It is their views as well as my own thoughts that I will discuss in the House tonight.

The feedback I have received has made two things clear to me. First, the majority of Palliser residents support the traditional definition of marriage as that of a union between a man and a woman. That is the same position held by the Leader of the Opposition and the Conservative Party of Canada, and it is also the position that I personally support. Because of that, I will oppose Bill C-38 when it comes to a vote tonight.

A second thing also became clear in the feedback I received from my constituents, and that is that they wanted to find a middle ground on this issue. They want a government that will say yes to traditional marriage and protect traditional marriage, but one that will also find a way to allow committed same sex couples to recognize their relationships and find fair treatment under the law.

I am proud to stand here today before the House as a member of the Conservative Party of Canada for the same reason that I would imagine a lot of members on the opposite side wish they were not members of the Liberal Party, because it is the Conservative Party that has consistently articulated a middle ground solution to the marriage question. This is a position that stands firmly behind traditional marriage and support for religious institutions but that also supports civil unions for same sex couples, which means fair treatment under the law.

Most Palliser residents believe that marriage is a fundamental social institution, not only recognized by law but sanctified by religious faith. They also believe that committed same sex couples have rights to equality within society that should be recognized and protected.

The challenge, then, is finding a balance. To do that, we need to find a compromise position, a position that rejects the heavy-handed manner in which the Liberal Party has approached this issue and the dogmatic, anti-democratic manner of the leader of the NDP, who will not even allow his own members to vote their conscience or to vote according to the will of their constituents on this issue.

The people of Palliser and the Conservative Party seek balance and fairness on this issue of marriage. I would like to know why the members opposite are opposed to that effort.

Despite the usual sort of inflated rhetoric we have heard from this Liberal government on Bill C-38, the same kinds of half truths and politics of fear that the Liberals trot out during every election campaign to smear their opponents, the reality is that senior members of this Liberal government, including the Prime Minister, the Deputy Prime Minister, and several cabinet ministers, once articulated views in this House that were consistent with the positions being put forward by the Conservative Party today.

Why have these Liberal members suddenly changed their minds, and why should Canadians trust them now? If same sex marriage is really about human rights or upholding charter rights, as many Liberals suggest, why did the current Prime Minister, the Deputy Prime Minister, the government House leader, and the Minister of Immigration vote in favour of the traditional definition of marriage in 1999?



*Government Orders*

That motion passed 215 to 55, with the support of the current Prime Minister and the Deputy Prime Minister. In fact, when she spoke to the motion in the House in 1999, the current Deputy Prime Minister and then Minister of Justice said:

Let me state again for the record that the government has no intention of changing the definition of marriage or of legislating same sex marriages.

I fundamentally do not believe that it is necessary to change the definition of marriage in order to accommodate the equality issues around same sex partners which now face us as Canadians.

I support the motion for maintaining the clear legal definition of marriage in Canada as the union of one man and one woman to the exclusion of all others.

It would seem highly hypocritical of the Deputy Prime Minister to criticize the position held by the Conservative Party of Canada when she herself recently supported a similar position. In point of fact, she proposed not only to support the traditional definition of marriage, but that Parliament would, to quote again from the 1999 motion,

...take all necessary steps to preserve this definition of marriage within the jurisdiction of the Parliament of Canada.

• (1935)

I ask the Prime Minister and the Deputy Prime Minister why they are now turning their backs on the people they stood behind in 1999. Why are they forcing same sex marriage upon the Canadian public when they themselves supported the traditional definition of marriage only a short time ago? It is that type of flip-flop, that type of inconsistency, that makes people across the country ask whether they can trust the government to keep its word and do the right thing.

The fact that the government would force closure on the bill is another demonstration that Liberals lack not only principle but they lack respect for the democratic process itself. I remind members opposite that the purpose of debate is to allow members to make an informed decision on an issue by hearing all sides of an argument. That can only happen if debate is allowed to continue, if it is not suddenly halted because it becomes politically inconvenient for the government to listen to all positions on an issue.

We on this side of the House have faith in democracy and believe in the democratic dialogue that needs to take place on this issue and on every issue. In fact, if many of the members opposite take the opportunity to listen to debate and to contemplate the position that they themselves supported in the House six years ago, many members of the Liberal government, perhaps even the Prime Minister, may realize the benefit of the position put forward by the Conservative Party and vote against Bill C-38. At the very least, I would hope that we will not see a further erosion of democracy in this Parliament through the heavy-handed tactics of the Liberal government.

The Conservative Party stance on this issue speaks to the majority of Canadians who are in the middle on this issue. Our position is that the law should continue to recognize the traditional definition of marriage as the union of one man and one woman to the exclusion of all others. At the same time, we propose other forms of union, whether they be called common law status, civil unions, or registered domestic partnerships, that would be entitled to the same legal rights, privileges, and benefits as marriage. This is a position that expresses the will of Canadians. It is consistent with the Charter of Rights and Freedoms.

The Conservative Party's position also balances the needs of same sex couples with the rights of religious organizations who hold a traditional view of marriage. Our position would ensure that same sex couples have the same rights and benefits as married couples when it comes to matters such as pensions, tax obligations, or immigration matters. Our position would also ensure that there is no federal law that treats same sex couples any differently from married couples. Our position would satisfy the vast majority of Canadians who are seeking common ground on this issue. This compromise is the Canadian way, and it is the option that only the Conservative Party is prepared to offer.

In closing, I would urge the members here today to listen to the will of their constituents—that is why we are here, obviously—and vote accordingly. Not only are Canadians looking for clear thinking and a middle ground on this contentious issue, they are looking for leadership and they want their voices to be heard.

I am proud to say that I have listened to the people in my riding of Palliser and have represented their wishes on this important issue. I am very proud to be part of a political party that is willing to allow its members to vote freely on this issue so that the voices of their constituents can be heard. I urge all members of the House to listen to their constituents when it comes time to cast their vote tonight.

• (1940)

**Mr. Charlie Angus (Timmins—James Bay, NDP):** Mr. Speaker, I would like to thank the hon. member for taking the time to present his views tonight. We are coming to the end of a debate that for many of us has been a very hard debate, a debate that many of us have had to cross many long and hard roads in terms of our own personal views and where we come from. At times I do not think we have risen to the occasion. We have heard hyperbole and accusations on all sides, but this is a moment where we are moving forward as a Parliament.

I would make two observations. One, I do not know if this is as historic as people make it out to be, in that in Ontario this has been the law. Just a few months ago, 70 amendments pertaining to all the definitions surrounding marriage at the provincial level in Ontario were changed without comment. Perhaps 90% of the Canadian population are living in jurisdictions where this civil same sex marriage is legal. So I do not know if we are actually crossing the Rubicon for the first time. I think we crossed it a number of years ago.

In terms of my comment to the hon. member, I have appreciated the fact that we have debated here in the House of Commons on this issue, and I would point out, and I know it is definitely against protocol, that people who have very strong views on all subjects have sat in the gallery day after day. Their level of respect for the debate, and their patience and their willingness to listen, has sometimes been a little better than some of us here on the floor. I know I am never supposed to point out the people in the gallery, but at this time, as we are closing down the debate, we should recognize the people on all sides of the debate who have sat here day after day because they care about this issue.

Is it a question? No, Mr. Speaker, it is just a comment. Thank you.

*Government Orders*

**Mr. Dave Batters:** Mr. Speaker, the member mentioned that many individuals in the House have crossed some hard roads to settle on their position. He went on to say that this is an issue that maybe is not as important as some people think. He further went on to mention the number of people who sat diligently in the gallery, week after week, listening to this discussion because it is very important to them. It is certainly very important to this country.

Canadians are looking for that rational compromise, the position that the Leader of the Opposition holds, that the Conservative Party of Canada holds: the protection of traditional marriage, yet civil unions for committed same sex couples with equal rights and benefits. That is a very reasonable position. It is where the vast majority of Canadians fall in this issue. Yes, this question will be decided here in the very near future tonight.

Many members opposite have not explained their inconsistency on the question of marriage. The reason is that most of them are now prepared to backtrack on their previous commitment to preserve traditional marriage. It is this type of inconsistency that makes Canadians wonder what the government is up to with regard to Bill C-38. The Liberals have broken their promises to the Canadian people in the past on the issue of maintaining traditional marriage. Why should Canadians believe that they will not do so again on the issue of religious freedom?

These are important questions, and it is certainly something that we will be watching very carefully.

• (1945)

**The Acting Speaker (Mr. Marcel Proulx):** Please note that the five hours of debate following the first round of speeches is now terminated. Therefore, we are now entering into a period of speeches of a maximum of 10 minutes, with five minutes for questions and comments.

**Hon. Judi Longfield (Parliamentary Secretary to the Minister of Labour and Housing, Lib.):** Mr. Speaker, we are drawing to the end of a debate that has arguably been very divisive. Much has been said on this important matter. I have listened to my constituents, to my colleagues in the House. I have reviewed the submissions made to the justice committee and the special committee. To a person they all held some very deeply held views. I am not certain that there is really anything left to be said that has not already been said. I have listened to the interventions from my colleagues, the member for Scarborough—Guildwood, the member for Scarborough—Rouge River, the member for Mississauga South, the member for Pickering—Scarborough East, who share my views and who have articulated their views very eloquently. I can assure members that while I might not be as eloquent in my presentation, the views that I hold are no less important, or no less impassioned that marriage is the union of one man and one woman to the exclusion of all others.

It is important that my constituents know that I do have a free vote. I have not been pressured by my caucus, by the PMO, by the whip's office or by colleagues on my side of the House who have a very different perspective, and I appreciate that. I appreciate that they understand that the views that I hold and which I am expressing on behalf of my constituents, are deeply held views. I did not come by them yesterday or the day before. It is something I grew up believing. It is something that I learned from my grandparents and parents.

I consider myself to be tolerant. I consider myself to be compassionate. I consider myself to support human rights. However, I do not support the change to the definition of marriage.

This was an issue in the last campaign. I was very forthright with my constituents. Not all of them agreed with me, but I do not think any of us will ever stand in this House and be able to say that we represent all our constituents 100%. My constituents returned me to office knowing the views that I hold on this issue. I want to thank the residents of Whitby and Oshawa and my former constituents of Ajax for the support and encouragement they have given me on this issue. Even those who do not share my views understand that I have been respectful, that I will continue to be respectful.

We have all been sent to this House to vote on issues. I do not think there has been an issue before this House that has been more divisive, where there has been such a divergence of views. For the most part, although there have been some diversions from this, it has been a respectful contemplation of our views and a sharing of our views.

There is one thing that perplexes me. There have been some, not all, but some, who feel that the only party that they can trust to protect traditional marriage is the Conservative Party, and certainly the bulk of those people sitting over there do. I look at provincial legislatures and I look at the court rulings that came down and I look at the provincial governments of Ontario, British Columbia, Nova Scotia, New Brunswick. Many of them are Conservative governments that did not appeal the decision of their courts. I am perplexed as to why, if they felt so strongly about that, they did not appeal.

In fact in Ontario, just less than a couple of months ago, there was same sex legislation before the house and the Conservatives in Ontario could not muster five people to request a recorded division on it. One of them, who will be my opposition, said that he had other things to do. He was on his way to Ottawa to speak to the leader opposite.

We are all elected to represent our constituents, to be in the House when important matters are being debated and when important matters are being voted on. I have not ever—

**An hon. member:** Where were you on Bill C-48?

**Hon. Judi Longfield:** I have never shirked my duties to vote. The members opposite—

**An hon. member:** Where were all your friends last night?

• (1950)

**The Acting Speaker (Mr. Marcel Proulx):** Order. I would enjoy hearing the speech of the hon. member.

**Hon. Judi Longfield:** Mr. Speaker, I think I started off by saying that for the most part it has been a very respectful debate.

*Government Orders*

The member opposite asked me about Bill C-48. As a member of Parliament, I vote on the merits of each piece of legislation. With respect to Bill C-48 there were some very important issues that affect my constituents. There was funding for affordable housing. I know that some members of the Conservative Party think that the answer to affordable housing is simply to put people in jail and make it illegal to be homeless, but that is not my view. I support public transit. The communities in my area want public transit. They deserve public transit and that was in Bill C-48. Bill C-48 gives money for post-secondary education. The residents of my community have students at Durham College and the new University of Ontario. They need that.

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

**Hon. Hedy Fry:** Let the member speak.

**Hon. Judi Longfield:** Mr. Speaker, I listened to those members' debates and I appreciated them. This is an opportunity to put on the record how we feel. I am prepared to stand and vote my conscience. I am prepared to stand and vote the wishes of my constituents and I do not have to apologize for that. I do not think I need to be heckled or abused in standing up for what I believe. I think it is critically important. Someone called me a neanderthal because I would not support same sex legislation. It was not anyone from my caucus.

I point out that it was not too long ago that we passed Bill C-23, the Modernization of Benefits and Obligations Act. That legislation actually provided rights and benefits to same sex couples, common law couples of opposite sex. It brought into line the rights, obligations and benefits, married and common law, either same sex or opposite sex. I believe that benefits have been extended and extended appropriately. I do not see the need to go on to Bill C-38, because I think everyone who is living in a loving, compassionate, caring relationship has been afforded the rights and benefits and the obligations. That is important; there are obligations as well. I do not see the need to move to the next step, because while I support equality in terms of rights and benefits, I do not support it at the expense of changing the definition of marriage. I have always believed that marriage is the union of one man and one woman.

I guess what upsets me is that after all of this debate, after everything we have been through, we are really ending where we began in a situation where this will continue to be a very, very divisive issue. We have all been elected to stand and to cast our vote. I can tell the House, and I can tell the constituents that I represent, that I am proud and honoured to stand in my place and to vote in opposition to Bill C-38 and to support, with all of my fibre and being, the traditional definition of marriage as being the union of one man and one woman to the exclusion of all others.

• (1955)

**Mr. Werner Schmidt (Kelowna—Lake Country, CPC):** Mr. Speaker, I know the hon. member opposite is trying really hard to represent her constituents. She made that very clear. She at first was a little apologetic about perhaps not being as eloquent as some of her colleagues, but her heart came through. Sometimes communication is not so much contained in the eloquence but rather in the heart. I want to commend her for that.

The member is really proud of the fact that she can have a free vote. I fully concur with that. That is certainly what the Conservative

Party believes in very much. I am wondering whether she would accord the same kind of privilege to the members of the cabinet. Should they too have a free vote, or are they somehow circumscribed that they may not have the freedom that she is accorded to vote the way their constituents would want them to vote, or their conscience would like them to vote? Would she accord the same kind of freedom to the cabinet as she would to herself?

**Hon. Judi Longfield:** Mr. Speaker, my colleague opposite has represented his constituents honourably and for quite some time. I am sorry that we are going to be losing the member opposite who has decided not to seek re-election.

I say to the member opposite that I can only account for myself. I can only tell him that I will not put myself in a situation where I am compromised. I have been well treated and well served on this side and I do have the freedom to cast my vote in my own interests and in the interests of my constituents.

**Mr. Stockwell Day (Okanagan—Coquihalla, CPC):** Mr. Speaker, the member opposite talked about where things go from here. I have been asked that question also. I would like to quickly make some observations.

I for one will not be giving up this fight no matter how the vote goes tonight. Personally I believe that the institution of marriage is divinely ordained. Through my own imperfections my wife does not probably think our marriage is divine, but that is a personal side, and that is something I do not impose on my constituents.

A significant majority of my constituents want to maintain the definition. They understand that this has been the unit that has carried the culture of civilizations down through the ages. Not that other couplings or other people have not also done it, but the word marriage has a distinct meaning and it should be acknowledged as that. I will continue this fight because it is our party position that marriage is recognized as being between a man and a woman. I will continue to support it because the Supreme Court did not say that the definition of marriage is unconstitutional. The court did not say that. The court did say that if there is going to be a change in the definition of marriage, it has to happen in Parliament and I appreciate the court's respect for that. Every human rights declaration in the world, including the United Nations and the Geneva Conventions, defines marriage as between a man and a woman. I am not going to go against those human rights declarations. They all say it is between a man and a woman.

I will close by saying the process has been illegitimate because members of Parliament have not been allowed a free vote. One member of cabinet had to resign today. He was not welcome in the cabinet because he wanted to support marriage. The NDP of course has gagged all of its members and said they cannot vote. We, as members, have been robbed in this assembly by not being allowed the traditional 10 minutes each for debate at third reading.

We will continue to support the definition of marriage as being between a man and a woman as long as we have breath.

*Government Orders*

● (2000)

**Hon. Judi Longfield:** Mr. Speaker, I too will continue to support the definition of marriage as the union of one man and one woman to the exclusion of all others. I have been consistent in my view. I agree that the court did not rule on the fourth question and that we probably could have tried harder to find an alternative to changing the definition of marriage. I will continue to share that view for as long as I am in public service and beyond. I will not be convinced that marriage is not the union of one man and one woman to the exclusion of all others.

**Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC):** Mr. Speaker, it is my understanding that I will probably be the final speaker in the debate this evening, I am not sure if there is any symbolism to that or not and I am not sure if that holds any special responsibility for the Conservative Party of Canada to try to encapsulate some of the feelings that we have about this legislation.

I will take a bit of a different tack tonight and talk about choices, choices that members opposite made which brought us to this point in history tonight.

Before I do, I want to put on the record that I will be opposing this legislation. I have stated that many times before and I will continue to state my opposition to this legislation in the future. I will not go into all the reasons why. Many of my colleagues have expressed the views I hold far more eloquently than I could ever do, but I do want to point out a couple of things.

I firmly believe that by passing this legislation, we start on a very slippery slope which could affect societal change in a very adverse way. I see things which have been expressed before that could come down the pike, things like polygamy and others, while hiding behind the Charter of Rights and Freedoms. I am fearful that societal change could happen.

I also am a firm believer in the fundamental definition of marriage as we have known it all our lives. Marriage is and should continue to be between a man and a woman to the exclusion of all others. I was brought up in that environment and I will continue to believe that until the day I die. This is not to disrespect members who hold opposite views. I understand this is a highly volatile and emotional issue. I respect the views of my colleagues who have taken opposite views. All I want to express is that I believe the traditional definition, as we have known it for centuries, is the one we continue to observe for the next 100, 200 years, ad infinitum.

Finally, my views are widely known within my riding. It is without question that the vast majority of my riding constituents agree with the position that I take. If nothing else, I will continue to represent the views of my constituents before anything else I do in this place.

Let us talk about those choices. What are the choices the government and the members opposite made that brought us to this place and time? First and foremost, in my opinion the government abdicated its right totally when it turned to the Supreme Court to have it make a decision on its behalf as to the definition of marriage. I am not a lawyer and I freely admit that, but I believe one thing. The Supreme Court of Canada and any court in this land should be there for two purposes. One is to administer the law. The second is to interpret the law. It is not to make the law. The government tried to

turn the whole question of same sex marriage over to the courts. It hoped that the courts would give a decision that it could hide behind, and that is what the Liberals were prepared to do.

Much to their surprise, and probably much to their chagrin, the Supreme Court came back and said that it was not up to it to define marriage. It was up to Parliament. Yet those parliamentarians and the government, primarily led by the members opposite, continue to use the Supreme Court and its ruling, as indecisive as it was, to say that we have no choice but to allow same sex marriage. It complies with the Charter of Rights and Freedoms and it is a matter of human rights. Other international institutions, such as the United Nations, say it is anything but a human right. That was their first choice.

Second, the Liberals had a choice in which they could have allowed every member of this House an opportunity to express their views freely on this issue. Did they do that? Absolutely not. Parliamentary secretaries and ministers were compelled to vote with the government's position, and that is in favour of same sex marriage.

● (2005)

However I have ultimate respect for a few of the members opposite. The courage of their convictions on this issue forced them to resign from the government and sit as independents. They did not decide to sit as a Conservative member or for any political reasons but to sit because in their conscience they could not support the government's view on this fundamental issue.

I give great credit to the member for London—Fanshawe and the member for Edmonton—Mill Woods—Beaumont who both left the government to sit as independents. They chose to tell all Canadians, not just members of their ridings, their explicit views on this fundamental issue that was so near and dear to their hearts. That was their choice but there was another choice that was made by many other members opposite.

Over 30 members on the government side stood in this place from time to time and spoke, sometimes with passion and sometimes at length, on their opposition to the bill. However they had a choice: to either bring the government down and not allow this legislation to see the light of day, or to acquiesce to the government and allow the legislation to pass. It was their choice that allowed the legislation to pass and it will pass in the House in a few moments.

I have the greatest of respect for those members opposite who stood down because in their conscience and in their moral view they could not support the government. They did the only thing that was humanly possible within their realm of possibilities. They stood down because they did not want to be associated with a House, a Parliament and a party that would allow this legislation to pass.

I have heard members opposite say that even though they opposed Bill C-38 they could not vote against Bill C-48 because they had to vote on each piece of legislation on its own merits and that if they had voted against Bill C-48 it would have destroyed a budget that is good for all Canadians and therefore they had no choice, they had to vote for Bill C-48 but against Bill C-38. That is absolutely disingenuous.

*Government Orders*

If Bill C-48 was such good deal for Canadians why was it not contained in the budget that the government originally brought to the House two weeks before they made a deal with the NDP? This was a choice that members opposite made. However the point I want to emphasize is that even if they did not wish to speak against Bill C-48, they had a choice.

We have seen the Prime Minister back down from every threat posed to him. We have seen individuals challenge the Prime Minister with bringing his government down. Danny Williams threatened the Prime Minister and the Prime Minister backed down. Premier McGuinty threatened the Prime Minister and all of a sudden there was an extra \$5 billion-plus for the province of Ontario. The NDP threatened the government by saying that if it did not acquiesce to its demands it would bring the government down. What happened? The Prime Minister and the government backed down. They blink first and they do so every time.

I say to the members opposite, such as the member for Mississauga South, who have stood in this House and tried to convince Canadians that they were doing everything in their power to bring down Bill C-38, They did not do everything in their power.

Had they gone to the Prime Minister and said that they would not support Bill C-48, the Prime Minister would have blinked and this legislation would not be passed tonight. This legislation, at the very worst, would have been deferred until the fall. The members opposite are the reason that Bill C-38 will pass tonight.

Let there be no mistake and let every Canadian understand these words very clearly. There was a choice to be made on whether Bill C-38 would be passed and brought into law or not and it was the members opposite, each and every one of them, who made their choice to allow the legislation to pass through the House tonight. Let that be on their heads, not anyone else's head. It is the members opposite who made that choice and shame on them.

• (2010)

**Hon. Dan McTeague (Parliamentary Secretary to the Minister of Foreign Affairs, Lib.):** Mr. Speaker, I recognize the passion of that member of Parliament. He is a new member to the House and celebrating his first anniversary.

Considering the comments he has made about the hon. member for Mississauga South, he is definitely mistaken about the integrity of that individual and the integrity of all members on this side. The member knows full well that many of us on this side have taken unpopular positions with our own party in the past. Many of us have suffered consequences such as being thrown off committees. Many of us have continued to fight for what we believe is right.

The opposition members believe in politicizing this issue. If they have any credibility on this issue, it is that they would wrest this issue of marriage to what it is, something that is above partisan consideration.

The member talks about choice. Members of the House make choices each and every day. They represent their constituents, they represent their own values and they represent their own will as expressed by the many constituents who have supported them in the past.

If that member of Parliament is interested in the debate before the House today, in the few minutes that are left to us, I would ask the hon. member this. I would have thought the hon. member would want to at least ensure that we today have a guarantee that religious officials will have an opportunity to continue to practise and to express a belief, a belief which I share, that marriage is important to society as it is to my religion. Is the hon. member prepared for the next battle? While the hon. member believes the choice is here now, in my 12 years of experience, the choice will not end tonight. A battle is to come and the hon. member knows it is based on politics, as he has quite rightly pointed out.

Will the hon. member now move to try to preserve the integrity of our religious institutions which clearly are under threat?

**Mr. Tom Lukiwski:** Mr. Speaker, let us be quite clear about one thing. We would not even be having this debate had Bill C-38 been defeated. The member and others had a chance to defeat the bill. It is not a pall on members on this side of the House that the bill will be passed in a few moments. Members opposite had a choice and they made that choice.

I only know my constituents. I am not sure what the constituents of the hon. member might be thinking about this. However, I would be willing to place a small wager that if his constituents came up to the member and asked him to do everything within his power to stop the passage of this bill and if the member said that he choose not to because by doing so he would have to threaten to stop Bill C-48, I would suggest his constituents would want another member of Parliament who would stand up for their wishes, desires and our hopes.

The member had a choice. He chose not to make the choice.

• (2015)

**Mr. Mario Silva (Davenport, Lib.):** Mr. Speaker, the members of the opposition continue to talk about the traditional definition of marriage which they wish to uphold. Yet they know very well that the traditional definition of marriage has changed over the years. Up to a few years ago, a Protestant and Catholic could not get married in Canada. Is that the tradition they wish to uphold of marriage? I doubt it.

The opposition members speak about accommodation of gays and lesbians. What gays and lesbians want is not accommodation. It is full equality under the law. Equality as I have stated before is not the cherished exclusive privilege of a few. It is the cherished gift of all citizens.

Is it not disturbing and disappointing that equality could have so many enemies? Four times in the House I have asked the question, yet I have not received an answer from the opposition members. What are they planning to do with the 5,000 legally issued licences to gays and lesbians across the country? Do they plan to take those licences away from those citizens who were granted those licences?

**Mr. Tom Lukiwski:** Mr. Speaker, I suppose that question is somewhat academic or moot right now because we know in just a few moments we will not have any opportunity to answer that question.

*Government Orders*

Once again, I leave you with these words, Mr. Speaker. Members opposite had a choice. They could have taken the choice which would have defeated Bill C-38. They chose not to. Bill C-38 belongs to every Liberal member across the floor. Regardless of what they say in the House, the choice was there. This legislation will be passed because of the Liberal members opposite.

[*Translation*]

**The Acting Speaker (Mr. Marcel Proulx):** Order, please. It being 8:17 p.m., pursuant to order passed Monday, June 27, 2005, it is my duty to interrupt the proceedings and put forthwith every question necessary to dispose of third reading of the bill now before the House.

[*English*]

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

**Some hon. members:** Agreed.

**Some hon. members:** No.

**The Acting Speaker (Mr. Marcel Proulx):** All those in favour of the amendment will please say yea.

**Some hon. members:** Yea.

**The Acting Speaker (Mr. Marcel Proulx):** All those in favour will please say nay.

**Some hon. members:** Nay.

**The Acting Speaker (Mr. Marcel Proulx):** In my opinion the nays have it.

*And more than five members having risen:*

**The Acting Speaker (Mr. Marcel Proulx):** Call in the members.

● (2040)

[*Translation*]

*And the bells having rung:*

**The Speaker:** Order, please. I have heard a rumour that, after the votes this evening, we will adjourn until September.

[*English*]

If the House does happen to adjourn later this evening, I wish to invite all hon. members to a brief reception in Room 216 because I know they will feel very badly at not seeing each other for many months and it will be a chance to say goodbye.

● (2055)

[*Translation*]

(The House divided on the amendment, which was negatived on the following division:)

(*Division No. 155*)

YEAS

Members

Abbott  
Allison  
Anders  
Batters

Ablonczy  
Ambrose  
Anderson (Cypress Hills—Grasslands)  
Benoit

Bezan  
Boshcoff  
Brown (Leeds—Grenville)  
Cardin  
Carrie  
Casson  
Chatters  
Cummins  
Desjarlais  
Doyle  
Epp  
Fitzpatrick  
Forseth  
Galloway  
Goodyear  
Grewal (Fleetwood—Port Kells)  
Hanger  
Harris  
Hearn  
Hill  
Hubbard  
Jean  
Kamp (Pitt Meadows—Maple Ridge—Mission)  
Kenney (Calgary Southeast)  
Kilgour  
Kramp (Prince Edward—Hastings)  
Lauzon  
Lukiwski  
Lunney  
MacKay (Central Nova)  
Malhi  
Mark  
McKay (Scarborough—Guildwood)  
Menzies  
Miller  
Moore (Fundy Royal)  
O'Brien  
Obhrai  
Pacetti  
Perron  
Preston  
Reid  
Richardson  
Savoy  
Scheer  
Schmidt (Kelowna—Lake Country)  
Simms  
Smith (Kildonan—St. Paul)  
Sorenson  
Stinson  
Szabo  
Thompson (Wild Rose)  
Toews  
Trost  
Ur  
Vellacott  
Warawa  
White  
Williams  
Zed- — 127

Bonin  
Breitkreuz  
Canniss  
Carr  
Casey  
Chamberlain  
Chong  
Day  
Devolin  
Duncan  
Finley  
Fletcher  
Gallant  
Goldring  
Grewal (Newton—North Delta)  
Guergis  
Harper  
Harrison  
Hiebert  
Hinton  
Jaffer  
Johnston  
Karygiannis  
Khan  
Komarnicki  
Lastewka  
Longfield  
Lunn  
MacAulay  
MacKenzie  
Maloney  
Matthews  
McTeague  
Merrifield  
Mills  
Nicholson  
O'Connor  
Oda  
Pallister  
Poilievre  
Rajotte  
Reynolds  
Ritz  
Scarpaleggia  
Schellenberger  
Simard (Saint Boniface)  
Skelton  
Solberg  
Steckle  
Strahl  
Thompson (New Brunswick Southwest)  
Tilson  
Tonks  
Tweed  
Van Loan  
Wappel  
Watson  
Wilfert  
Yelich

NAYS

Members

Adams  
Anderson (Victoria)  
Angus  
Bachand  
Bains  
Bélanger  
Bellavance  
Bevilacqua  
Blaikie  
Blondin-Andrew  
Boivin  
Bouchard  
Boulianne  
Bradshaw  
Broadbent  
Brunelle  
Carrier  
Catterall  
Christopherson

Alcoek  
André  
Augustine  
Bagnell  
Barnes  
Bell  
Bennett  
Bigras  
Blais  
Boire  
Bonsant  
Boudria  
Bourgeois  
Brisson  
Brown (Oakville)  
Bulte  
Carroll  
Chan  
Clavet

*Government Orders*

Cleary	Coderre
Comartin	Côté
Cotler	Crête
Crowder	Cullen (Skeena—Bulkley Valley)
Cuzner	D'Amours
Davies	Demers
Deschamps	DeVillers
Dhalla	Dion
Dosanjh	Drouin
Dryden	Duceppe
Easter	Emerson
Eyking	Faille
Folco	Fontana
Frulla	Fry
Gagnon (Québec)	Gagnon (Saint-Maurice—Champlain)
Gagnon (Jonquière—Alma)	Gauthier
Godbout	Godfrey
Godin	Goodale
Graham	Guarnieri
Guay	Guimond
Holland	Ianno
Jennings	Julian
Kadis	Karetak-Lindell
Keddy (South Shore—St. Margaret's)	Laframboise
Lalonde	Lapierre (Outremont)
Lapierre (Lévis—Bellechasse)	Lavallée
Layton	LeBlanc
Lemay	Lessard
Lévesque	Loubier
Macklin	Marceau
Marleau	Martin (Esquimalt—Juan de Fuca)
Martin (Winnipeg Centre)	Martin (LaSalle—Émard)
Masse	McCallum
McDonough	McGuinty
McGuire	McLellan
Ménard (Hochelega)	Ménard (Marc-Aurèle-Fortin)
Minna	Mitchell
Moore (Port Moody—Westwood—Port Coquitlam)	
Murphy	
Myers	Neville
Owen	Paradis
Peterson	Pettigrew
Phinney	Picard (Drummond)
Pickard (Chatham-Kent—Essex)	Plamondon
Poirier-Rivard	Powers
Prentice	Proulx
Ratansi	Redman
Regan	Robillard
Rodriguez	Rota
Roy	Russell
Saada	Sauvageau
Savage	Scott
Siksay	Silva
Simard (Beauport—Limoilou)	Smith (Pontiac)
St. Amand	St. Denis
Stoffer	Stronach
Telegdi	Temelkovski
Thibault (Rimouski-Neigette—Témiscouata—Les Basques)	
Thibault (West Nova)	
Torsney	Valeri
Valley	Vincent
Volpe	Wrzesnewskyj- — 158

**PAIRED**

## Members

Bergeron	Cullen (Etobicoke North)
Paquette	Patry- — 4

**The Speaker:** I declare the amendment lost.

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

**Some hon. members:** Agreed.

**Some hon. members:** No.

**The Speaker:** All those in favour of the motion will please say yea.

**Some hon. members:** Yea.

**The Speaker:** All those opposed will please say nay.

**Some hon. members:** Nay.

**The Speaker:** In my opinion, the yeas have it.

*And more than five members having risen:*

• (2105)

(The House divided on the motion, which was agreed to on the following division:)

*(Division No. 156)*

**YEAS**

## Members

Adams	Alcock
Anderson (Victoria)	André
Angus	Augustine
Bachand	Bagnell
Bains	Barnes
Beaumier	Bélangier
Bell	Bellavance
Bennett	Bevilacqua
Bigras	Blaikie
Blais	Blondin-Andrew
Boire	Boivin
Bonsant	Boudria
Boulianne	Bourgeois
Bradshaw	Brison
Broadbent	Brown (Oakville)
Brunelle	Bulte
Carrier	Carroll
Catterall	Chan
Christopherson	Clavet
Cleary	Coderre
Comartin	Côté
Cotler	Crête
Crowder	Cullen (Skeena—Bulkley Valley)
D'Amours	Davies
Demers	Deschamps
DeVillers	Dhalla
Dion	Dosanjh
Drouin	Dryden
Duceppe	Easter
Emerson	Eyking
Faille	Folco
Fontana	Frulla
Fry	Gagnon (Québec)
Gagnon (Saint-Maurice—Champlain)	Gagnon (Jonquière—Alma)
Gauthier	Godbout
Godfrey	Godin
Goodale	Graham
Guarnieri	Guay
Guimond	Holland
Ianno	Jennings
Julian	Kadis
Karetak-Lindell	Keddy (South Shore—St. Margaret's)
Laframboise	Lalonde
Lapierre (Outremont)	Lapierre (Lévis—Bellechasse)
Lavallée	Layton
LeBlanc	Lemay
Lessard	Lévesque
Loubier	Macklin
Marceau	Marleau
Martin (Esquimalt—Juan de Fuca)	Martin (Winnipeg Centre)
Martin (LaSalle—Émard)	Martin (Sault Ste. Marie)
Masse	McCallum
McDonough	McGuinty
McGuire	McLellan
Ménard (Hochelega)	Ménard (Marc-Aurèle-Fortin)
Minna	Mitchell
Moore (Port Moody—Westwood—Port Coquitlam)	
Murphy	
Myers	Neville
Owen	Paradis
Peterson	Pettigrew

*Government Orders*

Phinney  
 Pickard (Chatham-Kent—Essex)  
 Poirier-Rivard  
 Prentice  
 Ratansi  
 Regan  
 Rodriguez  
 Roy  
 Saada  
 Savage  
 Sgro  
 Silva  
 Smith (Pontiac)  
 St. Denis  
 Stronach  
 Temelkovski  
 Torsney  
 Valley  
 Volpe

Picard (Drummond)  
 Plamondon  
 Powers  
 Proulx  
 Redman  
 Robillard  
 Rota  
 Russell  
 Sauvageau  
 Scott  
 Siksay  
 Simard (Beauport—Limoilou)  
 St. Amand  
 Stoffer  
 Telegdi  
 Thibault (West Nova)  
 Valeri  
 Vincent  
 Wrzesnewskyj- — 158

Nicholson  
 O'Connor  
 Oda  
 Pallister  
 Poilievre  
 Rajotte  
 Reynolds  
 Ritz  
 Scarpaleggia  
 Schellenberger  
 Simard (Saint Boniface)  
 Skelton  
 Solberg  
 Steckle  
 Strahl  
 Thibault (Rimouski-Neigette—Témiscouata—Les Basques)  
 Thompson (New Brunswick Southwest)  
 Thompson (Wild Rose)  
 Toews  
 Trost  
 Ur  
 Vellacott  
 Warawa  
 White  
 Williams  
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O'Brien  
 Obhrai  
 Pacetti  
 Perron  
 Preston  
 Reid  
 Richardson  
 Savoy  
 Scheer  
 Schmidt (Kelowna—Lake Country)  
 Simms  
 Smith (Kildonan—St. Paul)  
 Sorenson  
 Stinson  
 Szabo  
 Tilton  
 Tonks  
 Tweed  
 Van Loan  
 Wappel  
 Watson  
 Wilfert  
 Yelich

**NAYS**

## Members

Abbott  
 Allison  
 Anders  
 Batters  
 Bezan  
 Boshcoff  
 Breitzkreuz  
 Cannis  
 Carr  
 Casey  
 Chamberlain  
 Chong  
 Cummins  
 Day  
 Devolin  
 Duncan  
 Finley  
 Fletcher  
 Gallant  
 Gaudet  
 Goodyear  
 Grewal (Fleetwood—Port Kells)  
 Hanger  
 Harris  
 Hearn  
 Hill  
 Hubbard  
 Jean  
 Kamp (Pitt Meadows—Maple Ridge—Mission)  
 Kenney (Calgary Southeast)  
 Kilgour  
 Kramp (Prince Edward—Hastings)  
 Lauzon  
 Longfield  
 Lunn  
 MacAulay  
 MacKenzie  
 Maloney  
 Matthews  
 McTeague  
 Merrifield  
 Mills

Ablonczy  
 Ambrose  
 Anderson (Cypress Hills—Grasslands)  
 Benoit  
 Bonin  
 Bouchard  
 Brown (Leeds—Grenville)  
 Cardin  
 Carrie  
 Casson  
 Chatters  
 Comuzzi  
 Cuzner  
 Desjarlais  
 Doyle  
 Epp  
 Fitzpatrick  
 Forseth  
 Gallaway  
 Goldring  
 Grewal (Newton—North Delta)  
 Guergis  
 Harper  
 Harrison  
 Hiebert  
 Hinton  
 Jaffer  
 Johnston  
 Karygiannis  
 Khan  
 Komarnicki  
 Lastewka  
 Lee  
 Lukiwski  
 Lunney  
 MacKay (Central Nova)  
 Malhi  
 Mark  
 McKay (Scarborough—Guildwood)  
 Menzies  
 Miller  
 Moore (Fundy Royal)

**PAIRED**

## Members

Bergeron  
 Paquette

Cullen (Etobicoke North)  
 Paty- — 4

**The Speaker:** I declare the motion carried.

(Bill read the third time and passed.)

[*English*]

**Hon. Tony Valeri (Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, I expect you will find consent of the House to see the clock at 12 midnight, but just before you do, pursuant to the special order of June 23, 2005, I move:

That, when the House adjourns this day, it shall stand adjourned to September 26, 2005.

**The Speaker:** Is it the pleasure of the House to adopt the motion?

**Some hon. members:** Agreed.

**The Speaker:** I declare the motion carried.

(Motion agreed to)

**The Speaker:** Pursuant to order made on Thursday, June 23, 2005, this motion is therefore adopted. Accordingly, the House stands adjourned until Monday, September 26, 2005 at 11 a.m., pursuant to Standing Orders 28(2) and 24(1).

(The House adjourned at 9:09 p.m.)







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