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Mr. Marcel Proulx

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Wednesday, June 8, 2005

• (1530)

[Translation]

The Chair (Mr. Marcel Proulx (Hull—Aylmer, Lib.)): Good afternoon.

[English]

Welcome to the legislative committee on Bill C-38.

Before going into today's business, I have a very brief reminder for members of the committee. The committee adopted the following motion at its first meeting:

That amendments to the Bill be submitted to the Clerk of the Committee 48 hours prior to clause by clause consideration.

Also, the committee has agreed to proceed to clause-by-clause on Wednesday, June 15, at 3:30 p.m.

In accordance with those rules, may I remind you that you will need to table your amendment or amendments to the clerk's office by Monday, June 13.

[Translation]

At its organization meeting, the Committee passed the following motion:

That amendments to the Bill be submitted to the Clerk of the Committee 48 hours prior to clause-by-clause consideration.

Also, the Committee agreed to proceed to clause-by-clause consideration on Wednesday, June 15, at 3:30 p.m.

Therefore, in accordance with these guidelines, you will need to table your amendments with the Clerk's Office by Monday, June 13.

Mr. Boudria, on a point of order.

Hon. Don Boudria (Glengarry—Prescott—Russell, Lib.): I simply want to clarify something you just said for the information of all members.

This may seem ridiculous, but the definition of "48 hours" at the House of Commons is not the same definition used everywhere else. Indeed, at the House, when there is a requirement to table a document 48 hours prior to the beginning of a meeting that is taking place on a Wednesday, whatever the time of the meeting, the document must in fact be tabled no later than 6 p.m. on Monday. So, do we have to table amendments no later than 3:30 p.m. on Monday, June 13, or 6 p.m.? It's important that we agree, so that we are all operating on the basis of the same rules on both sides of the table.

The Chair: Mr. Boudria, I'm told it would be Monday during the day.

Hon. Don Boudria: So, it's the 6 p.m. rule.

The Chair: Yes, on Monday.

Hon. Don Boudria: Fine. Then it's the same as in the House of Commons. Thank you.

The Chair: Let's come back now to the agenda for today's meeting. We will be hearing from representatives of the Coalition québécoise pour la reconnaissance des conjoints et conjointes de même sexe, followed by Mr. Peter Lauwers, who is appearing as an individual, and finally two representatives of Vaad HaRabbonim of Toronto.

• (1535)

[English]

I'm sure you have been made aware of the way we function at this committee, that each witness has 10 minutes for an opening speech. Then we will go to a round of questions, comments, and answers. The first round is seven minutes, including the questions, comments, and answers, and the subsequent rounds are five minutes.

[Translation]

We will begin with the Coalition québécoise pour la reconnaissance des conjoints et conjointes de même sexe.

Ms. Caldwell, Mr. Côté, you have ten minutes.

Ms. Évangéline Caldwell (Spokesperson, Coalition québécoise pour la reconnaissance des conjoints et conjointes de même sexe): Thank you, Mr. Chairman.

[English]

I'd like to mention first that the presentation of the Quebec coalition will be done in French, and following the presentation, we'd be more than happy to address any questions in both English and/or French.

[Translation]

Mr. Chairman, ladies and gentlemen parliamentarians, allow me to introduce the representatives of the Coalition québécoise pour la reconnaissance des conjoints et conjointes de même sexe who are attending today's hearings: Mr. Claude Côté, Chair of the Table de concertation des lesbiennes et des gais du Québec; Mr. Jean-Pierre Leclerc, representing the Quebec Federation of Labour, the QFL; and myself, Évangéline Caldwell, Coordinator of the Coalition and representative of the Fédération des femmes du Québec.

The Coalition québécoise pour le mariage civil des couples de même sexe was founded in 1998 with a view to eradicating systemic discrimination against gay and lesbian couples and their families in our legislation and social policies, as well as in the labour market.

In addition to organizations whose mission is to promote and defend the rights of gays and lesbians, the Coalition includes important players from our civil society. The membership of all these organizations represents more than one million people in Quebec. Each organization has passed a motion supporting civil marriage for same-sex couples.

Our members include the Alliance des professeures et des professeurs de Montréal; the Association des mères lesbiennes du Québec; the Centrale des syndicats du Québec, the CSQ; the Confederation of National Trade Unions, or CNTU; the Metropolitan Montreal Central Council of the CNTU; Gai Écoute; the Fondation Émergence; Égale Canada; the Fédération des femmes du Québec; the Quebec Federation of Labour, or QFL; the Fédération du personnel de soutien scolaire de la CSQ; the Quebec Branch of the Canadian Union of Public Employees, which is affiliated with the QFL; the Canadian Union of Postal Workers; and the Table de concertation des lesbiennes et des gays du Québec.

We have come today to talk to you about the Canadian reality in 2005. We know now that it is with considerable ease that civil marriages for same-sex couples have become part of the social fabric here in Canada. Furthermore, we know that freedom of religion is respected, because no religion that refuses to marry same-sex couples has been forced to do so. In fact, we are moving forward today on the basis of a consensus, which is that every religion has a right to decide whether or not it will perform marriages for same-sex couples. That is also the position of the Coalition québécoise.

This is something we know to be a fact, because it is a Canadian reality we have been experiencing for two years already. I am not talking here about potentialities, but rather, of facts. We have defeated discrimination that placed gays and lesbians in a position of inferiority, while respecting religious freedoms. However, the sky has not fallen in. In actual fact, other than greater equality for all citizens that are part of Canadian society, there have been very few changes.

More than a year ago, on March 19, 2004, five judges with the Quebec Court of Appeal ruled in our favour in a rare unanimous judgment, thereby allowing same-sex couples in Quebec to marry, and declaring that this prohibition was unfair and discriminatory under the Constitution that governs us here in Canada.

According to the Institut de la statistique du Québec, 307 same-sex couples, or 182 gay couples and 125 lesbian couples, have married. By expressing their love for one another, they have pledged to be supportive and faithful until death do them part. We can only applaud this wonderful commitment and extend our congratulations.

Talking about the joys of equality is essential, but we also have to talk about our wounds. We have to tell you about our hope and our despair. And we especially need to talk about our love.

My colleague, Mr. Côté, has found the words to express those sentiments. I would like to turn it over to him now, and thank you for your kind attention.

• (1540)

Mr. Claude Côté (Member, Coalition québécoise pour la reconnaissance des conjoints et conjointes de même sexe): Mr. Chairman, ladies and gentlemen parliamentarians, gays and lesbians are the only group in Canada which does not enjoy the same rights as other Canadian citizens. Furthermore, there is no other community in Canada, in 2005, that is so overtly the subject of social and systemic discrimination with the consent of such a large segment of the population.

Even today, young people who exhibit behaviour or a personality associated with homosexual stereotypes, or who early on have the courage to come out are subjected to insults and sarcasm, physical and psychological harassment, in both the classroom and the school yard, and yet educators do not step in to defend them or to put a stop to this kind of unfairness. Others are literally thrown out of their family home because they opened up to their parents and revealed their identity to those who are supposed to love them more than anyone in the world. Some of these young people try to survive as best they can, often dropping out of school and, in so doing, abandoning any chance of a better future. Others accept the devastating verdict that people in their entourage have handed them, and turn that homophobia and these expressions of hate back at themselves, ending their own lives. The fact is this is one of the major taboos of our society.

Also, gays and lesbians still lose their jobs these days for having dared to be honest with themselves and their colleagues at work, or for having simply brought the love of their life to an office party, such as their colleagues do without thinking about it twice. Of course, the official reasons for their dismissal are completely different.

Finally, gays and lesbians are still the victims of often random psychological and physical violence, in some cases leading to disability and death, simply because they are different. We could hardly believe our ears and our eyes when some Canadian parliamentarians rose in the House last year to say that these were crimes just like any other and that there was no need to try and tackle the systemic and societal roots of this behaviour.

Gays and lesbians, and particularly people of my generation and of the one before it, grew up thinking that they didn't deserve to love and be loved. When some of us did manage to get around that lie and find someone to love, Canadians, and among them far too many parliamentarians, told us that we should not have the right to have that love recognized, celebrated and sanctioned by our own state, our own government. The simple fact of our falling in love with a person of the same sex is enough, in their view, to disqualify us and exclude us from one of the oldest and most fundamental institutions of our society—civil marriage. They wrongly assert that a marriage relationship involving gays and lesbians who wish to marry is not as true, as pure, as loving, as committed and as meaningful as a marriage relationship between people of the opposite sex.

The message conveyed by the Coalition québécoise pour le mariage civil des couples de même sexe and its members has always focused on love and respect; love first, because it is fundamental to marriage and it is also what marriage celebrates first and foremost; then respect, primarily in our decision not to channel our efforts into making access to civil marriage become access to religious marriage. We have always demonstrated a profound respect for the beliefs of all of our fellow citizens, some of which are shared by people of homosexual orientation. Having spent several years defending a cause that is very dear to our hearts, Mr. Chairman, I must admit I still don't understand why there is such animosity, hostility and aversion—often expressed insidiously in veiled and sophisticated terms—to the simple request we have been making. I still cannot understand why some would deny others the happiness they have been privileged to experience. I wonder how their life could possibly be prejudicially affected by the happiness of people they don't even know. I wonder why a father and mother would joyfully celebrate the marriage of their daughter, but refuse to celebrate the marriage of their homosexual son.

Despite all of that, and despite the fact that couples whose sexual orientation reflects that of the majority are leaving their marriages in droves—you will note the irony here—we have sought access to civil marriage in order to proclaim for all to hear that we are full-fledged citizens and can henceforth enjoy total legal equality with all our fellow citizens.

We achieved that equality in Quebec one year ago, and we are not prepared to tolerate any backtracking, particularly since we are relying on it to achieve the social equality that we aspire to above all else.

• (1545)

Our ultimate goal is indeed to eradicate all forms of homophobia and discrimination against us, so that future generations, wherever they may be, can avoid the human dramas that many of us have experienced. That is why it is our fervent hope that our elected Members of Parliament in the House of Commons will pick up where the courts have left off and show vision and courage, if need be, by passing Bill C-38 as quickly as possible.

Thank you for your attention.

The Chair: Thank you.

[English]

We will now move on to Mr. Lauwers.

Mr. Peter Lauwers (Lawyer, Miller Thomson LLP, As an Individual): Thank you.

My name is Peter Lauwers and I act as a lawyer specializing in education matters. I also appeared at the Supreme Court of Canada on the same-sex marriage reference in defence of protection of religious officials and religious property.

I left a brief with the clerk, and it addresses the issue that I'm going to be speaking about, which is the impact of Bill C-38 on public education.

The change in the definition of marriage would impact on the curriculum of public schools across Canada. To be very direct about it, the charter, taken together with Bill C-38, will compel public

schools to teach their students that same-sex marriage is morally equivalent to heterosexual marriage, that same-sex sexual relations are morally equivalent to heterosexual sexual relations, and to the extent that these concepts are explored from a mechanical perspective in health and physical education classes, the exploration will have to be equivalent. Any other approach, it will be argued, would be discriminatory and contrary to the equality of rights under section 15 of the charter and the court cases that led to Bill C-38.

There is little doubt members should understand that given the relative lack of support for this change in the definition of marriage in the Canadian populace generally, this new reality would not be welcome. Children and grandchildren of people in this room will be bringing this home. Canadian tolerance may well tolerate adult homosexual conduct in certain places at certain times, but it is not likely to support teachings in local public schools that conflict radically with the moral values held by parents.

Traditionally, in public education only those matters on which there was a large measure of consensus in society were taught in the public school system. The rest was left to the home, to the church, or to other institutions. The system's basic strategy has always been the same. Matters of moral controversy are to be avoided and public education takes place on the common ground that is left. The critical problem is that this common ground is narrowing, and that narrowing is a real challenge for the public system and its governance.

I've set out in my brief a number of propositions, if you like. The first one, of course, is that there is a right to publicly funded education, and it needs no further elaboration.

The second is that public schools exist to transmit the knowledge and values of society from one generation to the next. Schools are effective, which explains why they are such a bone of contention. One activist has argued that educational institutions, of course, are thought of very much as movers and shapers of the future. They determine what society will be like in coming generations. They are the primary institutions that form and perpetuate values, especially with the waning influence of religions themselves. He then goes on to criticize public schools by saying:

The most important factor in the perpetuation of homophobia and the marginalization of homosexuals, including self-hatred in homosexuals, is the intense indoctrination in heterosexism that children experience. A great deal of this indoctrination occurs in educational institutions. This heterosexism is part of the desire to prevent children from the effects of homosexuality.

The battle lines for public schools are clearly drawn in the comments I've just made.

The third proposition, which has been generally accepted, until recently, in education, is that the parental role in education should be respected and supported. That particular principle is clear in the United Nations documents. In a case called *Jones and the Queen*, the Supreme Court of Canada said:

Those who administer the province's educational requirements may not do so in a manner that unreasonably infringes on the right of parents to teach their children in accordance with their religious convictions. The interference must be demonstrably justified.

The principle is now under dispute as a result of what's happened recently in our society, including Bill C-38. The fourth proposition is that the viewpoints in this debate are held in good faith. The bill effectively brands those who dispute this change as bigots. The sharp point of debate is in the fact that conduct that some believe is constitutive of their identity is seen by others as immoral. Parents who take the latter view do not want their children exposed to teachings that are contrary to their own values. They do not want the moral authority of the school to be used to undermine the values the children are taught at home.

There is also a question of timing. As the cases note, there is a real debate around age-appropriate information. Is it appropriate to bring issues of sexuality into the classroom in the primary grades?

● (1550)

Is it appropriate to expose adolescents, who may be experiencing a rush of hormones and a degree of sexual confusion, to practices and lifestyle choices that might tempt them? Is it unreasonable to allow the moral weight of the school to be used in this way to undermine the faith and values that parents teach at home?

For parents, the real issue is this. Is it the role of the school to support the family or is it the role of the school to undermine the family? These are not small issues. The prospect is raised in a new way by Bill C-38 because it seeks to redefine a fundamental institution in Canadian society that represents the foundation of family life for many Canadians.

The fifth proposition is that charter values and the law must be reflected in public education. There's a real debate about the nature and purpose of public education in a pluralist society like Canada. Bill C-38, by redefining marriage, will present the next challenge to the public education system.

The case of Chamberlain, involving texts in B.C., is perhaps the opening part of this exercise. It is strongly asserted by some that the purpose of public education is the integration of children. This is seen as a necessary antidote to increasing cultural and religious heterogeneity. The central idea is that common schools, where children from different cultures, languages, and religions are educated together, somehow foster tolerance. The separation of children, it is argued, would fracture society unacceptably.

Now the idea that the state is a legitimate protector of a particular way of life and that its function is to engender and to protect one way of being in preference to all others is at the root of the ideological basis of our secular common school. This is, I would say, fundamentally illiberal.

The Chamberlain case in the Supreme Court of Canada deals with the question of parental rights. The dissent in that case argued that the primacy of parental rights is rooted in the presumption that parents should make important decisions affecting their children, both because parents are more likely to appreciate the best interests of their children and because the state is ill-equipped to make such decisions itself.

Justice Gonthier's carefully reasoned defence of parental rights in that case was ignored or, if you like, refuted by Chief Justice McLachlin. She said this:

Moreover, although parental involvement is important, it cannot come at the expense of respect for the values and practices of all members of the school community.... Parental views, however important, cannot override the imperative placed upon the British Columbia public schools to mirror the diversity of the community and teach tolerance and understanding of difference.

In effect, it is parental rights that are to be overridden by the state. If this view is given rigorous effect, parents whose views are thus overridden might not want to remain in the public system.

Is there a remedy? In a nutshell, opting out is a remedy. The Chief Justice of Canada, however, thinks that opting out is a bad idea and should not be permitted.

Last is proposition six. There is fundamental disagreement about the nature of pluralism in Canada. I want to refer to the concept that the shift in the definition of marriage proposed by Bill C-38 is not neutral. The state is taking sides in a moral debate. This raises a basic dilemma that has been lurking in our law and our politics that has not yet been frankly faced.

It's interesting that Professor John Gray makes the following comment—and I'm almost done:

Liberalism contains two philosophies. In one, toleration is justified as a means to truth. In this view, toleration is an instrument of rational consensus and a diversity of ways of life is endured in the faith that it is destined to disappear. In the other, toleration is valued as a condition of peace and divergent ways of...

I've managed to mess this up. I apologize.

There are two concepts. One is that toleration is a way of converging values for all of society. The other is that toleration is a way of allowing incommensurable ways of life to continue forever, *modus vivendi*, if you like.

The real fight is about the nature of pluralism in Canada. There is a drive towards what the Supreme Court of Canada called coerced ideological conformity. The battleground, in my submission, will be the public schools of Canada.

Thank you.

● (1555)

The Chair: Now we go to the Vaad Harabbonim of Toronto. Excuse my pronunciation. Either Mr. Anisfeld or Mr. Brown, you have 10 minutes.

Mr. Michael Brown (Member, Public Advocacy Office, Vaad Harabbonim of Toronto): My name is Michael Brown and I live and work in Toronto. I am here as a representative of a coalition of orthodox Jewish organizations consisting of the Vaad Harabbonim of Toronto, the Agudath Israel of Toronto, Mizrachi of Canada, the Orthodox Union of America, the Grand Rabbinate of Quebec, and the Vaad Harabbonim of Montreal.

As Parliament considers Bill C-38, we, a coalition of orthodox Jewish organizations representing tens of thousands affiliated with traditional Judaism, respectfully urge you to withdraw the proposed legislation. We preface our submission with an expression of the regard that our community holds for those in positions of governance who must contend daily with challenging social issues.

In this instance, your government's conundrum is born of an unelected activist court seemingly bent on re-engineering the moral values of our society. We consider ourselves true Canadians, proud of our country and its values, values that are sourced in deep and ancient wisdom and which we aspire to transmit to our children, the future citizens of this great land.

As members of a minority, a minority unfortunately all too familiar with discrimination, the Jewish community is naturally reluctant to advocate a position that would purport to infringe on any citizen's rights. It is axiomatic, however, that not every privilege constitutes a right and not every change represents true progress. Bill C-38 vividly exemplifies that truism.

Jews have traditionally championed human rights and equality. At the same time, we represent the segment of the Jewish community that remains committed to Jewish religious traditions as transmitted to us through the Torah, which is, I suppose, commonly referred to as the Old Testament, and Jewish tradition. So we feel a mandate to stand up and proclaim, clearly and distinctly, that this proposed legislation is woefully inconsistent with Jewish values. From our perspective, redefining the historical institution of marriage by extending it to same-sex couples is deeply wrong and contrary to God's will for humankind.

We believe that current law provides adequate protection and equality for all citizens of our domain. The institution of marriage—and let's not refer to it as civil marriage—however, is primarily a religious one, and it speaks to the sanctity of a union, a relationship between one man and one woman. This message is unique not only to our own religious tradition but is shared by other faith communities that make up a large proportion, if not the majority, of the citizens of our country. That by itself should be ample reason for the government to withdraw this legislation. Nonetheless, we submit that other valid reasons exist that should give the government pause on proceeding with Bill C-38.

Number one, the legalization of same-sex marriage will subvert our shared moral heritage. Parliament, through this legislation, is conveying a clear and powerful message that the eternal lessons of morality are wrong and outdated. The position of traditional Judaism and other religious faiths that derive their traditions from Judaism and the Bible is that same-sex relationships cannot qualify as marriage. We fear an agenda that will not be satisfied with promoting equality. What we see is an attempt to legislate to others what their beliefs can and cannot be.

Were fears of discrimination or the desire of equality the true motivating factors here, the introduction of civil unions found in many other countries would have been wholly adequate. By redefining marriage, citizens of traditional faiths will be forced to change their value system or withdraw from society. As Mr. Lauwers referred to, textbooks will be forced to be marriage neutral or, even

worse, written in a manner intended to re-educate future generations to reject the traditional definition of marriage.

The effect of passing Bill C-38 would be to place religious communities outside the pale of Canadian consensus. Inevitably, members of religious communities who adhere to traditional definitions and the traditional way of life will come to be labelled as bigots. We and our children will be treated as outsiders prevented from identifying with the institutions and the fabric of society to which we belong.

Number two, the legalization of same-sex marriage would be harmful to society. The denial of the centrality of traditional marriage as a cornerstone of family life in our society will have a devastating impact on the most vulnerable members of our society: our children. The breakdown of societal norms has already exacted a heavy social and financial toll being borne by various levels of government and ultimately by us, the taxpayers.

Bill C-38 conveys to our youth that bringing children into the world in the context of marriage is not a fundamental value and indeed not consistent with societal norms. A society's laws are much more than a series of rules and regulations; they influence how society functions and what values it chooses to perpetuate and nurture. By conferring the status of marriage upon relationships that are inherently non-procreative in nature, government will further undermine the important connection between marriage and child-bearing. Surely this is not the legacy we wish to leave for future generations.

• (1600)

And third, the legalization of same-sex marriage will have a legal impact on religious communities. Bill C-38 is hardly benign, much less neutral, in its practical impact. Indeed, it is in stark contrast, and holds the seeds of potential conflict, with religious and social institutions. Simply put, it's a zero-sum game. By pronouncing itself ambivalent to the core values of such religious institutions, the government will send the most dangerous message that religious systems are unhealthful for society, and in turn, religious bodies and the individuals who affiliate with them will increasingly come under legal assault.

The status that has historically been enjoyed by religious institutions and their ancillary bodies has been steadily eroded through human rights legislation and jurisprudence that typically prevails over religious rights.

If Bill C-38 were to become law, the federal government would imply that as a matter of public policy, institutions, which have traditionally been protected by our government, would have to conform to a new value system. This thrust for the further liberalization and secularization of national policy essentially amounts to a direct attack on religious institutions.

Further liberal interpretations of Bill C-38 will present ever more strident challenges to our institutions and to our ability to enjoy the religious liberty and provide the important social services we do. From events in British Columbia—and I refer to the British Columbia Human Rights Tribunal decision regarding Deborah Chymyshyn and Tracey Smith and the Knights of Columbus in Port Coquitlam, B.C., and in Alberta, through the Alberta Human Rights Commission's complaint against Bishop Fred Henry—it is clear this is no baseless fear. Religious bodies should not be put in the position to have to enter litigation every time an opponent of their belief wishes to wield the law as a cudgel.

A community like ours, which provides a wide range of critical services, including religious schools, social halls, free loan societies, burial organizations, and benevolent institutions, will find itself increasingly subject to public scrutiny and exposed to the potential loss of charitable status. We have already witnessed the same within the federal government, through its arm, the Canada Revenue Agency, when it challenged charitable institutions it regarded as pursuing objectives inconsistent with public policy.

We urge you to vote against Bill C-38. We do so with the greatest respect and an equal measure of urgency. At the very minimum, on a moral issue such as this, all members of Parliament, including members of cabinet, should feel free to vote their consciences, their traditions, and their faith.

The Chair: We now move to our first round of seven minutes. We'll start with the Conservative Party, Mr. Toews.

• (1605)

Mr. Vic Toews (Provencher, CPC): Thank you very much for your presentations.

Mr. Lauwers, I think I'm going to have to direct this to you, and especially to the concerns you've raised about the public school impact. I know the Jewish organizations have also raised that concern in terms of their own organizations. I think the point here is that the issue of opting out is now becoming a very real occurrence certainly right across Canada. People are simply saying they can no longer remain in the public schools.

I come from a religious group that in fact was guaranteed independent schools by the government. The government took those away from us, so I know what governments can do in terms of independent schools.

What we see now is the idea that opting out is becoming a realistic alternative, so parents, more and more, are sending their children to independent parochial schools, whether they are Jewish or Protestant or Catholic. At the same time, we have concerns because these schools in many jurisdictions—I think all across Canada—have a charitable tax status.

Secondly, many of the provinces receive funding directly from the state. For example, the Province of Manitoba receives 50% of their

operating cost directly from the state. Witnesses, including the Unitarian Church of Canada, have said in testimony here that there are similarities between racism and opposition to same-sex marriage. If that in fact is the case, how can the government, under law, continue to provide charitable status to these schools? How can they provide direct grants to these schools?

When opting out of the public school system is becoming the choice that most parents faced with this dilemma are making—meaning there's more demand for space—at the same time, you have these very real threats that the funding given to these religious parochial schools is now being undermined.

Is there a flaw in my reasoning, Mr. Lauwers?

Mr. Peter Lauwers: No, I think you've laid it out well. I can't add much to that. The threat to charitable status and the requirement of compliance with this new orthodoxy is a problem for parochial schools.

I acted on the Marc Hall case in Ontario, where a Catholic board was required to allow a young homosexual student to bring his same-sex romantic partner to the prom. That case did not go to trial. I think if it had gone to trial, I would have won, because, interestingly enough, the decision itself overturned the Supreme Court of Canada. But you can see that there's a strong animus against traditional values in the jurisprudence that you've seen, that I have in my paper.

There is, however, another aspect of opting out that needs to be taken into account. It is not only opting out of the school system altogether or going to a semi-publicly funded school; it's also the option of opting out of classes within the public system, of being given an opportunity not to be there when certain classes are taught that conflict with the moral values of the students. That would seem to me to make sense, but there is some real stress against that concept.

Mr. Vic Toews: I find it remarkable that in the Marc Hall case we have a court granting an injunction against the Roman Catholic Church, even though in Ontario the Roman Catholics have specifically been granted constitutional protection for their schools. Yet when charter rights of equality collide with guaranteed religious freedoms in the Constitution Act, 1867, the charter rights seem to trump. I've seen this pattern occurring throughout Canada. In my opinion, there is a hierarchy of rights, with religious rights on the bottom. Equality rights, which is the new religion of our courts, always seem to trump. Would you agree or disagree with that analysis?

Mr. Peter Lauwers: In the Bill C-30 case, the Supreme Court of Canada said the Constitution, in respect of Roman Catholic separate school rights in Ontario, trumped the charter. In the Marc Hall case, the court said the charter trumps. That's why I said earlier that it effectively overruled the Supreme Court of Canada in the decision it made. So the decision was wrong. Bottom line: it was wrong.

But you're right about the concept of hierarchy of rights. The Supreme Court of Canada has said on a number of occasions that it does not want to see a hierarchy of rights established in charter jurisprudence. Yet every time equality is bumped into any other right, including freedom of religion, equality has won out. So it is becoming de facto the hierarchical charter right of first priority.

• (1610)

Mr. Vic Toews: I'm wondering if the individuals from the Jewish organizations could comment on that as well.

Mr. Michael Brown: I would like to reinforce Peter's comments. I believe the guarantee of religious rights is not in the actual law. Rather, it's in the preamble. With all this reference to the cases where there is clear law that puts out, in no uncertain terms, religious rights, and they've been tread upon, I think when it's only in a preamble, which is just to give guidance to the interpretive nature of the law, I would be scared and threatened by its ability to tread on religious rights.

Mr. Vic Toews: Clause 3 of the bill talks about the solemnization of marriages. It says that this will not be interfered with by the courts or the government. But in fact, the Supreme Court of Canada in the reference case held that provision to be unconstitutional—not only if it was a substantive provision, but also if it was simply declaratory. Yet our government has placed this section in the act. For what reason, I don't know. It's a flagrant disregard of what the Supreme Court of Canada already said.

Mr. Lauwers, do you have any comment on that?

Mr. Peter Lauwers: I think there's a nuance in the language that may get the government past the point you just made.

Mr. Vic Toews: And what's that nuance?

Mr. Peter Lauwers: They use the words, "It is recognized that officials of religious groups are free to refuse", as opposed to "It is declared that they are free to refuse".

Mr. Vic Toews: It's still declaratory. Recognition is still a declaration.

Mr. Peter Lauwers: Yes, in effect. But the Supreme Court of Canada said that this whole question was one for the provinces and not for the federal government. That's unquestionably correct.

Mr. Vic Toews: So in substance there's no value to that particular provision?

Mr. Peter Lauwers: None whatsoever.

[Translation]

The Chair: Thank you.

We now move to the Bloc Québécois. Mr. Ménard.

Mr. Réal Ménard (Hochelaga, BQ): Thank you, Mr. Chairman.

I want to welcome all our witnesses this morning.

I would like to address my initial comments to an organization that has been defending the cause of equality for many years now. I believe it has been making public representations in this area since at least the Quebec Summit on Justice, when Gil Rémillard was minister.

I think it's important that you remind us of how broad your representation truly is. You represent a coalition of organizations, unions, and people from very broad-based groups. Just so that we are all aware, particularly our friends in English Canada who may be less familiar with your kind of organization, perhaps you could explain the kind of support you have.

Then I will have more technical questions for you.

Ms. Évangéline Caldwell: The vast majority of our members are heterosexuals. That may seem surprising, but the membership of major organizations—what we call in Quebec the central union bodies—is primarily heterosexual. That's what we are talking about when we refer to the civil society—these are people from across the spectrum. They are people that get up in the morning, who have families, who go to work, who go back to work again and come home at night.

It is important for you to know that every group has received a mandate. There have been consultations, debates and a vote. All members of the coalition have voted in favour of civil marriage for same-sex couples.

At this time, it is certainly the largest coalition in Quebec whose work relates to a specific issue. We have been working in this area since 1998. We have been very active around the legislation creating civil unions and establishing new filiation rules, and we were intervenors in the Hendricks-LeBoeuf case—the case involving same-sex marriage—in the Quebec courts. We also appeared before the Supreme Court of Canada in the context of the reference, again with the intention and determination to obtain equality with our fellow citizens.

• (1615)

Mr. Réal Ménard: One of the arguments that many organizations have made, and that we've often heard in this Committee, is that the government could have opted for civil unions.

Of course, that is an argument that the Supreme Court disposed of quite easily. But it prompts me to ask for clarification on two specific points.

I very much enjoyed Mr. Côté's testimony, and given your roots and your knowledge of the issue you have referred to, I would like you to address one specific point. Setting aside the statistics you have provided—you were saying that the Quebec Statistics Bureau has reported a little less than 500 marriages that have been celebrated in Quebec at this time—I would like you to tell us why it is important, from the standpoint of one's citizenship, for this recognition to be granted. I would like you to explain in concrete terms how this will change people's lives.

I will then have a second question for you.

Mr. Claude Côté: Do you want to start?

Ms. Évangéline Caldwell: Sure.

It is difficult to explain how this can improve people's lives, and it's not because I'm speaking French. I am obviously an Anglophone, but this is something that is just as difficult to explain in English as it is in French.

I am 52 years of age, and this is the first time in my life that I have been your equal, ladies and gentlemen. This is the first time that I have ever been able to sit down at a table with you and say to myself that, because same-sex couples can now marry in Quebec, that discrimination has been eradicated. I am no longer excluded. I can sit down at the table with you as a full-fledged citizen and participate fully.

If I were to marry, and if I had children, it is with great pride that I would tell them that equality exists here in Canada. People are treated in a respectful and equal manner in terms of their loving relationships, which are fundamental relationships for everyone.

In terms of the community, we are now hearing something we never heard before: "Do you think you will get married one day?" Before, that question never arose. It couldn't be asked. It just wasn't possible.

Mr. Réal Ménard: Yes, but now there is that choice.

Ms. Évangéline Caldwell: Yes, there is that choice. There is also the dignity that comes with making one's own choice. The government is telling me that I have the means and the values to make an enlightened choice, to decide if I want to marry and have a spouse or not. It is difficult to express in words how important that choice is.

Mr. Claude Côté: I would just like to add that for many of us, this is fundamentally something that involves both a principle and a symbol. As you know, symbols are very meaningful and significant. The flag behind us is testimony to that fact.

I have to say that marriage is a first step for us, a fundamental step in achieving our ultimate goal, which is social equality. As Évangéline has already said, there is no doubt that within the community, we are often asked why we want to marry. That equality is extremely important to us. We want to be recognized as full-fledged citizens, in every sense of the term, even if our loving relationships are different.

In September of last year, the Table de concertation des lesbiennes et des gais du Québec, of which I am the Joint Chair, organized a States General or General Assembly the theme of which was: "From legal equality to social equality". We achieved legal equality in March of last year. The theme of that general assembly was ways of achieving social equality in every respect.

We will keep up the fight until there is no longer any distinction or discrimination, until all parents say of a child who has just been born that the only thing that matters is for him to be happy, whether he is heterosexual or homosexual.

● (1620)

Mr. Réal Ménard: Until you have that, you won't be a completely happy man.

Mr. Claude Côté: No, absolutely.

Mr. Réal Ménard: Do I have time for one last question?

[English]

The Chair: Mr. Siksay.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Mr. Chair, and thank you to all the witnesses for their testimony this afternoon.

Let me first say that it's an impressive coalition that you represent, and I'm glad Réal asked you to review again the breadth of the coalition that's been working on this issue in Quebec. It's very impressive.

You mentioned that there have been 500 gay and lesbian marriages in Quebec so far. Is there any difference in the values that gay and lesbian couples bring to marriage, any different understanding of the responsibilities of marriage, of the obligations of marriage, of what the marriage commitment involves, in your experience?

Mr. Claude Côté: I think the short answer is none whatsoever.

Mr. Bill Siksay: On gay and lesbian people growing up—do we grow up with a different understanding of marriage? Do we come from a place that...?

Ms. Évangéline Caldwell: We did, because we couldn't get anywhere near it. It was like a life exclusion. Today, now that marriage is available to couples, particularly with young couples there's an interest and a desire to know more about marriage. When you can't do something, why learn all that much about it? It'll never be you.

That certainly is diminishing with an increasing amount of interest in marriage in many of its facets. As a matter of fact, we have a few members of the gay community who are, quite frankly, historical marriage experts at this point. They've done massive studies.

It has an effect personally, because whenever a door that has been locked is opened, it becomes so much more important, serious, and solemn to go through that door. Whether you go through that door or not, it is still something that is serious and solemn for you. So in terms of changes or differences, at this time, in 2005, that is one of the ways we are evolving toward a more usual position toward marriage. Children born today will be able to take for granted that they'll be able to get married. We're still in the process of evolving toward that situation.

Mr. Bill Siksay: There's been some suggestion here that some of the gay and lesbian folks getting married are doing it for publicity reasons or for a strictly political kind of agenda. Has that been your experience of the couples you know in Quebec?

Ms. Évangéline Caldwell: None whatsoever.

Mr. Claude Côté: Not at all, and I would even say that usually the couples who are getting married have been together for a very long time. We all know the reputation of marriage in society; people are fleeing it, mostly, and living either in civil union or in common-law relationships. If you take the Hendricks-Leboeuf couple, who brought this issue to the courts, I think they've been together for 33 or 34 years.

If I may just add one thing that I just thought of about the difference you asked about earlier, one difference is that boys and girls today are being raised...and their parents are telling the boys that they're going to meet the girl of their dreams one day and they're going to marry her—and of course you reverse this for the girls. This is actually the true definition of heterosexism.

I've heard Mr. Lauwers using the term "heterosexism" in the wrong way, because heterosexism is more the act of presuming that everybody is straight and that your child is going to be straight as well. So this is something that has been, I'd say, denied to us very early on.

• (1625)

Mr. Bill Siksay: Yes. I remember growing up and searching out every slight indication that someone might be supportive of me as a young gay man, even though I wasn't out to anybody. I remember once listening to a sermon in my church as a teenager and hearing the minister, in an offhand little comment, say something about having a gay member of his family. And I filed that away, thinking that someday I may have to talk to him about something. No one else would have even noticed it, I don't think, because of the way he said it in this particular sermon, but for me, having a very high awareness of the lack of support and a need to know who was willing to support me, it made a big impression.

You said it's hard to understand why the happiness experienced by others would be a problem for people. It seems to me that this is a world that cries out for the kind of commitment that people are willing to make in marriage. And if people are willing to fight to get into that institution and make those kinds of commitments, it's something we could all use more of.

How much more time do I have, Mr. Chair?

The Chair: You still have a minute and a half.

Mr. Bill Siksay: Okay. I have a question for Mr. Brown of Vaad Harabbonim.

Mr. Brown, you talked about the activist courts. It seems to me that this wasn't something initiated by the courts. It seems to me it was initiated by gay and lesbian couples who had a grievance against society, who felt they were excluded from a major institution of society and that they had been denied equality. Is this something you would deny people, the right to pursue that kind of grievance in our court system?

You mentioned the couple in the Coquitlam area who had been refused the use of a Knights of Columbus banquet hall for a wedding reception, that there was somehow a problem with their pursuing a human rights complaint there—or even with the individuals pursuing the complaints against Bishop Henry. Are you saying that people shouldn't have the ability to pursue those kinds of complaints or those kinds of remedies when they feel aggrieved by something that happens in society?

Mr. Michael Brown: We believe the courts are there to protect us. The particular comment on activist courts was to the Supreme Court's decision, in the middle of the review in Parliament, which short-circuited the process. But we ourselves have been to the courts many times to ask for protection. We would never want to discriminate against anybody, and I think the traditional notion of Judeo-Christian values is such that we look out for our fellow man. So we would have no problem with courts stepping into the breach. What we fear is situations where the courts are used to stifle religious teachings.

Mr. Bill Siksay: Civil marriage for gay and lesbian couples has existed in Ontario for some time now. I understand you're from Toronto. Has there been any effect on your congregations where you've been required to marry a gay or lesbian couple by the courts? Has there been any action taken against you in that regard? Have you been forced to do anything against your religious beliefs in that time period?

Mr. Michael Brown: To date? I don't believe it's happened yet, but I don't think it's a canard to refer to the cases in B.C. and Alberta and see that march across the plains, to see that it will eventually arise in Toronto and in other faith communities around the country.

Mr. Bill Siksay: Do you see a difference between—

The Chair: Excuse me.

Mr. Bill Siksay: Time's up? Okay. Thank you.

The Chair: We will now move to the Liberals.

Mr. Savage.

Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.): Thank you very much, Mr. Chair. I want to welcome you all today and thank you for coming on a warm June day in Ottawa in a room without air conditioning. It goes above and beyond the call.

Let me ask a question of Monsieur Côté and Madame Caldwell, first of all.

You spoke to the difficulty that young gays and lesbians have growing up in Canada and the mental difficulties they have, feeling that they're not fitting in and in some cases are deliberately ostracized. You spoke about suicides. I had the chance to review the speech that Mr. Siksay gave on this legislation in the House of Commons, which was one of the better speeches I've heard since my time here, and he spoke about this as well.

Assuming that this bill passes, can you talk about what positive impact that might have on young gays and lesbians in Canada?

• (1630)

Ms. Évangéline Caldwell: I think we can safely say, from a year's experience in Quebec, that there is an extra positive element in the conversation. It's not the miracle pill that's going to make everything fine. I think we've expressed that there is still quite a bit of work to be done. And we keep going back to—we're sounding like a broken record.... When you are treated as an equal citizen, things start to change. They change in you. There are obviously reactions in society. Many of them are very positive. Many of them are very supportive. There are worries; we're hearing some of those worries today. But as you are told that you're an equal citizen, that you have equal access to the institutions of state, that can do nothing but help self-esteem, the sense of self-worth, because it's true that what the state says of you has an impact on you, as what the state says of you influences and informs your view of yourself. Within that context, we find there is a positive effect.

Again, I'm not going to sit here and suggest that everything is going to be fine. But it does provide something significant. I would certainly call it significant to be able to reach into that type of equality, to be able to have maybe just friends say, "My mom asked me if I'm going to get married someday". A young gay male says that to a person who's having trouble, who's somewhat depressed because maybe that family is having serious trouble with his homosexuality. Just knowing that these questions are being asked in other families where there is support can be helpful too.

So, yes, it definitely will be helpful to the children, and may I add, it will be helpful to the not-so-young children, to the adults, to the middle-aged adults, to people like Claude and myself, to people who are older than us, and to the elderly of the gay and lesbian community, because we've all experienced that type of social perception of, "We'll have to find something else for you because you don't quite make it". Dismantling that can only be positive.

Mr. Claude Côté: If I may add something, it will make a tremendous difference to those thousands of children across Canada who live in same-sex households. It will tell them that their parents are normal, that their family is normal.

I am a normal person. I'm not part of the majority when it comes to my sexual orientation, but I am normal in every way. And what this bill will say to all of us, and to the children who grow up with same-sex parents, is that this is normal. It's very important.

Mr. Michael Savage: Thank you for that. I certainly agree with this, and it's my hope that this bill is not just about allowing gays and lesbians to have marriage, but for those families....

I mentioned in these hearings before that I'm the godfather to a little girl who has two mothers, and it's important to the family that they be recognized as a family equal to any other, that to call it a civil union is not equality; equal but separate is not equal. That is important.

I'd like to ask Mr. Lauwers, and perhaps Mr. Brown or Mr. Anisfeld, a question. Considering the fact that we've been discussing this for years, and in the Parliament of Canada it's obviously been a topic of discussion for a long time—we're at the point now that we're doing technical revisions to this bill—and it's the law in most of Canada, in most of the jurisdictions, provinces, and territories, what would you like to see us do? Would you advocate the use of the

notwithstanding clause, or is there some other mechanism that you would advocate at this point in time to stop this from proceeding?

Mr. Peter Lauwers: The options are pretty clear in terms of the bill itself. You could do some repair work on the bill, and I understand there are a number of proposed amendments floating around. I don't know what they are, but that is one aspect of it. The other one is to not pass the bill and instead start over, which is something that might be worth doing. The other is to do what the Conservatives are suggesting, which is to create a civil union regime alongside marriage. And the last one is to go back to a definition of heterosexual marriage and use the notwithstanding clause.

Those are the options available to Parliament, quite obviously.

• (1635)

Mr. Michael Savage: What would be your preference?

Mr. Peter Lauwers: My preference? Ultimately this problem will not get properly solved until Parliament gets out of the marriage business. My thinking is that this fight on the nature of marriage is one that does not belong on the floor of the House of Commons.

The state has an interest in long-term relationships, how they are established and how they are dissolved, unquestionably, and particularly about children. It does not have an interest in defining what marriage is. That is the business, I would suggest, of civil society—religions, if people are religious, and other groups if they're not.

That horse may have left the barn a long time ago, but that would seem to me to be the better way in a liberal democracy for this issue to be resolved. Right now, the state has come down firmly on the side of a definition of marriage, with which it appears 70% of Canadians do not agree.

Mr. Michael Savage: I wouldn't necessarily agree with you at all. We have a difference of opinion on this.

I respect you, as a learned Canadian, and your point of view. If you do have amendments that you think would make this bill more palatable, you should submit them to us or to some member of the committee. We'll be discussing those next week: The fundamental difference is that you see that as solving the problem and I see this legislation as solving a problem in Canada, which is inequality between heterosexual and homosexual Canadians. But I respect your coming to give us your point of view today.

I thank you all for that.

The Chair: Thank you.

We're back to the Conservatives. We're now into five-minute rounds.

Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you, Mr. Chair, and thank you today to all the presenters.

My French is very bad, so I won't try, but my questions are to your organizations and to yourselves. I have three questions in particular that I wish to have answered.

The first is, do you think religious institutions should be able to preach, teach, and advertise that homosexual practice, in their opinion, is wrong, based on their religious teachings?

Ms. Évangéline Caldwell: I believe that is covered by Bill C-250. If I'm not mistaken, there is clear language in that law that says that if you are within the confines of religious scripture and you are citing sacred texts, then it does not go into hate speech.

Mr. Brian Jean: My question was, what do you think?

Mr. Claude Côté: Even though we might disagree with that—I don't think you'll be surprised to hear it—as I said in my piece, we literally respect the beliefs of others. However, if that statement goes beyond what it is meant to be, just stating the fact that I think personally it is wrong, if it is meant for people to act on it and really discriminate against us or harm us in any way, then I think it's out of bounds, but, as we said, our coalition really has no interest in religious marriage. We only want civil marriage for same-sex couples.

Mr. Brian Jean: I understand that, but it's the practice itself I'm interested in, and your opinion, to be honest, not Bill C-250. Do you believe that the Bible passages that criticize homosexual behaviour should be changed, edited, or deleted?

Ms. Évangéline Caldwell: I'm sorry, I didn't quite catch the whole question.

Mr. Brian Jean: Do you believe that Bible passages that specifically refer to homosexual behaviour as being wrong should be changed or edited or deleted?

Ms. Évangéline Caldwell: I'm going to preface this by saying that we are the Quebec coalition for same-sex civil marriage. The reason I'm doing that is because our purview is civil marriage. Contrary to some of our other guests here, we make a very important distinction between an institution of state that offers civil marriage and religious marriage.

Mr. Brian Jean: I only have five minutes, Ma'am. I really would like.... I have some questions for Mr. Lauwers and the others. Specifically, Ma'am, do you believe that the Bible passages that criticize...?

Ms. Évangéline Caldwell: Do I think the Quebec coalition should say strike all passages about homosexuality out of sacred texts? No, of course not. That would be offensive.

Mr. Brian Jean: It would be offensive.

Ms. Évangéline Caldwell: Of course.

Mr. Brian Jean: But some passages have been published and individuals have been prosecuted as a result of those biblical passages that have been published. Now, I'm wondering what your belief is about what should take place with those people who put

forward their arguments based on religious beliefs. What do you think should happen to those people?

● (1640)

Ms. Évangéline Caldwell: I think Monsieur Côté said it very well. It is one thing to take a passage out of a sacred script and say it is this religion's belief. It is another thing to say that we will now take this belief and emphasize it, amplify it, act on it, and ask people to act on it, so that other people get hurt. There the boundary has been passed.

Mr. Brian Jean: It's motive then, is what you're saying.

Ms. Évangéline Caldwell: It's motive and it's also results. So the person who is taking a sacred scripture that is unfavourable to homosexuality says homosexuality is an abomination, to use the classic one. It's one thing to say that my religion says that and therefore I am going to convey that to the people I am teaching; it is another thing to say my religion says homosexuality is an abomination and therefore we must pay a great degree of attention to ensure that none of those homosexuals can live their lives, possibly.

Mr. Brian Jean: I fail to see the distinction. Either the passages are wrong and you want them edited or deleted or not published, or they're acceptable and you're prepared to tolerate them. I don't see—

Ms. Évangéline Caldwell: I'm not doing all or none. I don't want to give an all or none answer because I don't think it's there. Obviously, from a lesbian point of view, there are some very disturbing passages, not just in Christian sacred texts but in many sacred texts.

Mr. Brian Jean: If I can just interrupt, because I know I'm going to get it from the chairman in a second, do you believe those passages should be deleted? Do you believe that the ones that offend you should be taken out?

Ms. Évangéline Caldwell: I have absolutely no authority to suggest to a religion that they should delete some sacred texts. That's absurd.

Mr. Claude Côté: We do not believe in censorship, first of all.

I have a friend who's a member of the United Church of Canada. She knows a lot more about this than I do. She tells me that the gospel never mentions homosexuality. I don't know if it's true or not, but that's what I've been told.

So there are passages in the Bible, from the ancient testament, that speak of it or make allusions to it. There are plenty of books that are offensive on the market. You can buy them at any bookstore—I'm not saying the Bible is offensive; that's not what I'm saying. But they may go against my beliefs or against any opinion I might hold.

Ms. Évangéline Caldwell: I know we aren't supposed to talk about this any more, I can see from the chair.

Maybe one of the ways of looking at it is to say that it's there, that it is said within a religious context, that it's part of that religion. How it is used is where the concern comes in. It comes in rather sooner than later. How are those biblical scriptures or sacred scriptures used in real life, and what impact do they have? That's where we get really concerned.

Mr. Brian Jean: So in that kind of event, we should get rid of those....

Ms. Évangéline Caldwell: No, sir. I'm not saying edit sacred scripts, and I will not say that. What I am saying is that we could possibly encourage religions that have sacred scriptures that speak somewhat negatively, or highly negatively, of homosexuals and lesbians to be somewhat sensitized as to how they would use them. My preference would be that that education, that conversation, occur within each religion, because each religion knows and has an expertise about its religion. And each religion can tell if there are sacred scriptures in its religion that are very negative towards gays and lesbians. If so, why shouldn't they have the conversation about it being part of their teachings, and about the need to find a way to teach it, to make sure they don't wind up in a position where what they're teaching is damaging gays and lesbians and their families?

Mr. Brian Jean: The word "abomination" is pretty straightforward.

Ms. Évangéline Caldwell: And that's where you have a conversation about how to deal with it.

The Chair: Mr. Jean? Thank you.

[Translation]

We will now go back to the Liberals.

Ms. Boivin.

• (1645)

Ms. Françoise Boivin (Gatineau, Lib.): I hope that you will be equally tolerant with me, Mr. Chairman, in terms of time.

The Chair: I would point out, Ms. Boivin, that I have been tolerant with everyone thus far.

Ms. Françoise Boivin: Indeed, I was going to begin by commenting that the word "tolerance" is, in my view, the one being used most inappropriately. We talk a great deal about tolerance here, but perhaps we should be talking more about acceptance. That is a comment that was made to me on the occasion of a speech dealing with various aspects of the Charter.

I found the debate—and the term is appropriate here—between Mr. Jean and our guests to be most interesting. In fact, I want to thank each of our guests for being here today. The same image keeps coming to mind. I believe strongly in equality, and I imagine that if there is one area where all of us here are likely to agree, it is equality between men and women. I recognize that the Catholic religion is not inclined to accept the ordainment of women. And yet I haven't heard of all kinds of court cases intended to force that church to accept women priests in the name of sexual equality and within the meaning of the Charter.

Having said that, I have three questions. I am going to put them to you simply, hoping you will have time to answer them.

Ms. Caldwell and Mr. Côté, you say the Coalition has been lobbying around this issue, which from a legislative point of view has been under consideration since as early as 1998, from what I understand. Yet some colleagues are claiming that this is moving forward at lightening speed, that it is terrible that people are not being given a chance to express their views, and so on. We have also consistently heard the same sort of commentary in the media.

Since you seem to have been actively involved in this cause for quite some time, how do you respond to these people?

Mr. Claude Côté: In my opinion, it is to the credit of all Canadians and Quebecers that progress has been made so quickly on this issue. It is true that attitudes have changed considerably in recent years, and that has certainly benefited us. But I do not in any way want to take all the credit for that. In fact, I would say our militancy has very little to do with this having moved forward. People change. New technologies may also be a factor. I can't really explain it, but one thing is for sure, people do change. I don't think a bill like this could have seen the light of day had attitudes not changed.

Ms. Françoise Boivin: I'll be even more direct with you: do you think we are moving too quickly?

Ms. Évangéline Caldwell: I don't believe things are moving too quickly. People will probably understand that we have the impression that progress in this area has been rather slow. Now things are balancing out somewhat.

What I can tell you is that this has been a comprehensive process. We have left no stone unturned along our path. We did that in this province, in one territory, and in front of the Supreme Court as part of the reference. This is the second time we have had the honour of appearing before a committee dealing with this bill.

I believe there has been a comprehensive in-depth debate on this. There have been some recurring themes. Civil marriage for same-sex couples is already a fact of life in most Canadian provinces. And one thing that tends to be forgotten is that this is working well. We have not locked horns with religious groups. We thought that might happen, but it didn't. In my opinion, this is something to be happy about and celebrate. Also, it gives us reason to believe that continuing to progress along these lines can only be positive.

Ms. Françoise Boivin: So, you are not proposing any amendments to Bill C-38. You believe it to be fine as it is.

Ms. Évangéline Caldwell: Yes, absolutely. The two things...

Ms. Françoise Boivin: Excellent.

I would like to turn to the other witnesses now, if you don't mind.

Mr. Lauwers, you say that civil marriage between same-sex couples will have a profound impact on the public education system. Is that an accurate reflection of your comments?

• (1650)

[English]

Mr. Peter Lauwers: Yes.

[Translation]

Ms. Françoise Boivin: But has that impact not already occurred, given the fact that this is already the law in seven provinces and one territory, as Ms. Caldwell so aptly pointed out? That covers approximately 85 per cent of the Canadian population. Has that not already had an impact on public education, and do you not think Canadian society will learn to take such changes in stride, given that they are part of the make-up of our society?

[English]

Mr. Peter Lauwers: I think the answer to this question is that certainly the case law has changed in recent years, but it's still not uniform across the country. The Supreme Court of Canada's decision only came out a few months ago, and this legislation is in front of us. The fact is that the system of education has not caught up with this.

Ms. Françoise Boivin: Are you afraid that it might, though?

Mr. Peter Lauwers: There are some school boards that have material relating to same-sex issues. The Toronto public board is an example of that.

Ms. Françoise Boivin: I'm just trying to understand, because I remember when I was a child at school, and I remember my mother talking about the books in the public school where you saw the women in the house and cooking for the husband. All the books in the public system have been changed in view of the ever-changing society.

What's wrong with that? That's what I'm trying to understand from your point of view.

Mr. Peter Lauwers: Essentially, I was doing two things. I was simply saying to you, this is what will happen—if you haven't thought about it, this is what will happen—and I think that's pretty clear, and my brief sets it out.

The question I raise from a Liberal democratic viewpoint is, is it appropriate for the state to effectively indoctrinate kids in values and approaches to life that their parents don't support? This is an argument that needs to be fully fleshed out, and that's the argument that gets raised by Bill C-38—and also, frankly, by the court cases. It's the same question. Is it proper in a liberal democracy for an organization of the state to indoctrinate kids in a particular viewpoint when their parents don't want that to happen?

That's the question. It's a political question, ultimately, and I leave it with you.

[Translation]

Ms. Françoise Boivin: I see. Good question.

Do I have any time left?

The Chair: Unfortunately not.

We go back to the Bloc Québécois now, with Mr. Marceau.

Mr. Richard Marceau (Charlesbourg—Haute-Saint-Charles, BQ): Thank you very much, Mr. Chairman.

I want to thank our witnesses for being with us today. I have to apologize for being late. The political situation being fairly volatile right now, we find ourselves pulled in many different directions at the same time.

I want to put a question to Mr. Brown or Mr. Anisfeld about their presentation. I was only able to hear the end of it, as well as your answers to some questions you were asked. As you know, the title of the bill and its purpose are civil marriage. There is quite a dichotomy between civil law and state law or religion-based systems of law—for example, Halacha in your case. You have rules that are completely different from those that operate in the civil society. An example that comes to mind is the kashruth, which is your body of dietary laws, and which are completely different from those that operate in the civil society; another example would be divorce. In civil society, divorce occurs in front of a court of law. With Orthodox Jews, however, in order to remarry in a synagogue in the presence of a rabbi, a woman first has to obtain a get from her ex-husband. That is another difference between civil law and religious law. You also have a prohibition against exogamous marriage, meaning between a Jew and a non-Jew.

All these rules, even though they are quite distinct from those in effect in the civil society, are very clearly applied within your communities. They are adhered to. You have never had problems applying those rules in Canada within your different communities.

Therefore, I would like to know why providing same-sex couples with the opportunity to marry is any different, given that you are in no way forced to apply that law. How is the possibility for same-sex couples to marry any different from the other rules I referred to in my question?

• (1655)

[English]

Mr. Michael Brown: First of all, I'd like to compliment you and commend you on your broad knowledge and your exposure to Jewish Halacha, which is the body of Jewish law as transmitted through the ages. So I appreciate that, and I think it shows a certain sensitivity to those of us who are going to be speaking in the Commons. I really appreciate that.

Second, there's a copy of our brief with the clerk, so you'll have adequate time to review it and understand our points.

I believe—and this really goes back to some of the other issues we discussed earlier on—our system of Halacha, our system of law, is, I would go so far as to say, factual. It's something we believe in intrinsically. It's not a pick-and-choose kind of issue, so we can't say this is the way we're going to live inside these four walls and we'll behave a different way outside of those walls. Scripture is holy and it's something that needs to be protected and adhered to.

So I would tell you that while we more than comply with a dual set of laws.... We all get married. We all have our marriage performed by a clerk of the courts, or the rabbis are given that power. Our Kashrut laws are protected by the government, by the Supreme Court of Canada, and by various legal issues. But we need to be free to operate.

And referring back to the comments about scripture, if we tried to inculcate...and I'm shying away from the word "indoctrinate", but we grow up with a certain belief system, and if we are to be free to reside within that belief system, we need the full flexibility to teach it and to try to bring the children up in the way we would like to. We are afraid that our ability to do so will be severely limited by this law.

We live in Ontario. In Ontario the government doesn't give us any money. The one area we do have is charitable status. We are able to raise money, and people are able to be generous and donate. If we were to lose that, we would have no ability to educate our children.

[Translation]

Mr. Richard Marceau: I want to say one thing in that regard, Mr. Brown, even though I don't believe this will convince you to support Bill C-38. In my opinion, your fear of losing charitable status is unjustified. If we were to amend this bill to state in black and white that no organization will lose its charitable status if it refuses to perform same sex marriages, would that respond somewhat to your concerns about losing charitable status, even though there is no doubt in my mind that would not make you a proponent of Bill C-38?

My position is supported by the majority within our party. We will be having a free vote on this issue. My colleague from the North Shore has a different position from ours, and he has expressed that. We have nice friendly debates about this within our caucus.

As far as we are concerned, the fundamental point is this: equality rights, which include the possibility for same-sex couples to marry, are no more or less important than protecting freedom of religion. If you are directly and specifically given a guarantee in Bill C-38 that you will not lose your charitable status, would that meet some of your concerns, without necessarily eliminating them altogether?

[English]

Mr. Michael Brown: I'm going to reference Mr. Lauwers' comments from earlier today, and we referred to them in our brief as well. The experience is that equality trumps religious rights, and even where it's written and enshrined in law, it has not been able to stand in the way of the bulldozer of equality.

Second, I'd ask you to read the brief we submitted. This is the third point. I think it would be a very good thing for you to do. I don't know if it would solve all the problems. It would take care of one of the issues, our third issue, but the first and second issues, which you'll be able to see in the brief, would still need to be addressed.

• (1700)

[Translation]

The Chair: Thank you, Mr. Marceau.

Mr. Richard Marceau: Thank you.

[English]

The Chair: We move back to the Liberals.

Ms. Neville, please, five minutes.

Ms. Anita Neville (Winnipeg South Centre, Lib.): Thank you very much.

Let me begin, Mr. Brown, by saying that we haven't received your brief yet. I assume it's in translation, so we'll look forward to it.

I want to follow up somewhat, to begin with, on Mr. Marceau's line of questioning to you. I was struck by your comment that you do not pick and choose biblical scriptures, and I want to extend that a bit further.

Jewish people know all too well the impact of intolerance and persecution. I don't have to speak to that. And as Jews, we should all be doing everything in our power to break down barriers and institutions that support intolerance that exists so that other groups that have the potential for persecution are not subject to the same kind of thing that Jewish people have faced throughout time.

I understand and appreciate and respect your position, but given your comments about picking and choosing, and given the recent history—not even the recent history, the history of Jewish people throughout time—can you see an approach that honours the religious principles that are so important to you that can be married with the protection of all people in society? That's my first question.

Mr. Michael Brown: One of the groups I speak for, in their name, Agudath Israel Toronto, is part of a large organization, Agudath Israel of America, and our legal counsel, Rabbi David Zweibel, is in Spain today at the United Nation's conference on anti-Semitism and racism. I think that it is something that's very near and dear to our hearts. So I appreciate those sentiments.

At the same time, what Mr. Marceau referred to, and the civil unions that were referred to earlier, I think would be adequate for equality. If you want everybody to be married by virtue of a civil union, the legal union could be a civil union, but marriage would be limited to religious institutions.

Ms. Anita Neville: Am I understanding you correctly that all civil processes, whether they're for heterosexual or homosexual couples, should be deemed civil unions?

Mr. Michael Brown: I believe so, yes.

Ms. Anita Neville: So a heterosexual couple choosing not to be married within a church or a synagogue or a temple would only have a civil union, not a marriage, because it wasn't sanctified by a religious body.

Mr. Michael Brown: I believe the institution of marriage is primarily religious. And if you'll permit me to refer to Mrs. Boivin's question before and the rush to this decision, when you look at it, since 1998 people have been attempting, and very successfully so, to affect the nature and definition of marriage. We look at things a little differently. We believe the world is 5,765 years old, and I think by that nature, for something that has survived since Adam and Eve, right at the beginning of time, and has been with us up to 1998 of the common era, more than seven years is necessary to review that.

If you're an evolutionist, not a creationist, I think you have a lot longer time. So I believe it's necessarily a very slow process.

Ms. Anita Neville: Well, I wasn't asking that question, but I appreciate your comments.

Ms. Caldwell, did you want to say something?

Ms. Évangéline Caldwell: One of the concerns about removing marriage from the state.... First of all, let me say that we'd all be aware that we're removing marriage from the state because gays and lesbians are about to get access to it and that has to be prevented, so to prevent that, we're just going to send the whole institution down. I'm sorry to be so blunt, but I think you can understand that that's offensive.

Secondly, if we have civil union for everyone, heterosexual and same-sex civil unions right across the country, there will still be religious same-sex marriages because there are religions that marry same-sex couples. I'm afraid that the attempt to preserve marriage as something between one man and one woman will fail using that strategy because different churches marry same-sex couples, and those are religious marriages. So I think there might be a slight challenge to that view.

I'd like to also say that civil union is provincial. I'll stop there.

● (1705)

Ms. Anita Neville: Go ahead, Mr. Lauwers. I was going to follow up as well.

Mr. Peter Lauwers: Thank you very much.

I just wanted to take issue with Ms. Caldwell on the motivation behind the notion of going to a civil union. It wasn't intended to deprive same-sex couples of a concept of marriage, because I fully recognize that the Metropolitan Community Church and other organizations do marry same-sex couples. The issue was to say the state shouldn't say what marriage is; let individuals and their organizations say what marriage is.

So if you want to go and get civilly "unionized" at the local registry office, you can say you're married. If you want to go to a Catholic church, which is my denomination, and get married and you say you're married, you're married. If you want to go to the Metropolitan Community Church and do that, it's the same thing. In other words, it becomes a description that is unique to each particular group; they can define it however they want to.

What we're saying is the state isn't making that decision and is not imposing a particular view of the definition of marriage on everybody else.

Ms. Anita Neville: What you are saying, though, is that those who choose not to have their union or marriage sanctioned by a religious organization would not be married. They would be "unionized".

Mr. Peter Lauwers: Sure, they would be. They could call it a marriage if they wanted to. It's a question of how they term it. That's their decision.

The Chair: Thank you.

Ms. Anita Neville: Thank you.

The Chair: We're back to the NDP.

Mr. Siksay, please.

Mr. Bill Siksay: I think I'll pass, Mr. Chair. I'm done.

The Chair: Thank you.

We go to the Liberal side.

Monsieur Boudria.

[Translation]

Hon. Don Boudria: I just want to take a moment to set the record straight, even though others may not share my opinion. I think it's very dangerous to start citing certain passages from the Bible.

First of all, what I call the Bible and what my colleague on my right calls the Bible are not the same. I am not allowed to use the King James version that he uses. His version uses the word "divorce", which does not exist in the Bible that I use, the one used in the Catholic Church. I say this as a practising Catholic.

Second of all, approximately two years ago, I was asked to do a reading at my church one Sunday. I am often asked to do that. I did the second reading. That Sunday, I was asked to read a passage where it says that a woman must be submissive to her husband. I didn't know about this ahead of time. My wife was sitting opposite me and was looking me straight in the eye as I read this passage. I then went back to my seat. After mass, I said to the people who had asked me to do the reading that Sunday whether they couldn't have given me a different reading. I told them that as a representative of civil authority, what they had asked me to do was not right. They agreed with me. They said they hadn't done it on purpose, and that they were volunteers like myself. As a volunteer, I would do the readings. They would assign the readings. Everyone was a volunteer.

What I mean by that is that everyone of us knows about passages in the Bible that they may not like as well as others. In my opinion, it is not fair of me to judge you because you like certain passages less than others. I feel the same resentment. My Irish wife with red hair, who was looking me straight in the eye all the while I was reading that passage, was even less amused that particular Sunday. Mr. Chairman, sometimes we all try to put people on the spot because they don't like certain passages from the Bible as much as others. But I don't play that kind of game.

● (1710)

[English]

I want to get now to something else in the short time I have left after this diatribe. It's this business of how this affects education, and this is to our witnesses who talked about that. I don't understand something here. We had the appeal court of Ontario judgment on this issue on June 10, 2003. That was two years ago now. For two years, then, this is effectively—more than effectively, it's exactly—what has been going on in Ontario. In other words, the passage of this bill does not change anything in Ontario.

To what extent, then, has education changed in Ontario over the last two years? What are some incidents where it has, if what the witnesses have told us bears out? Could they give us examples of this?

Mr. Peter Lauwers: The system of education is a bit like a big boat. It takes a long time to turn it. The reforms this bill and the court cases have brought about have not yet been fully implemented in the system of education in any province. That is coming. All I was doing was laying out for the committee what that will inevitably involve.

Hon. Don Boudria: This being said, say we don't pass this bill. That does not change the fact that the appeal court of Ontario has judged. Say I accept your argument, which I'm not sure I do—it's obvious that I don't. Is it not true that for the seven jurisdictions—probably eight very soon because New Brunswick is going to be called upon to judge and all the courts have ruled the same way so far—what you're describing is not changed by virtue of this bill? That is, unless you live in Alberta or P.E.I.

Mr. Peter Lauwers: The change the courts brought about is in train, unquestionably. What this bill does is move it forward more quickly. You also have, as Parliament, an opportunity to change that direction if you so choose.

Hon. Don Boudria: That's only by use of the notwithstanding clause. Not passing this bill does not change any condition in Ontario, Quebec, and so on. Is that not correct?

Mr. Peter Lauwers: That is true, yes.

Hon. Don Boudria: So to reverse what you say is going to happen, we would have to legislate—not just not pass this bill but legislate—in the opposite direction of the bill.

Mr. Peter Lauwers: In a different direction. There are some options. Obviously, the total civil union option is one. The Conservatives have an option out there, and the third one would be a notwithstanding option. There are different things you can do, other than this bill, that would set a different trajectory on this issue.

Hon. Don Boudria: But not passing the bill on its own does not do at all.

Mr. Peter Lauwers: Passing the bill on its own, in my view, advances the agenda more quickly than any other thing that could be done.

Hon. Don Boudria: Everywhere or only in the provinces where it doesn't apply?

Mr. Peter Lauwers: I think everywhere. There's a highly symbolic aspect to an act passed by Parliament that goes beyond a court case, quite frankly.

Hon. Don Boudria: Thank you.

The Chair: We now move back to the Conservative Party.

Mr. Moore.

Mr. Rob Moore (Fundy Royal, CPC): Thank you, Mr. Chair.

Mr. Lauwers, over the last couple of days there's been a lot of speculation in the media about possible amendments to the bill. Of course, I don't expect you to give a legal opinion without the benefit of seeing them in detail, but just generally, I'd like your comment on some of the ideas I've seen come out.

One notion that was reported was that somehow we could strengthen the charter protection of religious freedom. I find it difficult to imagine how we could do that since the charter is our Constitution, but through our legislation we could strengthen that. I'd like your comment on that.

Two is that somehow, for facilities owned by religious organizations, refusal to provide those facilities for same-sex weddings would be somehow protected. To my knowledge, these cases, such as the one in B.C., have been proceeding by way of provincial human rights tribunals and not through any federal legislation. Unfortunately, the impact of this bill is that we're changing something in federal law when much of the fallout—you mentioned through education—is oftentimes in the provincial sphere and it's difficult to afford those protections.

Three is that religious schools that are teaching in the traditional sense would be protected.

Finally, there are the marriage commissioners. It's interesting. We had two of them here this week who have been impacted in their livelihood by the changing of the definition of marriage.

I'd like your comments on those four points.

My thoughts on the marriage commissioners is that in public life they're the ones who receive the sharp edge of the sword. They're the first casualties. They're the most obvious casualties of the change in the definition of marriage. Of course, people who as marriage commissioners cannot in good faith perform same-sex marriages are pushed to the margins of society.

You've mentioned teachers. Who else in public life do you think could be casualties in the next couple of years because of their faith and could be pushed perhaps to the margins of society or perhaps told they're not fit to participate in Canadian public life because of their views?

● (1715)

Mr. Peter Lauwers: I have four issues. Can the bill strengthen charter protection? The short answer is no. The areas where the rubber meets the road in terms of charter issues are all provincial. In the area of solemnization and the use of property, this bill can do nothing on that issue. All this bill can do is define marriage as the Parliament of Canada's jurisdiction.

Second, is there anything the bill can do to deal with facilities that are owned by religious organizations to ensure that they are not used in ways that are inconsistent with the teachings of the owners themselves? The answer, in a nutshell, is no. That would have to be done through provincial legislation. The Supreme Court of Canada made comment on this in the same-sex marriage reference, largely based on the argument I made to them that the question was too narrowly defined and it needed to be more broadly answered on how far the protection went. The court signalled its expectation to provincial governments that protection should be extended under human rights codes to property, and it has happened in Ontario. In Ontario protection has gone both to clergy and to property as well. That was an appropriate response by the Ontario government.

The third question you asked was, what about religious schools? The question of curriculum is the issue that arises in this situation, and that is whether you can teach what your church teaches, which, in this instance, is that homosexual conduct is immoral. Can you teach that? The answer, in a nutshell, is yes, that would fall within the kernel of religious freedom. We haven't seen that case yet. When we see that case we'll see where it goes, because equality is a very strong value and, by and large, until now it has trumped almost everything else.

In the Trinity Western case, the Supreme Court of Canada allowed Trinity Western to adopt its own mores within its own community, and that was as far as it went. It is a reasonable precedent to say that freedom of religion in the future will allow schools to take that into account.

Marriage commissioners present a problem of a different sort. Most human rights codes across this country require employers to accommodate the religious beliefs of their employees, so, for example, people who have Sabbath days that are on Saturday don't have to work on that day, and that sort of thing. I don't know why this concept hasn't been applied properly to marriage commissioners, but it should be.

The notion of accommodation is accommodation to the point of undue hardship, so the employer has the right to ensure that the service is available. In other words, if there have to be people who are able to do same-sex marriages, not everybody can opt out. That's a problem, but people who feel conscientiously that they can't do this as marriage commissioners should be accommodated under provincial human rights codes.

On the last one, who are the other potential victims in the future, I'm sorry, I'm drawing a blank on that one right now. I'll have to think about it a bit more.

Mr. Rob Moore: Do I have any more time, Mr. Chair?

The Chair: Absolutely not.

We'll move back to the Liberals.

Mr. Macklin, go ahead, please.

Hon. Paul Harold Macklin (Northumberland—Quinte West, Lib.): Thank you very much, Chair, and thank you, witnesses, for being with us.

Let me go first to Mr. Côté because I want to follow up on a few comments some of you have made this afternoon.

Mr. Côté, I believe when we were talking about the issue of both the court decisions and the ultimate passage of this bill, you indicated that this is the first step in equality. Where do you see equality going beyond this? Did I mishear what you stated?

• (1720)

Mr. Claude Côté: What I was saying is that, of course, this is the last step for us for legal equality. I was talking about social equalities, and that is something completely different, and the Parliament of Canada does not have a say in the matter. Only individual members have a say on how they deal with gay and lesbian people.

It will help us once the state recognizes us legally. The courts already have, but Parliament hasn't yet. It will be easier for gays and lesbians and for children of gays and lesbians to live in a society where we will not be ostracized or discriminated against and we will be living normal lives and be contributing to society like any normal human being.

Hon. Paul Harold Macklin: Thank you very much, because that clarifies for me exactly what your thinking was. I know some people are suggesting there is a broad agenda that's going to be pursued. I just wanted to capture your thoughts on that issue.

Mr. Lauwers, I'd just like to come back to the comments you made about who should be involved in the marriage business. I believe you're suggesting that religious institutions should be involved in the marriage business. Yet, first of all, constitutionally, we are bound by that document to define "marriage". We have control over that definition.

Secondly, I wonder if I heard you correctly that churches would be looking after marriage and that you would see civil union as the broad-ranging answer that is provincial in nature. How do you see marriage being recognized in the international sense if in fact there isn't a national standard for marriage?

Mr. Peter Lauwers: In my view, I think the question of civil union was not properly examined in the case before the Supreme Court of Canada. It was not a question the Government of Canada chose to put to the court. There was one party that talked about it briefly in court, and the court's reasons were short and dismissive on the subject because it wasn't properly argued.

I believe there is a reasonable argument that the Government of Canada has authority over marriage but also over something like civil union, on a national basis, as a way of utilizing its power over marriage.

The Parliament of Canada had power over divorce for a long time, and yet it didn't legislate until relatively recently in terms of the history of the country. You don't have to occupy the entire legislative jurisdiction, if you like, in order to do valid legislation.

So my point would be that we haven't fully examined this question of civil union as to whether it would be an adequate use of the Parliament of Canada's jurisdiction over marriage. I would expect that this would be sufficient for international purposes in terms of what marriage would be as well. It would answer both questions.

Hon. Paul Harold Macklin: If I told you, to my belief, the courts in Quebec have agreed that in fact civil marriage or civil union is within the scope of the provinces—and clearly that—then where would we go? I believe that to be accurate in its reflection. Where would we go without therefore having a nationally defined system of marriage?

Mr. Peter Lauwers: I believe it is open to the Parliament of Canada to create a national system of civil unions to replace the current marriage scheme and that it is constitutional, whatever the position is of a province on that issue.

Hon. Paul Harold Macklin: Obviously you and the court have a tendency to disagree on that point, I believe, at this point.

Mr. Peter Lauwers: It won't be the first time. The Supreme Court of Canada hasn't ruled on it.

Hon. Paul Harold Macklin: Do I have any time left?

Hon. Paul Harold Macklin: Okay. Thank you.

The Chair: No.

[Translation]

The Chair: We go back to the Bloc Québécois now.

Mr. Marceau.

Mr. Richard Marceau: Thank you, Mr. Chairman.

To begin with, I want to make one comment to Mr. Lauwers. I rarely agree with the Liberals, but I must say I support Mr. Macklin's position. The courts have made their position quite clear on this: because family law is an area of provincial jurisdiction, any kind of union the federal Parliament might try to legislate, with the exception of marriage and divorce, would by that very fact be unconstitutional.

I smiled as I listen to Mr. Boudria recounting his story about the reading at church. It was quite amusing. It reminded me of something I would like Mr. Côté or Ms. Caldwell to comment on.

Although they are acting in good faith, opponents of same-sex marriage often present a fairly static image of the institution of marriage. You often have the feeling that the traditional definition of marriage implies that the institution itself has not changed for hundreds or even thousands of years.

And yet we know that for a long time, polygamy was allowed and still is in certain societies. If I'm not mistaken, until approximately the year 1000, it was even still allowed in the Jewish faith. In fact, I believe that even now, some married persons from North Africa living in Israel, including Sephardic Jews, are polygamous.

You are from Quebec and as you may know, it was only 50 years ago that women stopped losing their status as an adult person when they married. At the time they were considered to be the responsibility of their husband. That probably flowed from Saint Paul's interpretation of male-female relations.

In your opinion, is giving the same-sex couple the right to marry tantamount to fundamentally changing the institution of marriage, or it is simply a sign of change, that some see as surprising or negative, within an institution that has had no choice but to keep pace with an evolving world?

• (1725)

Ms. Évangéline Caldwell: I want to make two points. First of all, Mr. Marceau, the word I would choose to describe what is happening is “evolutionary”, as opposed to “radical”, or “a break with the past” because in this particular case, the marriage contract between two people and the state is essentially the same. What has changed are the two people getting married. But the fact is that the contract between these spouses and the state, what is called civil marriage, will not change.

In my opinion, the process is an evolutionary one because it reflects the fundamental values laid out in the Canadian Charter of Rights and Freedoms, which in this case are inclusion and equality. We hear a lot about moral values, and that's a good thing, but we should also be talking about social values and other values that are also entrenched in our Charter.

For those two reasons, I would say that we are really working on the basis of continued progress in this area.

Mr. Richard Marceau: Mr. Côté.

Mr. Claude Côté: I just want to add that marriage as we know it now goes back to the Council of Trent in about 1545, if memory serves me. Even at the time, the concept of a couple, gender equality or even filial love did not exist. People did not marry for love. So, it is clear that the institution has changed considerably over the centuries.

The love between two people of the same sex is absolutely identical to what persons of the opposite sex feel for each other. As a result, they can carry on a conjugal relationship which is exactly the same. That is what we are trying to have recognized through our action.

Mr. Richard Marceau: Some people have claimed that allowing same-sex couples to marry would mean the end of civilization by destroying the institution of marriage or completely removing its value.

Because you're from Quebec, I want to ask you whether you have heard of even one case of heterosexual couples deciding to divorce because same-sex couples now have access to the institution of marriage. Has the fact that same-sex couples now have the right to marry prompted heterosexuals to reject this institution?

• (1730)

Ms. Évangéline Caldwell: Having checked with the Institut de la statistique du Québec last week, in anticipation of my appearance before the Committee, I can tell you that no heterosexual couple has decided not to marry because gays and lesbians now have a right to do so. There were just as many heterosexual marriages as in past years. In statistical terms, there is no difference. I don't think I'm telling you anything you don't already know. If a heterosexual couple had come forward to say that they did not want to marry because gay couples can now marry, it would have been in the headlines. We would have heard about it.

This is a success. We have succeeded in doing something quite wonderful and I think we should all be proud. [English]

Mr. Richard Marceau: Thank you very much.

The Chair: Thank you, Mr. Marceau.

It is now 5:30 p.m.

I want to express my sincere thanks to our witnesses for coming to Ottawa to be with us today.

Thank you ever so much to the witnesses for coming here today. We apologize for the warm room, but the atmosphere was very nice.

To members of the committee, we now have votes. Our next meeting will be 30 minutes following the last vote. Thank you.

This committee is adjourned.

● (1735)

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