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(HANSARD)

Monday, September 15, 2003

Speaker: The Honourable Peter Milliken

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HOUSE OF COMMONS

Monday, September 15, 2003

The House met at 11 a.m.

Prayers

● (1105)

[*English*]

VACANCY

OTTAWA CENTRE

The Speaker: It is my duty to inform the House that a vacancy has occurred in the representation: Mr. Mac Harb, member for the electoral district of Ottawa Centre, by resignation effective September 8, 2003.

[*Translation*]

Pursuant to subsection 25(1)(*b*) of the Parliament of Canada Act, I have addressed my warrant to the Chief Electoral Officer for the issue of a writ for the election of a member to fill this vacancy.

* * *

[*English*]

BUSINESS OF THE HOUSE

The Speaker: It is my duty pursuant to Standing Order 81(14) to inform the House that the motion to be considered tomorrow during the consideration of the business of supply is as follows:

> That, in the opinion of this House, it is necessary in light of public debate around recent court decisions to reaffirm that marriage is and should remain the union of one man and one woman to the exclusion of all others, and that Parliament take all necessary steps within the jurisdiction of the Parliament of Canada to preserve this definition of marriage in Canada.

[*Translation*]

This motion, standing in the name of the hon. member for Calgary Southwest, will be votable. Copies of the motion are available at the Table.

[*English*]

It being 11:08 a.m., the House will now proceed to the consideration of private members' business as listed on today's order paper.

PRIVATE MEMBERS' BUSINESS

[*Translation*]

COMMUNITY ACTIVITY SUPPORT FUND

The House resumed from April 10 consideration of the motion.

Ms. Jocelyne Girard-Bujold (Jonquière, BQ): Mr. Speaker, I am pleased to have this opportunity to speak today, as Parliament resumes, in support of the motion of my colleague, the hon. member for Saint-Jean, which reads as follows:

> That, in the opinion of this Hous, ethe government should make available to Members a support fund for community activities in each of their ridings.

It is an extraordinary thing to see Liberal MPs at last supporting an initiative by a Bloc Quebecois member. It is my turn to applaud them.

This private member's business from my colleague, the hon. member for Saint-Jean, is of extreme importance for our communities.

This summer, I travelled all over my riding, and met with the MNA for Jonquière. as well as municipal and county councillors.

In Quebec, we have set up large-scale municipal structures, and the municipal councillors informed me that they had discretionary envelopes. Imagine, municipal councillors have these, while we federal Members of Parliament do not. With the stupendous budget surplus this government has amassed from the taxes of ordinary citizens, it is high time steps were taken to enable us, as representatives of our constituents and the ones closest to them, to help them out on an ad hoc basis.

I could name hundreds of associations in my riding from which we get letters daily saying “I would like to obtain funds from your discretionary fund, your discretionary envelope as an MP.”

When I inform them that I do not have such a thing, they cannot believe it. I was an assistant to a provincial member of parliament for ten years, and we had discretionary funds. The whole system worked very well. Last spring, certain Liberal MPs were saying “Oh but we do not know how that will be administered.”

The chief returning officer for Quebec has carried out a study that showed this was very well administered in Quebec. As far as I am concerned, having a discretionary envelope will make it possible for me to help people out, not give them presents, but give them help. They are not asking for a fortune. Sometimes they are asking for $100, $200 or $300 in order to be able to make it to the end of their fiscal year.

We all know what a hard time these community organizations have chasing up funds. They are constantly holding fundraising campaigns. No one can imagine how important it would be to them to be able to get help from the MP for their riding.

I congratulate my colleague from Saint-Jean for having dared to move his motion. After all the fine applause from the Liberal members, it is time for this government to take real action, so that every member of Parliament can benefit from a discretionary allowance in his or her riding.

These funds would not be used to do just anything. The money would be available to help the people and associations who need it. This is not to put on a big show, because we have had enough of the noise the Liberal Party makes whenever it gives the most paltry amount to people who organize activities.

I think it is a form of recognition. If we did not have such community organizations, how much would it cost society? Imagine the billions of dollars it would cost if we did not have these people who take care of the less fortunate, women, abused women, children, the poor, and so many others. There are also organizations representing seniors and defending their rights. We need these people.

We know how difficult it is to follow all of Parliament's legislative activities. We cannot plead ignorance, but not all legislation can be followed. Even ourselves, as members of Parliament, sometimes have trouble following all the legislation.

● (1110)

These people provide help and can point to what they are doing for their clients.

Once again, I think it is time to act. We are going to stop putting off until tomorrow the things that can be done today. The federal government has enough money to do this.

By the way, as we resume sitting here in the House, I want to welcome all those who are listening and all the members in this House. I want to wish them an excellent session. It will be a very important session. We will be talking about subjects that will affect the people who are asking for our help, in order to give them the means to help the most needy.

When I was working at the provincial level, I never gave assistance to those who did not need it. Sometimes an amount like $100 or $200 is received as if it were $100,000, because they truly need such sums of money if they are going to be able to continue their excellent work.

In my opinion, if the members of this House do not support my colleague's motion, then they are out of touch with their constituents. They are burying their heads in the sand. They are telling their constituents, “Vote for me but, once elected, your concerns will no longer be mine.” It is too bad. I do not know if the other members feel as responsible for their constituents as I do, but I get two, three or four letters every day from such associations asking me for this money.

It is fine to say that it has to come out of my salary. That is normal, and I do so frequently. It is fine to say that we are going to help promote them by giving them $100. They do not even have the means to promote themselves. They spend all their energy seeking both provincial and federal funding just to survive. Furthermore, they must constantly hold fundraisers.

It is time to admit they are right and to recognize them for what they are by giving them a small sum. Even $100 will grow as if they had received $5,000. It is not much, but we are talking about an organization's survival.

I congratulate my hon. colleague from Saint-Jean for moving this motion. Not all the members in this House would have had the courage to do so. Since I become a member six years ago, this issue has been discussed informally. Some members do not know anything about it because they do not want to know anything. However, this goes on at the provincial and municipal levels.

People say that the federal government should provide the support, and this means that it must consider the real needs of individuals and do whatever is necessary to help them. These people are not asking for a free ride. With all the money being stockpiled here, this is their right.

● (1115)

Mr. Geoff Regan (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, it is an honour to speak to the debate on Motion No. 393 introduced by the hon. member for Saint-Jean.

The subject of the motion is as follows:

> That, in the opinion of this House, the government should make available to Members a support fund for community activities in each of their ridings.

This debate centres on how we, as members, can meet the needs of our constituents. The government feels that members should play an active role and support the initiatives taken in their ridings.

That is why the government is ensuring that members actively participate in approving programs in their ridings—programs such as Summer Career Placements and Job Creation Partnerships.

[*English*]

A wide range of views were expressed during the first hour of debate on this motion. Some MPs noted that the proposal would allow MPs to play a positive role in supporting the voluntary sector in their communities. Others expressed concerns that MPs would be put in a difficult position having to choose to support certain activities over other worthy initiatives. Concerns were raised about how this program would be administered.

In this respect, I note that the motion raises a number of questions. For what purpose and under what circumstances is the fund to be used? How much money should be provided to each MP? What would be the total cost of the program? Who would administer the fund? Who would be accountable for management of the fund? Would this duplicate other federal, provincial and municipal initiatives?

That said, this is an important issue and I understand that there have been some discussions among the parties about the idea of referring the subject matter of the motion to committee for further review, with a view to having detailed recommendations put to the House. I gather there has not been agreement to do that but it is worthy of consideration nevertheless.

One issue a committee could consider is how a fund such as this could be administered. Quebec's National Assembly is one of the few legislatures in Canada that has a program similar to what is proposed in today's motion. The Quebec program is called Programme de soutien à l'action bénévole, meaning a support program or a program of support for voluntary works.

In Quebec, members are responsible for administering the funds. The provincial government plays an oversight role in members' activities. Members are subject to random checks by the government.

If a committee were to examine this issue it could determine whether MPs in the House would support the government overseeing their activities or conducting random checks of their constituency work. Alternatively, the committee could consider what other administrative mechanisms, such as having the program administered entirely by the federal government or have the Board of Internal Economy oversee the management of the fund by MPs.

I support the idea of amending the motion, so that the important subject matter could be referred to a committee for study.

Mr. Monte Solberg (Medicine Hat, Canadian Alliance): Mr. Speaker, it is a pleasure to rise in the House and be back again after a summer break. I want to welcome the new pages to the House while I have the chance and also to say hello and best wishes to my colleagues all around the House.

In particular, of course, I want to address Motion No. 393 and I must say that, in general, my colleagues and I are overwhelmingly opposed to the motion. There are any number of reasons why we are opposed to it.

Just to remind people who are in the House and who are watching this, effectively the motion would give members of Parliament a fund that they could use at their discretion to hand out to various community organizations. The reason why we are concerned about that should be pretty obvious.

We are concerned that the money will be used for all kinds of reasons that have nothing to do with the public good. If there is any question as to whether or not that can happen, I invite members to take a look at the record of the government when it comes to how it has used funds through Human Resources Development, Industry Canada, and through other grants and contribution granting agencies and departments. It has blatantly broken the rules in many cases and used the money to end up benefiting it politically.

There have even been cases where charges were laid and actual convictions against members of the Liberal Party when it came down to using government funds that ended up coming back to the Liberal Party. Pierre Corbeil is the name that people may remember who had a sordid history and actually ended up being convicted because of his involvement in those types of shenanigans. The Canadian Alliance is vehemently opposed to this idea.

I want to lay out some scenarios to show why we are opposed to this motion. As a general principle the government hands out grants and contributions. Members should recall that the federal government in Canada today has about $18 billion that it hands out in grants and contributions every year to various groups and to different bodies of all kinds, and a lot of that money, to be fair, is pretty tightly controlled. But with a lot of that money there is tremendous discretion at the ministerial level. There are some rules in place, absolutely, but sometimes I would argue that those rules are broken. We do not want to encourage that by opening up the discretion even more by giving a slush fund to members of Parliament. Let me give some examples of how those rules are broken.

We know for instance that right now the RCMP is investigating Human Resources Development Canada and that at least six people have been fired, maybe more. I wish to point out that it was not human resources personnel that found these problems in their department where money went missing. It was the RCMP who brought this to their attention.

The last thing we want to do is to take what has occurred in Human Resources Development Canada, and which everyone agrees is a bad thing, and now make it the official policy of the government to extend those same sorts of privileges to members of Parliament. It is ridiculous to do that where people would start using taxpayers' money for their own ends.

Members of the Bloc can understand where the potential lies to use that money to benefit them politically and there are many ways in which that could happen. For example, we could be facing some kind of political challenge from a certain group in a riding and all of a sudden we could see how it would be very tempting for a member of Parliament to ensure that money from his or her slush fund went toward a particular group to get it off their tail. We could see how that could happen or contrarily a member of Parliament could use money to go toward a particular group. That particular group could then kick back the money to that member of Parliament's election fund. That could happen very easily.

An hon. member: Or to a golf course.

Mr. Monte Solberg: Or to a golf course, as my friend said. Money could go from a member of Parliament to a group that has a family member on it and benefit a family member or a friend.

We do not want to encourage that. Let us not use scarce economic resources for things that could be blatantly political or personally benefit members of Parliament. We do not want to see that happen.

● (1120)

Every day in question period we get up and ask questions about instances where money may have gone in some cases to benefit government members, either politically or in some cases I am afraid to say directly. We are concerned about that and we do not want to create more opportunities for that to happen.

In the last budget we saw spending go through the roof. We saw all kinds of new spending initiatives and things that were questionable. We know there are many areas of government where there is inadequate spending. I think of the Canadian military as an example. A lot of people would argue that we have not kept pace with the demand for spending when it comes to things like pursuing criminals.

Therefore, if we are going to talk about spending extra money why do we not talk about reallocating money in some cases and not pursuing crazy ideas like this one in this case.

Politics is always about a choice. What we would effectively be doing is making a decision not to spend this money on issues such as health care, criminal justice, increasing support for the Canadian military, or a hundred other things that are important to Canadians. Instead, we would be making a decision to spend it in a way that would give political incumbents an opportunity to ensure that they stay where they are as incumbents, by taking this money and spreading it around potentially for political ends. We do not want to encourage that.

We already saw that in the new changes to the Canada Elections Act and what the government was proposing with respect to campaign financing. We do not want to see more protections for incumbency. In fact, what we want is different ways to encourage people around the country to run against incumbents to ensure that we have lots of competition and new ideas coming forward. It seems to me that this is another way of guaranteeing incumbency and we do not want to encourage that.

In summary, there are a whack of reasons why we oppose this. They include potentially using this money to benefit sitting members of Parliament politically, using it to benefit them personally, and using it to benefit their family members and friends personally. It would give the appearance to the public that this might happen, that there is a greater concern for giving members of Parliament some fund money than there is to ensuring that we actually have enough money to fund those things that are very important to Canadians that show up in the polls week after week.

For those reasons I will recommend to my colleagues that we oppose Motion No. 393.

● (1125)

Mr. Norman Doyle (St. John's East, PC): Mr. Speaker, I am pleased to say a few words on Motion No. 393:

> That, in the opinion of this House, the government should make available to Members a support fund for community activities in each of their ridings.

I feel this matter probably deserves a bit of serious consideration, and of course I would be pleased if this issue could be sent to an appropriate parliamentary committee maybe to work out the snags and flaws that could be inherent in the motion itself.

In the meantime, I want to make a few observations. We have 301 members in the House of Commons and decision making powers and authority currently rests with the Prime Minister and the cabinet of the country. Money is spent in the ministry through departmental programs which are generally operated by bureaucrats according to a fixed formula and fixed spending criteria. That is the way it should be done and that is the way it is done in every province in Canada and here at the federal level as well.

However, we have to recognize that in that process not everyone is well served. Many community organizations from around the provinces and the country often do not meet program criteria. As a result of that, they very often cannot access public funds. Given the billions of dollars spent on an annual basis by the federal government, such criteria and procedures are of course necessary for the protection of the public purse.

We have seen in the House of Commons, over the last couple of years in particular, how HRDC funding has been allocated. We have seen a number of scandals in the Department of Human Resources Development and what happens when politicians meddle in the provision of regular government spending and funding. Bureaucratic procedures are very often short-circuited and program criteria, as in the case of HRDC, are often ignored and were ignored. This was brought to the floor of the House of Commons, and we are all very much aware of it. Direct involvement by politicians in current funding programs has led to scandalous behaviour and many heated exchanges in the House of Commons. Last year was a typical example where the Prime Minister himself got involved in calling certain government officials to have funding approved for his own riding.

Obviously we cannot have bureaucrats or politicians passing out grants willy-nilly. On the other hand, we have to ask ourselves as well if worthy causes and community organizations should be shut out completely, as they very often are. Maybe this motion points to a way in which we could have the best of both worlds.

To cite an example of where this way of funding certain community organizations has worked, I can point to my home province of Newfoundland and Labrador where it had a system in the house of assembly that allowed MHAs, known as MLAs here, to use public funds to support community organizations and activities. Each MHA was allocated about $10,000 annually. Standard application forms were developed which applicants could submit to their MHA. The actual payment of the grant was done by a department designated by cabinet to be a line department for these applications. I believe the system was in effect up until a couple of years ago. I gather it is no longer in use although my colleague from St. John's West tells me it is.

● (1130)

In any event, I am not aware of any major outcry or major scandal arising from that program. As far as I know, it worked very well, and probably is working very well if it is still in effect.

Another factor would be the cost of that program. The Alliance members have some very legitimate concerns with the cost of the program. As I said earlier, each MHA in my province was given approximately $10,000 for distribution. In the 48 seat house of assembly that would come to about $480,000 annually. A $10,000 allocation to each of the 301 MPs would come to approximately $3 million. It is not an unreasonable sum but one would have to ask, in the federal riding, if that would be enough money. I think one would have to go a bit higher.

My current federal riding and most Newfoundland federal ridings, including I guess the member for Gander—Grand Falls, would have a riding that encompasses 10 or 11 provincial ridings. We have a much larger population to service, so a $10,000 allocation may be kind of low. Perhaps if the appropriate parliamentary committee had a chance to look at it and at some of the federal ridings across the country that could benefit from it, maybe we could have a $100,000 allocation that would go to each federal member.

We would have to know a little more about the motion itself. The motion seems to be a little vague in that community activities are not really defined in any particular way or what kind of organization might be able to avail of this kind of funding. As well, there might be a very real danger that a fund like this could be mismanaged, if MPs themselves exercised any authority on the allocation of funds. We know what happens when politicians get involved in the actual allocation of the funding. It has the potential to be abused and misused. Therefore there might be a real danger of mishandling the fund if politicians become involved in the allocation of the funds themselves.

Would there be, for instance, any partisan influence in the decisions? If there is to be no partisan influence, then the bureaucracy would have to be involved. Are we creating another program for the bureaucrats to administer? Many questions need to be answered before we get down to the business of approving this motion.

What guarantees would there be that MPs on the government side would not have any kind of special influence in the allocation of the funds and how could we ensure that all MPs, if they were to be involved, would have any kind of equal representation in the allocation of the funds?

I think it is fair to say that we could support the motion depending on what the finished product might be, depending on reasonable allocations being made to the fund, and not having it so low that the fund could be almost useless in itself, and depending as well that every MP would have equal influence in the allocation of the funds.

● (1135)

Maybe MPs should not have any influence in the allocation of funds because they do not do a very good job. Politicians generally do not do a very good job when they are able to influence the spending of government money. We should have very clear criteria established. To that end, I would support the motion going to a parliamentary committee to be fleshed to see what could be done to make it happen.

[*Translation*]

Mr. Yvon Godin (Acadie—Bathurst, NDP): Mr. Speaker, first I would like to thank the member for Saint-Jean for introducing Motion No. 393 in the House of Commons and the member for Jonquière for her speech this morning. She talked about the fund that has existed in Quebec for many years.

I would like to add that such a fund also exists in Manitoba and that it works very well. Members are able to distribute this fund to the people in their region.

The motion states:

That, in the opinion of this House, the government should make available to Members a support fund for community activities in each of their ridings.

The motion is clear. It refers to community activities and not partisanship. That is what this motion is all about. If some members rise in this House and say that members of Parliament cannot be trusted to administer such a program or money for community activities, I would suggest that they go back to their ridings, where they will be held accountable by their constituents and the people of their community. I think their stance would come under intense scrutiny. It would be seen as something particularly serious in the region.

If we look at the government's position, we can see that already, in previous speeches, reference was made to partisanship and accountability. The government member mentioned this. If this is grounds for rejecting the motion, I suggest we just look at federal programs to find partisanship. It has been going on for 100 years. It is said that there is always partisanship with political parties. Here, however, we are talking about a fund for individual members.

I can only think of the good that could be done with a fund allocated to members in their communities.

How will the fund be used? That is where rules must be established. First things first, let us start by accepting the motion. That will set the ball rolling. The hon. member for Saint-Jean is indicating that he is in agreement with me. He agrees with that the motion must be accepted. That will set the whole process in motion to move forward with this new fund.

People wonder what members would use this money for? I just want to say that, in my community for instance, I receive a fair number of phone calls from community services, people involved in adult literacy for example, who are not paid and who sometimes need money for publicity or something of the sort. They phone the office, but we cannot be of any help. There is no federal program under which we could help them out.

Earlier, with my hon. colleague, I indicated that that we can go a long way a little at a time. This means that sometimes even small amounts can really help a community organization do good things and be in a position to support its community.

In our community, there is a halfway house where battered women can go overnight following a family incident. How many times have these people phoned us, asking if funding was available to help them?

We are talking about community organizations, and not partisanship. We are not talking about an individual who will be voting for the hon. member for Acadie-Bathurst, for Saint-Jean, for Halifax or for Peace River in British Columbia. That is not the point. We are talking about money that could benefit a community.

When it comes to youth centres, for example, it saddens me to see how many young people are involved in criminal activities today because they did not get support earlier on. There are youth centres in my area. There is an area where the youth centre closed down and was looking for help. The government did not want to take any responsibility for helping the youth centre to reopen. We were told by the RCMP that, during the time the youth centre was closed, there was an 85% increase in the number of young people in trouble with the law.

● (1140)

Yet the government can find a lot of money to help them once they are behind bars. So what is needed is prevention. These community groups work hard and sometimes need a little boost, a little help that could go a long way. Help is what they need.

That is why I personally will be supporting the motion of the hon. member for Saint-Jean. A number of my NDP colleagues will be doing so as well. Yes, some have reservations, but not about the motion itself, actually. My colleagues say that the federal government ought to be responsible for the communities. It ought to be responsible as well for getting transfer payments to the provinces in order to enable them to help their communities. These are things that we ought to be able to expect, but they are not.

So, that is why it is important to see what has happened in Quebec, where there is a fund available to members of the legislature. We have never heard of any scandals like those the federal Liberals have been involved in, where the federal Liberal government paid $1.5 million twice for the same report from Groupaction. It was screened by the government. There has never been a scandal like that in Quebec, among the members of Quebec's legislature, with respect to a fund to help people in their communities.

I would suggest to the committee that will study this issue—if the motion is passed—that it ensure that there is a local association or organization that can help the member identify the community groups in need. There are many ways to protect the fund to ensure that it is properly distributed.

As I said, I hope that the motion will be passed and that the members of this House will feel responsible. They must not be afraid that they are unable to manage this fund. I say that if a member is afraid to manage a fund himself, he really has a problem. We should have confidence in ourselves regarding this fund, since it works well in Manitoba and Quebec. Moreover, it will help groups in our communities, groups that are in real need.

Giving a small amount such as $500 to such organizations can take them a long way, for instance, to advertising a fundraising campaign for their own organization or for young people. I recall a community group that wanted to have an outdoor skating rink in order to organize winter activities for young people. There was no way to obtain money from anyone. But a small sum of money would have helped them. Federal members of Parliament receive this kind of request in their offices. It would be a way to help small, community-based organizations.

● (1145)

Mr. Guy St-Julien (Abitibi—Baie-James—Nunavik, Lib.): Mr. Speaker, it is an honour for me to support this excellent motion moved by the hon. member for Saint-Jean.

I listened carefully to today's speeches, particularly the one given by the hon. member for Acadie—Bathurst, who was very eloquent, as well as the one by the hon. member of the Progressive Conservative Party.

This motion concerns the creation of a support fund for community activities. Quebec currently has one. This is about support for isolated or northern communities and urban centres.

It is obvious today that the Canadian Alliance still does not understand. It thinks that this motion is about creating a support fund for election periods. That is false. This support program would be available during a member's mandate to assist federally or provincially regulated non-profit organizations. This is key.

These days, there are youth or seniors groups that work very hard, and social clubs like Kiwanis, Lions or Kinsmen clubs, which hold fundraisers. It is not easy. This excellent motion from the hon. Bloc Quebecois member must be addressed. But the Canadian Alliance must carefully consider what is happening in Manitoba and Quebec. The example of the Quebec government's program, which is very successful, is often cited. It is not about election periods, it is a fund that needs to be established.

All that need be done is abolish the government's current $40 million sponsorship fund and give that money to the 301 members, whatever their political affiliation. This is not a partisan issue; it is about helping community groups and supporting voluntarism.

They are having a hard time in the regions. Scouts, children, schools all work very hard raising funds by selling chocolate bars. It is about time that tax money went back into the regions, instead of always going to foreign countries or to big companies.

This is important, as we know and as we can see in the province of Quebec right now. The volunteer action support program, at the local level, provides financial assistance to municipalities and non-profit corporations in their efforts to respond to needs in community, recreation, sports and community support activities.

It is important to win this vote today so that the motion can be examined by a standing committee. Solutions need to be found for seniors and many others. We know this covers sports and recreation activities and related management activities.

It is also important that the amounts involved be divided geographically and on a per capita basis, because there are members whose ridings cover ten square kilometres, while there are others whose ridings cover 200,000 or 300,000 square kilometres.

Today, the hon. member followed in the footsteps of the hon. member for Beauce, a Liberal, who tried to put that idea forward. But if today the Liberal members in this House, members of other political parties and even members of the Canadian Alliance really looked at what is going on in their communities, they would be in favour of a volunteer action support program.

The idea is always to find solutions. If members have access to a fund, we know this fund will not benefit them. At present, the recently elected MNA for Abitibi-Est, Pierre Corbeil, has a $60,000 or $62,000 fund. He uses it to give $500 to a group, to seniors or to children in a school.

What matters is that decisions be made very wisely. This is a program that should be made available to individual members in their riding offices, because if we wait for a decision to be made by public servants in Ottawa, it will take three months. Out of a $25 million fund, $15 million will go to public servants and there will only be $10 million left for support programs in remote areas and urban centres.

It is important that we support this motion, because its purpose is to help people, and young people.

● (1150)

Mr. Claude Bachand (Saint-Jean, BQ): Mr. Speaker, allow me to thank my colleagues for their contribution to this debate. Their speeches were very interesting. It should be noted that this is the second hour of this debate, which began in May.

I found that generally the speeches were relevant. However, there are a few things I would like to clarify. As mover of the motion I feel it is important, in matters of procedure, that I be given the last five minutes.

I moved this motion to recognize the work done by community groups. I have often said in speeches, and when I meet the people concerned, that society would not be able to function without these groups.

I am talking about literacy, youth centres, the Society of Saint Vincent de Paul. Under its present structures, the Society is unable to fully sustain all these activities. If no one provided literacy programs any more, would we come up with the large sums needed to have the Society and bureaucrats provide them? I do not think we are able to do that.

The same is true of youth centres. If we did not have youth centres, would society be prepared to pay the cost of such services? I think it would be impossible to do so. Thus, these responsibilities are given to community groups, who are of great value to our society.

What do these community groups do? They spend 50% of their time looking for funding for the coming year. There is a problem and I think it is time to recognize the work of these groups and to do something so that we can help them provide real support for public services.

I have heard some arguments I found less appealing. I have heard members say, “You know, if we entrust these funds to politicians, things are bound to go awry.” One has to have very little confidence in one's talents as a member of Parliament to say things like that. Personally, I have confidence in my colleagues. I even think that they are in the best position to determine who will receive funding.

Now, for the mechanics of it. I have heard arguments that the motion is vague. On October 25, it will be 10 years since I entered this House, and I am starting to understand how things work. When someone proposes a specific procedure and an amount of money, that amount will be found to be too high or too low or else the motion will be found unacceptable. When someone proposes ways in which funding could be distributed, people decide that it is not a good idea to distribute the funding. That is why the motion is worded as it is.

In fact, the Standing Committee on Procedure and House Affairs will probably have a role to play in implementing the motion, setting up a framework, defining the methods and criteria. It will be done. Of course, we are not asking for unlimited funding. First, the House must have a democratic debate. That is the issue today.

Everyone always says that the members do not have enough powers. We want to give them some by allowing them to allocate funds to specific groups. I trust the members to make this determination. Now, we will see which committee of the House will address this. But when that committee does so, it will have a democratic mandate from the 301 members of this House. This is key.

So, the time has come for members in favour of some decentralization or who believe that the machinery of government is too unwieldy to put their trust in each other as members and colleagues. The fund should simply be approved once the terms have been set by the Standing Committee on Procedure and House Affairs.

I would not send this fund straight to the committee so that, in short order, it can tell me that it considered the matter, declared it unfeasible and said the committee could do nothing. The committee's hands would be tied by the 301 members who will vote on this motion.

In closing, I want to say that, in some societies, some governments impose various taxes. When there are budgetary surpluses such as the present $13 billion surplus, the government has all the latitude it needs to provide better services to the public. That is the purpose of today's motion. That is what this motion is recommending.

I ask my hon. colleagues to put their faith in each other, to support this fund and to let the Standing Committee on Procedure and House Affairs address this issue once it has received a democratic mandate from the 301 members of this House.

● (1155)

The Acting Speaker (Mr. Bélair): It being 11:57 p.m., the time provided for the debate has expired. The question is on the motion. Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

Some hon. members: No.

The Acting Speaker (Mr. Bélair): All those in favour of the motion will please say yea.

Some hon. members: Yea.

The Acting Speaker (Mr. Bélair): All those opposed will please say nay.

Some hon. members: Nay.

The Acting Speaker (Mr. Bélair): In my opinion the nays have it.

And more than five members having risen:

The Acting Speaker (Mr. Bélair): Pursuant to Standing Order 93, the recorded division stands deferred until Wednesday, September 17, at the end of government orders.

GOVERNMENT ORDERS

PARLIAMENT OF CANADA ACT

The House proceeded to the consideration of Bill C-34, an act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other acts in consequence, as reported (with amendment) from the committee.

[*English*]

SPEAKER'S RULING

The Acting Speaker (Mr. Bélair): There is one motion in amendment standing on the Notice Paper for the report stage of Bill C-34.

Motion No. 1 will be debated and voted upon.

MOTIONS IN AMENDMENT

Mr. Joe Comartin (Windsor—St. Clair, NDP) moved:

That Bill C-34 be amended by deleting Clause 38.Debate arose on the motion in Group No. 1.

He said: Mr. Speaker, I am pleased to rise today to speak to this particular amendment to Bill C-34. In its simplest form, the amendment would withdraw clause 38 from the bill.

While I suppose one could argue that clause 38 is fairly technical, its ramifications are really quite serious. In its simplest form, by withdrawing that clause we would open up the ability of both individuals and members of Parliament to challenge the ethics commissioner in court.

The effect of clause 38 as printed and now before the House is to include the ethics commissioner in the provisions of Bill C-34 that in effect precludes the commissioner at any time from being challenged in the Federal Court of Canada.

We know from the provisions in the rest of the bill that the federal ethics commissioner, if the bill is passed and becomes law, will, for all intents and purposes, be chosen and appointed by the government.

In spite of our attempts at the committee to have the appointment approved by a vote of two-thirds of the House, that was rejected by the government. Therefore, for all intents and purposes, as long as we have a majority government it will be appointing the ethics commissioner.

I will not spend a lot of time in terms of the concerns that have been expressed over the role the commissioner has played up to this point but it certainly has not been a satisfactory role.

The role played by the ethics commissioner, who would be appointed by a majority of the House of Commons, which is the government, would simply not be enough. The role would not be satisfactorily performed. The independence that is required from that person playing the role would certainly not be guaranteed at all unless we had that two-thirds vote.

If we were to take out clause 38 it would give both individuals and members of Parliament the ability to bring the ethics commissioner to account. To a great extent that is what the amendment is about. The amendment is about the accountability of this person.

The effect of the amendment, if clause 38 is not amended, will be to equate to a great degree the ethics commissioner to the role and privileges that we have as members of Parliament. The House has been critical, even to the degree that the government has attempted to push that role, that privilege.

We currently have outstanding litigation that will in effect say that the privilege extends to human rights and that the privilege of the member even overrides human rights in the country. That is a position that we have been opposed to but it is one that the government is pushing at this point.

Also, if clause 38 is not repealed, that role, authority or privilege, as wide as it is and as historically based as it is, would extend to the ethics commissioner.

I and my party believe that clause 38 does not have a role to play in the role that the ethics commissioner should be playing in this country. We should be saying to the ethics commissioner that we expect him or her to be responsible to the House and to the Canadian people but unless clause 38 is removed the Canadian people will have absolutely no role to play.

If there is concern on the rulings of the ethics commissioner in the future, if he or she take positions to the House that are not satisfactory to individuals, groups of individuals or communities within the country, they will not be able to do anything about that unless clause 38 is removed.

● (1200)

The history of the use of judicial review, because that is the process that would be allowed if section 38 were repealed or removed, has been one of checks and balances. We have a government system that generally sees Parliament as being supreme but it is not in all cases.

It was quite clear in 1982, when the Constitution was repatriated and the Charter of Rights and Freedoms was introduced, that we were putting limitations on the role of Parliament. If it were appropriate to use judicial review at that time vis-à-vis the ethics commissioner then it is appropriate at this time.

Section 38 is in effect a throwback. It states that the ethics commissioner would, in many respects, be above the law. Yes, I recognize that person would ultimately still have to report to the House but that individual would be above the law with regard to anybody else. It is not an acceptable position in this day and age.

As elected officials we call upon our constituents to be more involved. We are concerned about the lack of participation at election time. We are also concerned about the lack of participation in the democratic process on a number of other occasions. I suggest this would be one of them. If we pass section 38 unamended we will be precluding that participation from the public.

It is also worth noting, and almost as a warning to other members of the House, what would happen if we had an ethics commissioner. I am not going to suggest for a moment that the government or any other would appoint a commissioner who was not expected to do a good job. However I would point out that whoever that person is he or she will be human and will have eccentric behaviour and personality clashes from time to time. That individual will also make mistakes from time to time. Rulings from the ethics commissioner could have a very detrimental effect on individual members of Parliament. I would suggest that members of Parliament having the ability to resort to an independent tribunal in the form of the federal court would be an appropriate thing to have built into the legislation.

It is not only individuals or groups who would like to make the commissioner more accountable. By removing section 38 we would also be permitting individual members of Parliament to press the commissioner if they were not treated fairly or the commissioner makes a mistake.

In spite of some of the paranoia that we have heard from the Leader of the Official Opposition in the last couple of weeks about our judiciary, the reality is that Canada has a very proud tradition in terms of its independence and the quality of our judiciary. By removing section 38 and relying on our judiciary to be the final arbitrator or final decision maker if the ethics commissioner does not perform his or her job appropriately is something of benefit to individual members of Parliament but, more important, it would give average Canadian citizens the ability to make the commissioner accountable.

● (1205)

[*Translation*]

Mr. Geoff Regan (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, it is my pleasure to talk about the work done by the Standing Committee on Procedure and House Affairs on Bill C-34, which provides for an independent ethics commissioner who is to report to Parliament.

I would like to thank the members of the committee for the zeal with which they tackled Bill C-34, which they began studying as draft legislation last year.

Bill C-34 was sent back to the Standing Committee on Procedure and House Affairs before second reading. The Standing Committee reported back to the House of Commons with an amendment.

This amendment would add a provision requiring the Prime Minister to establish ethics principles, rules and obligations for public office holders and to table them in each House of Parliament within 30 sitting days after coming into power.

Any subsequent change to these ethics rules would have to be tabled in Parliament within fifteen sitting days of being made by the Prime Minister.

● (1210)

[*English*]

The government in 1994 established and made public a conflict of interest code for public office holders shortly after entering office, so this is a practice that predates the current bill. Nevertheless, the amendment makes it clear that future prime ministers will have this obligation within a specific timeframe.

I want to turn now to the report stage motion tabled by the member for Windsor—St. Clair, which proposes the deletion of clause 38 of the bill. Clause 38 is a coordinating amendment of the definitions found in the Federal Courts Act, which ensure that the institution of Parliament is not subject to judicial review by the Federal Court. This is consistent with Parliament's long-standing privileges. Clause 38 amends subsection 2(2) of the Federal Courts Act by adding references to both the ethics commissioner and the Senate ethics officer in order to exclude these officers from being subject to judicial review by the Federal Court.

During committee examination of Bill C-34, parliamentarians were clear: they want Parliament, not the courts, to administer and enforce their own ethical codes, as has always been the case. I would add that Bill C-34 contains other provisions to ensure that both the ethics commissioner and the Senate ethics officer are able to perform their functions fully and independently as officers of Parliament. These provisions include express recognition that both officers enjoy the privileges and immunities of the House and Senate respectively in carrying out their duties and functions, and express recognition that the bill does not in any way limit the powers, privileges, rights and immunities of Parliament or its members. These privileges include freedom from scrutiny by the courts in matters relating to the conduct of members of either House. These provisions are based on the principle that Parliament regulates its own affairs. This is a long-standing parliamentary tradition and privilege, which is critical to the effective functioning of Parliament and its members.

The proposed amendment to Bill C-34 by the member for Windsor—St. Clair is inconsistent with this approach. The government does not support the amendment because it could provide a basis for arguing that the Federal Court can review the activities of the ethics commissioner in relation to the conduct of members of Parliament. The amendment is inconsistent with other provisions of the bill that provide for the ethics commissioner to have the same privileges as Parliament and the amendment is contrary to the views of the House and Senate committees that reviewed the draft bill. Accordingly, I would ask members of this House not to support this amendment.

Mr. Ken Epp (Elk Island, Canadian Alliance): Mr. Speaker, it is a privilege to stand here on the first day of the resumption of this session. I would like to again say welcome to all of the new pages. It is wonderful to see these young people here. They keep us old fellows thinking young and we always enjoy the wonderful service they provide to us as members.

I would also like to say that it was a brutal summer because of the issues before the House. I believe that we need to do a great job as parliamentarians in representing those people who sent us here and in every way reflect the values and the expectations our constituents have.

I would like to address this question, because this whole thing regarding the ethics commissioner has to do with meeting the expectations of our electors. Our electors want parliamentarians to act in such a way that they are above reproach. The expectation of our electors is that we will act ethically. Because of tremendously large breaches of ethical behaviour by the government, the Prime Minister brought forward this multi-faceted package in which one of the facets is the creation of an independent ethics commissioner.

Mr. Speaker, I do not know if your memory is as good as mine, but I clearly remember when I first ran for Parliament. Way back in 1993, the Liberal red book said, “We will establish an independent ethics commissioner”. Here it is 10 years later and we now have a bill that says they want to establish an independent ethics commissioner, so I do not know whether the protestations of the Prime Minister in the intervening 10 years are now suspect, because all the time he was saying that we have an independent commissioner. We have raised many questions about the fact that the commissioner answered only to the Prime Minister and hence was anything but independent. I think those protestations over the last 10 years basically are now confessed by the government to have been misleading. The Liberals are saying that now we are going to have an independent ethics commissioner, but when the bill came forward we found out that it is really much of the same.

I would like to assure members that I am leading up to the actual discussion of the amendment before the House.

The ethics commissioner must be totally independent of the government. I am going to say to the Liberal members opposite, all listening so intently as I speak, that they should pay attention to this, because in the next Parliament, when they are sitting on this side, they will want the protections we want now that we are on this side. They should think ahead a little about the next move and whether or not they should support the bill, as they are now refusing to amend it, because it is going to apply to them in opposition as it applies to them now as the government. I am speaking especially to the Liberal backbenchers.

The issue before us is very clearly hinged upon the independence of the ethics commissioner. I would be inclined to oppose this motion, just as the parliamentary secretary said, if in fact we had assurances that both the appointment of the ethics commissioner and the ethics commissioner's work were truly independent, if that were really true. We asked for it in committee when we were debating this issue day after day. Our party put forward amendments that would require all members of Parliament from all parties to actively be involved in the recruitment and the appointment.

● (1215)

We went so far as to say that there should be agreement among the party leaders. We suggested that there be a two-thirds majority vote in the House. Of course the House leader for the government said no, that cannot be, because the Constitution says there can only be a 50% majority. The fact of the matter is that our research shows we as a Parliament can say that on a certain question we need a two-thirds majority and, notwithstanding anything else, it could apply to that particular issue. We would like to apply that to the appointment of the commissioner.

We live in a very hostile political environment here. The Liberals have shown us in the last 10 years that winning elections is motivation number one. Everything else becomes secondary to it. If they can utilize an ethics commissioner bringing charges against members of the opposition at the appropriate time, that can become a very important factor at election time. So it is absolutely mandatory that the ethics commissioner behave in a totally independent way.

Had the government accepted our amendments in committee, which as we know we cannot bring here now because they were dealt with at committee, if the Liberals had accepted those amendments at committee, then we would have been very pleased to move forward with this new act to establish the role of the ethics commissioner.

As a matter of fact, the way it is going to work will be the same as always. The Prime Minister and his office are going to come up with a name. The legislation says all that is required is that there be discussion with the House leaders or the leaders of the other parties. I do not even remember now which it is, whether it is House leaders or leaders, but there will be discussions with the other parties. It does not say an agreement has to be reached. It does not say anything about consensus. Presently we have five parties in the House and the legislation does not even say that a majority of the parties must agree.

Consequently, the Prime Minister could come up with a name of a person that is unacceptable to those of us on this side of the House and to the Liberal members in the next Parliament when they are on this side of the House. Let us think about it: they will not be there forever. No government has ever sat for 100 years, being re-elected and re-elected. There will come a time when the Liberals will be relegated to opposition status, and they must think of this in the long term.

This motion we are debating here today is one which unfortunately covers only half the issue, I think, but at least it is a step. It says that if there is a ruling by the commissioner, then the member of Parliament affected, or for that matter someone else, can appeal it to a presumably more independent body: the courts of our land. Sometimes we have a little apprehension about the true independence of the courts and their way of thinking as well, but be that as it may, at least it is better. This amendment would carry that.

I would like to, however, put out a challenge to the government. The parliamentary secretary has spoken and I would like to ask him a question; I am sure the staffers are listening and I would like them to answer a technical question. Clause 38 states that only if such-and-such happens, and I will not read the details, "then section 7 of this Act is replaced by the following". I have read this thing 18 times and what it replaces is identical to what is here; it says that if this thing in the Courts Administration Service Act comes into force, then replace section 7 with what is already there. This is just a notice to the people out there in the legal services department for the government that they should really think about this, those fellows and gals, whoever they are, to make sure they have it right.

● (1220)

I will be supporting this motion on that account.

[*Translation*]

Mr. Michel Guimond (Beauport—Montmorency—Côte-de-Beaupré—Île-d'Orléans, BQ): Mr. Speaker, I am pleased to have this opportunity to speak to Bill C-34, as Parliament resumes. I recall my conversations with some reporters on June 15, when they were asking me what I was going to do for my three month vacation. It has to be said that the fact that Parliament is not sitting does not necessarily mean that the MPs, regardless of what side of the House they sit on, were on holiday for three months. We are, certainly, human beings who need a rest like everybody else, like all other people who work. We took the time to rest and recharge our batteries, but we were not on holiday for three months. Not me anyway.

This morning we have an important exercise to carry out with respect to Bill C-34, which will create the position of ethics commissioner. We are at report stage and second reading.

In a ironic twist of events, only this past week, the RCMP at last laid criminal charges against a Montreal communications firm, Communication Coffin by name, in what has become known as the sponsorship scandal.

I would remind hon. members that we are occasionally stopped by people on the street or at the shopping centre who want to know what our role is, what the importance of the Bloc Quebecois is in Ottawa, when there is no referendum on Quebec sovereignty in the offing.

I would remind everyone that the party that raised this whole matter of the sponsorship scandal is the Bloc Quebecois. This ought to be part of our collective memory, but memories are not, unfortunately, always reliable.

We called upon the public works minister, now the government House leader, but very briefly public works minister, to resign, in light of the circumstances we all will recall. I will spare members any mention of the person who was pPublic works minister three cabinet shuffles ago, the Hon. Alfonso Gagliano, the former member for Saint-Léonard—Saint-Michel. As a reward for services rendered, he was appointed Canadian ambassador to Denmark. Imagine, this was a fine reward for all services rendered, particularly in connection with the sponsorship affair.

I have no intention of going over the history of this sponsorship program. The police investigation will take care of that anyway. An initial charge is expected to be laid, and we hope that more will follow in the whole issue of what actions were taken by Groupaction and so on.

When we questioned the government on behalf of the people of Quebec, we in the Bloc Quebecois were trying to determine whether there was a connection between these sponsorships and the whole matter of subsidies or contributions to election campaigns made under the table to the Liberal Party.

This was the forum where we could raise these issues, hence the importance of having a real ethics councillor, and not a political advisor like Mr. Wilson under the current Prime Minister.

● (1225)

We called for a real ethics counsellor who would report to Parliament.

This government and this Prime Minister, looking for some kind of political legacy entitling them to a few lines in the book of Canadian political history, tabled, or rather had the government House leader table Bill C-34, establishing these ethics officer and ethics commissioner positions. There will be two, as we know, one for the House of Commons and one for the Senate.

The Bloc Quebecois maintains its support for Bill C-34, especially since this matter is among our priorities. In fact, we have been asking for and demanding this for several years.

This morning, we are debating an amendment put forward by our colleague from the New Democratic Party to make the decisions made by the ethics counsellor conditional on or subject to the approval of the Federal Court. In other words, these decisions would become conditional and be referred to the Federal Court. Without lapsing into legalism, for the benefit of those listening, we are talking about possibly asking the Federal Court to review a committee decision on ethics.

Our honourable colleague from the NDP asks that we withdraw clause 38 from the bill and thus remove the ethics counsellor from the list of persons who cannot be challenged in the Federal Court. At the moment, that list of persons and institutions includes the Senate, the House of Commons and all committees or members of either of these Houses. Their decisions are not subject to challenge in the Federal Court.

At first sight, one might think, "That is a good amendment. Decisions made by the ethics commissioner could be reviewed by the Federal Court." In theory, I agree. But in practical terms, the members of the Bloc Quebecois disagree. That is why we shall continue to oppose and vote against the amendment proposed by the hon. NDP member. We consider that it is detrimental to parliamentary privilege.

Parliamentary privilege is what protects us. It allows parliamentarians to do their work effectively within this chamber and also within the committees, which are legal extensions of the House of Commons.

If we want members of Parliament to be free to raise issues and questions—and that is our role—I think that parliamentary privilege must be respected. For these reasons, we will not vote in favour of the amendment proposed by the hon. member.

In fact, it is clear from the Federal Court Act, especially the definitions in section 2, that the Office of the Ethics Counsellor is comparable to a federal board, commission or other tribunal. The act refers to a federal board, commission or other tribunal, all of which are subject to the Federal Court Act.

So, there are enormous political implications. As I mentioned earlier, if the Federal Court can review decisions made by the ethics commissioner, this inevitably gives the judicial branch, meaning the courts, oversight of the political branch in terms of the balance of powers in our British parliamentary system. This is our current system. Quebec's National Assembly is also based on the British parliamentary tradition and the same comments apply.

We must be clear that this right of review of the ethics commissioner's decisions no longer serves a purpose when it comes to requesting a review of a decision about a minister's behaviour. The ethics commissioner can only issue opinions about a minister's behaviour.

In short, when it comes to decisions about members, the ethics commissioner must apply the rules concerning members implemented by the House of Commons. In our opinion, an appeal by an individual of a decision made in that context before the Federal Court constitutes challenging parliamentary privilege. The House of Commons is responsible for making decisions about the behaviour of its members insofar as it relates to the fulfillment of their parliamentary duties.

● (1230)

I am not suggesting the possibility of excluding appeals when it comes to the actions of parliamentarians outside their parliamentary duties. As a result, we believe that the Federal Court cannot play this role and, therefore, this amendment must be defeated.

[*English*]

Mr. Gerald Keddy (South Shore, PC): Mr. Speaker, it is rather ironic that on the first day the House resumes sitting in this fall session, the first item on the agenda is one of the most prominent examples of Liberal arrogance and failure of leadership.

We would have expected to have an ethics bill brought in by this government many years ago. It absolutely has refused to even consider anything along that line. The bill that it has brought in is kind of last minute, is a little late in being tabled and is far from being a perfect piece of legislation, which an ethics bill absolutely must be.

It is rather sad that in the twilight of the Prime Minister's 10 year reign, his quest for a legacy involves an attempt to weave an illusion that his government conformed to any ethical standards at all or did anything meaningful to address the longstanding concerns about parliamentary and electoral reform. I think government members would be hard pressed to find an example of any meaningful change to the system that they have brought about.

History will show the true nature of the Liberal government's arrogance. In the early 1990s the Liberals campaigned on a theme of ethics in politics. Canadians will recall that this government promised in the 1993 red book to introduce change to revive parliamentary democracy by improving ethics, elections and introducing parliamentary reform. After 10 years one must doubt whether the Liberals had any sincere intention at all of fulfilling these promises.

At the beginning of his reign, the Prime Minister was quick to ask ethical questions about the last Progressive Conservative government despite any evidence of wrongdoing or ill intent. The Liberals continued to push these issues and spent millions of taxpayer dollars for their own political agenda long after the cases had been closed, apologies given and million dollar compensations awarded to the victims of Liberal spite.

Meanwhile, the government faced a long series of scandals of its own that forced not the resignation of one member of the crown but four ministers of the crown.

Questions remain over the conduct of the Prime Minister himself in what is now the notorious Shawinigate affair. Questions remain regarding the blind trust of the former minister of finance. It was blind trust that allowed several sneak peeks along the way, presumably only when tens of millions of dollars were on the line in some type of a deal. Canadians are denied the details of these secret meetings.

On these issues, all that Canada and Parliament has is the word of the Prime Minister and his ethics counsellor. This situation is far from being called a standard of ethical conduct of governance in Canada. For 10 years the Liberals have faced an internal power struggle as rival factions, unsatisfied with the democratic election of Liberal leadership, have vied for power and have plotted the downfall of the sitting Prime Minister. In the last year these internal power struggles have erupted into the public eye under the pseudonym of the Liberal leadership race.

It can hardly be called a race. It is more like a one-man marathon with a multi-billion dollar antique steam turtle trotting toward a golden tower of power.

The Liberal leadership race has dragged on so long that it no longer garners much of anyone's interest. The heir apparent has taken to saying absolutely nothing at all on ethics, or policy, or electoral reform or anything, and why should he? His crown is nearly in hand and he stands only to damage himself by speaking for anything at all besides his own interests with a promise to reveal his policy plans from on high once he has ascended to the throne. Mr. Speaker, Canadians yawn.

Contrast the Liberal leadership race to that of the Progressive Conservatives where rival candidates hotly debated radically different visions for the future of Canada, put forth a plethora of new policy ideas and exhibited a degree of youthful enthusiasm for governance not seen in the country for years.

The Liberal government has failed to earn the public's trust to set ethical standards. It has also failed to hold to the principles of effective parliamentary democracy. Yet this a government that in spite of its long list of scandals and circumvention of democracy proposes to introduce ethical reform to Canada's Parliament. What a tragedy.

● (1235)

The Progressive Conservative Party supports the principles of improved ethics, parliamentary improvement and electoral reform, and for 10 years the Progressive Conservatives have been by far the most effective party at holding the government to account in this Parliament. Our pressure has finally seen some results. Efforts to recognize the need of an appointed independent ethics commissioner reporting to Parliament are essential for effective democracy in Canada.

The proposed ethics commissioner would have powers to investigate ethical issues, analyze facts and draw conclusions. That information would be released to the Prime Minister, to the person making the complaint, and to the minister under investigation.

We note, however, that the bill discusses only the means to enforce ethics, rather than the code of ethics itself. If this bill were to pass tomorrow, what ethical code would the ethics commissioner enforce?

We also note that although the bill calls for information to be released simultaneously to the public, the commissioner would also provide the Prime Minister with confidential information that would not be included in the public report. In other words, the government is reserving the right to edit the public record and hold back any damaging or unethical findings. The Progressive Conservative Party urges the government to ensure that all relevant findings are made available, both to Parliament and to the public at large.

It is also a concern of ours that the salary of the ethics commissioner would be set by cabinet. This could have the negative effect of making the commissioner beholden to cabinet for raises in pay. How can someone conduct an unbiased investigation into someone who holds the purse string? It would be pretty difficult.

We would prefer that the salary of the ethics commissioner be set as it is for the privacy and information commissioners, that is, that the ethics commissioner should be paid a salary equal to the salary of a judge of the Federal Court, other than the chief justice or the associate chief justice of that court, and be entitled to reasonable travel and living expenses incurred in the performance of his or her duties under this or any other act of Parliament.

Our party also has concerns that the reports tabled in Parliament would not contain more than a simple statistical list of investigations conducted, discarded or completed. We trust that it would be considerably more thorough and detailed.

Finally, the Progressive Conservative Party is pleased that after 10 years of questionable ethical conduct, a lame duck Prime Minister's last gift to Canada is to impose a stricter code of conduct on his successor than he had upon himself. The timing begs the question, however, whether the bill is for the good of the country or is one last poke in the eye at the Prime Minister's old rival, the member for LaSalle—Émard and the Liberal heir apparent.

It is the hope of the PC Party that it will not be lame duck legislation and that it will be a first step in leading to improved ethical standards and parliamentary reform in Canada.

Canada desperately needs the effective ethical leadership that it has lacked for so long. Until an election is called, we can only trust that the Prime Minister's successor chooses to improve the ethical standard rather than to delay it for another 10 years or, worse, continue on as if nothing has changed.

There is a saying, “Meet the new boss, same as the old boss”. We can only hope that Canada's newest Prime Minister does not fall back on his old habits, to the detriment of the country; and when he does, rest assured the Progressive Conservative Party will continue to hold the government to account and work toward genuine, ethical standards and parliamentary reform in Canada.

● (1240)

Mr. Larry Bagnell (Yukon, Lib.): Mr. Speaker, it is great to be back to make a couple of speeches on the first day of the autumn session of Parliament. I would like to welcome everyone, especially the new pages. I would like to assure my constituents in Yukon that the new pages have already completed the most important part of their training and fully understand that Yukon is the best constituency in the country.

Before I go into details on the amendment to Bill C-34, the previous speaker discussed the general legislative climate this fall. I would like to follow up on that because it is a very aggressive and detailed legislative agenda and I hope people do not lose track of that.

There are many bills that we are in the midst of bringing forward and must continue with such as, Bill C-34, which we are talking about now; but also Bill C-13, assisted human reproduction; C-22, family law; C-38, marijuana; Bill C-45, which I hope to talk about later today concerning the Westray bill for worker safety; Bill C-46, market fraud; Bill C-19, resource taxation; Bill C-6, first nations specific claims resolution for the economic development of first nations; archives legislation; bills related to child pornography and the sex offenders registry; citizenship; as well as urgent veteran's needs.

And then of course all the committees are working. The finance committee will be doing its pre-budget work. There are always important issues in foreign affairs. The health committee has to work on the West Nile virus and the agriculture committee on mad cow disease.

This is a very detailed agenda and continues to be one of the most productive legislative agendas we must get through. I hope people do not get sidetracked in the House or in the media about other things or go off these important changes that affect real people in Canada.

I am pleased to address the NDP amendment at report stage with respect to Bill C-34, a bill which would establish an independent ethics commissioner reporting to Parliament. The amendment proposes the deletion of clause 38 of the bill in its entirety.

This clause would change subsection 2(2) of the Federal Courts Act by adding references to both the ethics commissioner and Senate ethics officer so that the activities of the ethics commissioner and Senate ethics officer are not subject to review by the Federal Court, whether by judicial review or by appeal.

The Parliamentary Secretary to the Government House Leader has already explained why the NDP amendment is inappropriate and should be rejected. I want to comment on the need to preserve the House's privileges in this area.

The House and its members have traditionally been responsible for their ethical conduct. This is a tradition we in the House have had since Confederation and which we share with other parliamentary democracies.

Let me set out how the bill preserves this tradition of parliamentary privilege and ensures the House's accountability to Canadians.

Clause 38 amends a provision in the Federal Courts Act which itself exists for greater certainty to ensure that the activities of Parliament and parliamentarians are excluded from review by the Federal Court. Given the role of the ethics commissioner and the Senate ethics officer in dealing with the conduct of parliamentarians, it is logical that those provisions be extended to these two officers of Parliament.

This clause is but one of several provisions in the bill intended to ensure that the House, and not the courts, continues to have the ultimate responsibility, and accountability, for the ethical conduct of its members. For instance, the bill would create an ethics commissioner as an officer of the House.

Section 72.05 includes express recognition that the ethics commissioner “enjoys the privileges and immunities of the House of Commons and its members in carrying out his or her duties and functions”. This section also provides express recognition that the bill does not in any way limit the powers, privileges, rights or immunities of the House or of its members.

Further, Section 72.12 would ensure that the ethics commissioner and his or her staff could not be taken to court in respect to their official activities. This section also acknowledges that the commissioner and his or her office are protected by the privileges and immunities accorded to Parliament as an institution. Similar provisions have been made for the Senate ethics officer throughout the bill.

● (1245)

Collectively, these provisions, including clause 38, are essential if we are to create an ethics commissioner who, in respect of matters pertaining to members of the House, is to function as the legislation requires and is accountable to the House.

In this regard, the bill states that the ethics commissioner's functions in relation to members would be carried out “under the general direction of any committee of the House of Commons that may be designated or established by the House for that purpose”.

Canadians expect members of the House to establish and abide by ethical rules. This is only proper because as parliamentarians we are ultimately accountable to the public, both for our own ethical behaviour and for the steps taken by the ethics commissioner as an officer of Parliament.

In our view, the proposed amendment would seriously undermine Parliament's long standing privileges, the ability of the House to properly assign duties and functions to the ethics commissioner, and the House's ultimately accountability for the ethical conduct of its members.

It would undermine the ability of the House to govern its affairs and would open up the possibility that the courts might be called upon to second guess or review the actions of the ethics commissioner.

Canadians have every right to expect that the House would create and enforce the highest ethical guidelines for members. They know and expect that the House and its members are ultimately accountable for the ethical code it will implement. They do not want parliamentarians to transfer this responsibility to the courts. Accordingly, I would encourage members of the House not to support the amendment.

I want to conclude by again referencing the previous speaker's speech when he commented on the tremendous potential leadership awaiting in the wings for the country and how popular that is with Canadians. We will have a great transition to even more exciting times, but as I was saying at the beginning of my speech I hope that the important things that affect the lives of Canadians, which I mentioned and the number of bills that we will be dealing with throughout the fall, winter and spring, would not be lost in the simple transition of politics.

● (1250)

Mr. Gurmant Grewal (Surrey Central, Canadian Alliance): Mr. Speaker, it gives me great pleasure, on our return to Parliament, to rise today on behalf of the residents of Surrey Central to participate in the debate on Bill C-34.

The Liberal government believes in half measures, which is what we have before us today, a half measure full of loopholes.

Let us remember why we are debating Bill C-34, the first item on the agenda today. We have witnessed boondoggle after boondoggle. Blind trusts are not blind anymore. If at all blind, it is only to the public. There have been so many contract scandals and leadership fundraising peccadillos that the Prime Minister has yielded to the opposition pressure to bring in the new ethics rules.

So numerous have the infractions been that people are losing track. Never before has the word corruption been uttered so often in this Chamber: not during the Pacific scandal, not during the pipeline debate and not during the notorious first term of Prime Minister Mulroney.

The Liberals came to office 10 years ago promising to restore honesty and integrity to government. Shortly after the 1993 election, the Prime Minister rose in the Commons to announce the dawning of a new era in government ethics, promising to make the system more transparent and open. One would have thought the Liberals would have had an easy time improving on that record but not so. The government has failed to live up to its promise. If anything, government ethics have fallen to a new low.

Half of Canadians surveyed last year believed that this government fared no better ethically than its predecessor. Fifteen per cent believed that the government had worse ethical standards. A Leger Marketing poll taken in April 2002 revealed that 69% of Canadians believed that the federal Canadian political system was highly or somewhat corrupt. Eighty per cent said that they wanted a major reform in the way government contracts were awarded.

Looking back over the last year and a bit it is little wonder that the public has lost faith in the honesty and integrity of the government. With Bill C-34 the Liberals have ensured that a new ethics watchdog for ministers will be an unaccountable, government controlled lapdog.

The Liberals came to power with a mandate to govern based on their red book promises. The red book described the problem of ethical integrity in the government, one of the reasons the previous government was removed. It states on page 91:

> —after nine years of Conservative rule, cynicism about political institutions, government, politicians and the political process is at an all-time high. If government is to play a positive role in society, as it must, honesty and integrity in our political institutions must be restored.

What has been done? There has been absolutely no change since 1993. The Prime Minister wasted no time before reneging on his promise. Instead of an ethics watchdog, he installed a lapdog who reports in confidence to the Prime Minister. The Liberal government repeatedly got away with questionable behaviour. No wonder the lapdog commissioner never gained the public confidence so crucial to be effective in his office.

The Liberals have failed to deliver on their own specific red book promises. So much so that they even voted against their own red book promise during a Canadian Alliance motion to appoint an independent ethics commissioner.

What has the Prime Minister's present song been? Up until the former minister of national defence, nobody had been forced to resign. Does that mean he actually dealt with the problems that would lead to resignations? No.

● (1255)

It just meant that his standard was that no one ever had to resign. He has a completely different code of conduct. If a minister engages in misconduct, gross incompetence or outrageous statements he or she is backed to the hilt by the Prime Minister. Then in the next cabinet shuffle they are shipped off to Denmark or so. However he can say that there has been no misconduct and no one has ever been fired in his government, but we know the facts. The fact is that the list of people who should have been fired is longer than the list in the previous Conservative government.

Last year alone Mr. Alfonso Gagliano resigned as minister of public works following accusations that he used his ministerial influence to get jobs for his friends and family. The minister of national defence resigned after revelations that he gave an untendered contract to a former girlfriend. The member for Glengarry—Prescott—Russell was demoted from public works to House leader for staying at a retreat with which his department had done business. The solicitor general resigned after the ethics counsellor concluded that he breached conflict of interest rules by directing government projects and contracts to friends and family.

All of that of course just generates cynicism. It is worse because after talking about ethics and opportunistically getting elected on this issue, the Liberals have turned around and have done nothing about it.

Bill C-34 is flawed. We the opposition MPs on the procedure and House affairs committee tried to correct the serious flaws proposed in Bill C-34 only to have Liberal MPs on the committee defeat the amendments.

The Liberals rejected amendments that would have strengthened the ethics enforcement system in the following ways: making the ethics commissioner actually independent by requiring two-thirds of MPs to approve in a free vote the person appointed as commissioner; making the commissioner independent by guaranteeing that the commissioner's pay could not be cut if cabinet were upset about the commissioner's activities, and by limiting the commissioner to one seven-year term so that the commissioner would not be tempted to please cabinet in order to secure another term in office; ensuring that the public has a right to file complaints with the ethics commissioner about unethical behaviour by ministers; ensuring that the ethics commissioner could be taken to court for failing to enforce ethics rules; and ensuring the ethics commissioner could not give secret advice to the Prime Minister.

If the Liberals were serious about honouring their promises they would grant the House the authority to seek out and nominate a truly independent ethics commissioner. The ethics commissioner would report to the House as a whole either through a select committee or an appropriate standing committee. That would remove the influence of the Prime Minister and his office.

B.C. has the best process for selecting an ethics commissioner. In that legislature, members are directly involved in the selection process. An all party committee makes the selection and the recommendation to the premier and then, in turn, the premier gets the confidence of two-thirds of the members.

The ethics commissioner would be responsible for investigating misconduct of MPs from all parties. Therefore it is absolutely mandatory that the commissioner be totally neutral, politically. Under the bill that would not be the case.

The code of conduct for MPs and their spouses is included to take the heat off the real issue, for example, the constant misconduct by the Liberal cabinet. If this is the best the Liberals can come up with in a decade of ministerial mishaps, then we should all be very disappointed.

It is no surprise that confidence in the Liberal government and in its honesty and integrity is dithering. Thirteen different investigations are ongoing currently involving the Liberals.

While the commissioner would table public reports each year, no information required to be kept confidential can be included. Where is the assurance of transparency?

The public would be denied the right to file ethics complaints against any parliamentarians. Bill C-34 prohibits a court review. Due to separate ethics officers for MPs and senators, there are different ethical standards for the two groups of politicians.

● (1300)

Since my time is over I would say there are no measures in place that, at best, fail to match our confidence and, at worst, undermine it further. Bill C-34 is mostly a damage control exercise to camouflage big scandals involving ministers. Therefore I cannot support the bill.

The Deputy Speaker: Maybe it is rustiness but I saw a member across the way going from one seat to another. I just want to verify if in fact that person was seeking the floor. The member for Saanich—Gulf Islands has the floor.

Mr. Gary Lunn (Saanich—Gulf Islands, Canadian Alliance): Mr. Speaker, I am pleased to stand and represent the people of Saanich—Gulf Islands. I am not too sure if I am so pleased with what we are speaking about.

I have to ask a simple question: Why are we now having a discussion about Bill C-34, which is about ethics? The reason we are having this discussion is simply because of all the scandals that have happened involving ministers and the abuse of public funds. It goes on and on.

Let us have a closer look at exactly what is happening. I would suggest that the bill demonstrates how little respect the government has for this place. There is no question that we do need an independent ethics commissioner. The Canadian Alliance has pressed for such a move. The response, though, is typical: a lot of smoke and mirrors to hide the absence of any real, meaningful change.

In truth, I would like the House of Commons to be a place where we did not need an ethics commissioner. I would like to believe that all parliamentarians would be in a position where they would not be promoting their own personal gain over that of public service. However the problem is that once we have power we lose focus. We lose sight of the fact that we are here as public servants. We are here to serve the public but we become mostly interested in self-promotion.

Six years in this place has taught me that we see more and more self-promotion. Time and again we have witnessed serious conflicts of interest. Unfortunately, when these conflicts happen is anyone held accountable? No, they are not held accountable, but even worse, they are rewarded.

Nothing will change after Bill C-34 passes into law. Like so many bills that have come from the government, it is not about reform. This is a public relations exercise. It is designed to show that the government cares about ethics, but it does nothing to uphold them. The government will be no more accountable as a result of this new version of the ethics commissioner than it is currently.

Right now we have an ethics counsellor that is appointed by the Prime Minister. What would happen under the new bill? The Prime Minister would still appoint the ethics commissioner and it would be ratified by a simple vote in the House of Commons. However what happens in this place? As we saw during the hep C vote and other votes, when some of the government members even talk about voting against their own party, I am told, although I am not privy to witnesses, in the government lobbies that the Prime Minister actually stands up and tells his own members that if they do not vote with the government they will not be Liberal candidates in the next election. It is that simple. They then fall into line. In some cases we have seen them literally in tears, with mascara running down some of their faces as they stand up to vote against their own beliefs and everything they have stood for to follow the government.

Let us look at some of the specifics here. Why are we having this discussion? This is a government where cabinet ministers help their personal friends through Human Resources Development Canada and are awarded diplomatic posts when they are caught; a government where a Liberal advertising company is given $1.5 million to write the same three reports and no one thinks there is anything wrong with it; a government where corruption in sponsorship programs is so widespread that the 2002 Auditor General's report revealed that senior bureaucrats broke every rule in the book in awarding contracts to Liberal contributors. This led to revelations of waste in government advertising spending totalling over $230 million. Has anyone ever been held accountable? No. No one has actually said that there is something wrong and that it needs to be fixed. Government members go into justification mode and try to justify the expenses.

The current Prime Minister has consistently used his position to unfairly lobby in his home riding where his friends received $600,000 in grants from HRDC where the only approval is announced without any departmental paperwork, and where internal memos revealed the government office felt that it had no choice but to approve the grant since the Prime Minister had personally promised money even though it did not meet existing guidelines.

● (1305)

This is wrong. Exactly one-third of the $90,325 in donations to the Prime Minister's 1997 personal election campaign has been linked to grants, contributions and contracts in his riding. Is it any wonder that the Canadian public has so little trust in this place?

The government comes along with a “new” ethics bill, but it is a whitewash. It is not genuine. The Prime Minister is still going to appoint, and absolutely nothing will change; prime ministers still can secretly solicit advice from the ethics counsellor.

Let us look at British Columbia's legislation. In the British Columbia legislature, an all-party committee, an all-party representation, has to select appointments for the ethics commissioner, which are then recommended to the premier. It is done by all parties. It is not an appointment by the Prime Minister. They select the candidate and advise the premier, who makes the appointment, which then has to receive a ratification vote in the legislature of two-thirds of the members.

Not here: this is another charade. It is another game. It is another way to fool Canadians. This is a public relations exercise. This is not about public service. This is about their own self-promotion. It is wrong.

Let us go to the member for LaSalle-Émard. Of course he is going to be taking over the government. In fact he will acknowledge that he wrote the Liberal red book in 1993, which incidentally promised “an independent ethics commissioner”. In 10 years, he has done absolutely nothing to ensure that it happens.

If we are going to create an ethics commissioner, then that ethics commissioner must have certain characteristics if he or she is going to actually be useful. They absolutely must be independent. They must be acceptable to all parties in the House, not an appointment by the Prime Minister and a rubber stamp in this place, with its own members being threatened. They must have their decisions open to review by Parliament. This bill fails on all counts.

Why have the Liberals failed to deliver a true ethics commissioner? I believe it can only be for one or two reasons. It could be because they know just how inappropriate the behaviour of their cabinet has been. They know that a truly independent agency would expose these conflicts and force them to resign.

Or could it be they feel in their hearts that all the things I mentioned earlier were completely fair? That giving special deals to friends is part of being an MP, that being the Prime Minister or the Minister of Finance means that they can be just as carefree with their telephone calls and stock options as any other backbencher, and that when ministers of the crown gets caught with a hand in the cookie jar the worst they should endure is to shuffle back to the House leader's office or a short holiday to Denmark. That is punishment, is it not? When one gets caught with a hand in the cookie jar, how about an appointment to Denmark? It is pretty good over there, what with being given a nice new house, a car and a driver, and a big fat salary, all on the backs of the taxpayer. That just sounds wonderful.

I know Canadians can see the difference. Why cannot the government see the difference?

● (1310)

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Speaker, I want to say a couple of words about this report stage motion on Bill C-34. Bill C-34 is an act to amend the Parliament of Canada Act with regard to the ethics commissioner and Senate ethics officer and other acts in consequence.

The motion before the House is with regard to clause 38. Its intent is to delete clause 38. The purpose of clause 38 is to ensure that the activities of the ethics commissioner and the Senate ethics officer are not within the jurisdiction of the Federal Court. The amendment is interesting. At first blush, my impression is that it again raises the question about the supremacy of parliament and the issue of court made law.

In Bill C-34, there are a couple of the provisions that are useful. I think it is probably worth putting into the record. With regard to the mandate of the ethics commissioner as stated in the bill, proposed section 72.07 states:

> The mandate of the Ethics Commissioner in relation to public office holders is
>
> (a) to administer any ethical principles, rules or obligations established by the Prime Minister for public office holders;
>
> (b) to provide confidential advice to the Prime Minister with respect to those ethical principles, rules or obligations and ethical issues in general; and
>
> (c) to provide confidential advice to a public office holder with respect to the application to him or her of those ethical principles, rules or obligations.

The aspect of confidentiality is very clear in terms of the mandate of the ethics commissioner. It also raises the question about whether or not there should be an ethics commissioner who reports to parliament.

As the previous speaker said, in fact it is laid out that the ethics commissioner position is a position which is in fact nominated by the Prime Minister, but let us look at that. It is the governor in council, “by commission under the Great Seal”, that appoints an ethics commissioner “after consultation with the leader of every recognized party in the House”, so there is a consultation process that takes place. As well, it states “after approval of the appointment by resolution of that House”, so there will be a vote in the House.

This raises for me the reflection of the whole question about whether or not there should be an ethics commissioner who is responsible to parliament and reports to parliament. I can recall that this issue has surfaced time and time again: it is the matter of whether or not an ethics commissioner could properly discharge his responsibilities, be open with the House in all its detail, and still protect, for instance, cabinet confidentiality. I do recall that the ethics counsellor ultimately appointed was of the opinion that he would be unable to discharge the responsibility if he were to report directly to parliament, simply for the reason that cabinet confidentiality could not be compromised. It is an interesting point, but I think the will of the House has always been to promote accountability for and transparency of the activities of public office holders, and in the event there were some allegations or suggestions of an impropriety or a breach of basic ethical rules this place should be able to be assured that this was being looked at with independence and transparency in regard to the process.

● (1315)

I am not so sure it was the wish of the House or the intent of the House or of anybody else that the full details of any alleged impropriety be dealt with and discussed on the floor. We know what happens when we deal with allegations. Obviously there is a process to be followed, which would protect the integrity of the process but at the same time protect the rights and the reputations of those who may be involved in the discussions with regard to an allegation of a breach of ethics.

There is much more to this than just simply asking that we in fact delete clause 38 and allow the Federal Court or the Federal Court of Appeal to have access to the information with regard to the ethics commissioner. I would tend to agree that Parliament and parliamentary supremacy are very important. That brings with it some parameters which I think we all understand. We went through this when we discussed the role of Parliament and the role of the courts. I believe that the preponderant position taken by the people in this place is that Parliament is the supreme court of the land and that parliamentary supremacy is to be protected and defended.

We have other issues before us that are going to challenge that concept, but there comes a point when parliamentary privilege and the supremacy of Parliament have to be defended. I believe that clause 38 is consistent with the premise that the privileges of Parliament have to be protected. We have certain privileges in this place. Unfortunately from time to time maybe they do not serve the public well because even in this place members are protected from prosecution should they make public allegations. Within the confines of this chamber they are not subject to challenge and to being dealt with in regard to their statements or comments or allegations which outside this place would probably lead them into some difficulty.

I do not believe that is where we should be going or that we want to continue to perpetuate this aspect, but by the same token we need to be sure about the business of Parliament, particularly since the mandate of the ethics commissioner is to deal with matters on a confidential basis and to deal with matters that are very sensitive and do impact the lives of public office holders. There is a way to deal with them without in fact potentially damaging unduly the reputations of public office holders. I think we want to protect those things.

For me it also raises, in terms of matters to do with whistle-blowers, which I have discussed with the President of the Treasury Board, another aspect of how one deals with allegations of impropriety in terms of following policies and procedures of the public service and how to assure people who have concerns. I mentioned to the minister that in my own profession of chartered accountancy there are rules within our code of conduct which state that in the event I become aware of the impropriety of a colleague, a member of the Canadian Institute of Chartered Accountants, it is incumbent on me to bring it to the attention of the ethics commission of the Canadian Institute of Chartered Accountants. It is up to the commission to discharge the determination of whether any work should be done or any action should be taken. In the event that it subsequently comes to the commission's attention that I knew of but did not disclose that information, there is a consequence and there are sanctions against me.

In this regard I think there is some precedent for organizations and institutions, whether it be the public service or a profession, or indeed Parliament. There is certain business in its activities that should be dealt with within the organization simply because it is important to protect the integrity and the good name of people.

● (1320)

At this point I will conclude simply by saying that I believe the amendment does not fit what should be the premise of this place, that Parliament is supreme, that the privileges of Parliament must be protected and that maintaining clause 38 is consistent with that position.

Mr. Stockwell Day (Okanagan—Coquihalla, Canadian Alliance): Mr. Speaker, my hon. colleague across the floor has made a game attempt at defending the indefensible. I struggled with him. I know he was asked to do that and it was difficult task. He has great ability and he has tried to put that ability to its best use. However he was given a flawed document to begin with, so it was very difficult for him.

At first I was concerned how he would handle the sadness of being disavowed of the thought that this in fact was good legislation. However I must disavow him of another notion which he stumbled into by raising it. He said that this Parliament was the highest court in the land. That is an honourable notion and one which I hope one day will be the case. However it is a notion thoroughly discredited by his government in the way it has allowed other assemblies of people to be the final presiders over decisions, incidents and situations that are very important to Canadians. I will look to him to take some steps that are in the Constitution, one of which will be a notwithstanding clause. When courts try to take away from Parliament this correct notion that we should be the highest court in the land, I will look to him to work with us in ways to re-establish Parliament as the highest court in the land. I am sure he will be excited to do that because he has stated that is the case today.

I move to another book, the one which he gamely trying to defend, the Liberal red book. It has been thought of by my colleagues across the way as a catalogue of commitments. In fact it has been proven not to be a catalogue of commitments. It is a manual on mendacity. It is a brochure of broken promises. It is a pamphlet on pandering. It is not a catalogue of commitments.

It has been the task of Canadian Alliance MPs, and they have shouldered this task in an admirable way, to slog their way through that red book of promises and find out just how mendacious they are. The one that we are focused on today is the commitment that there would be a truly independent ethics commissioner operating in this House on behalf of all Canadians. That is a commitment that was thoroughly discredited right here in this House.

I believe members are aware of what took place when Canadians were frustrated, at times beyond words, with what was happening out of the Prime Minister's office related to involvements that were—the best euphemism could be misconduct. Whether we are talking about golf courses, hotels or the litany of contracts, which my friend in the Canadian Alliance referenced just moments ago, it has become shocking. You were here the day, Mr. Speaker, when we were so upset by the fact that the government was not living up to its election commitment to have an independent ethics commissioner in place in the House of Commons.

When members of Parliament or aspiring members of Parliament are out in public and make commitments, make promises, and even have them in print, if they are good commitments that resonate with the voters, then they will pick up the currency of politics, which is votes, by making those commitments. In the last election, when we were quite rightly exposing the lack of ethics exhibited by the government to cover its tracks, it promised people there would be an independent ethics commissioner in this House and it picked up the currency of politics, it gained some votes. It is hard to say how many votes, whether it was in the hundreds of thousands or the tens of thousands, but across the country, as we know now, the government usurped the votes of Canadians based on that promise. After the election, when we continued to see in an even more incredible fashion the need for an independent ethics commissioner, the government continued to stall and did not live up to its promise.

● (1325)

Therefore, the Canadian Alliance, the official opposition, on one of its days in which it got to propose certain things in a very formal way in the House, took the promise that was in the red book, the promise that Liberal MPs had used during the election to gain votes, and brought it into the House in the form of a motion using the words of the government itself, right from its red book of promises. We used its words. We said that we agreed there should be an independent ethics commissioner.

Members will recall that a vote was taken in the House and the Liberal government forced all its members to vote against the motion and break their own promise. It is one thing if we as individuals break our word with somebody. We have to bear that responsibility. It is a very serious thing when we tell other people to break their word or as a matter of fact when we order them to break their word. That was exposed. It was a calamity.

Good people like my honourable friend across the way were pulled into the vortex of that power move to force people to break their word, to force them to stand and vote against a promise that they had in fact printed.

In a strategy with which we and all Canadians are well familiar, when the government, not governing on principle but governing only under pressure, feels the pressure of a bill, of a law, of a suggestion or of a policy that is not its own, when it feels the pressure coming from the public perhaps because the opposition or some other group has raised it, it just keeps testing the water. It polls nightly and if it looks like it might be harmed if it does not adopt what the opposition suggests, then it takes a half step in that direction, partially appropriates the idea or initiative, just enough to put a title on it and says to Canadians that it has dealt with it. It is an ingenious although somewhat devious process and it works a lot of the time because Canadians are busy. They are working, paying their taxes, are law-abiding and raising their kids so they do not have time always to plumb the depths beyond the title of a certain bill.

It was after the Liberals published in the red book that they would have an independent ethics commissioner, that we brought that promise to the floor of the House and gave them full credit for it. They broke their promise and voted against it. The pressure has continued to rise.

The opposition, though we should take some of the credit, cannot take all the credit for this. It has become so obvious to Canadians. Now unfortunately it has become so obvious to the authorities that investigations abound in terms of the contracts and some of the conduct of the government. It has become so obvious that we need an independent ethics commissioner that the government has put forward a bill. However remember the process that it uses. It takes a half step, the baby step. It only partially appropriates the good initiative the opposition is proposing, whether it be an ethics commissioner, lowering taxes, mandatory sentences for vicious repeat offenders or whatever it might be, and publishes what looks like a big headline. Under cover of that, under the radar of that headline, it says it has done it and it tries to put to rest the concern of the public.

Bill C-34 does not provide for a truly independent ethics commissioner. The person would still be the appointee of the Prime Minister, would still operate in a veil of secrecy and would still not fully report and be fully accountable to Parliament.

We will do all we can to raise and bring to the attention of Canadians that not only did these Liberals break their own promise, which was written in their manual of mendacity, not only did they rise one by one and vote against it under threat of their whip, they also voted to break their own word. Now they are trying to cover that whole sham with something called Bill C-34 to do with apparently an ethics commissioner.

It falls short, and Canadians deserve better. We will continue to press on this point and on others so Canadians will get better service and better government as they listen to the opposition and other concerned Canadians about how they are being taken down the garden path on this and other pieces of legislation by this government.

● (1330)

Mr. John Bryden (Ancaster—Dundas—Flamborough—Aldershot, Lib.): Mr. Speaker, after the remarks of the member opposite who spoke, I felt compelled to rise just to straighten out a point here.

What is before the House right now is an amendment, proposed by another party, one of the minor parties in the House, that would basically ensure that Parliament and the ethics commissioner and ethics officer would not come under the courts. The member who spoke just now indicated, I think fairly strongly, that his party and he himself intend to vote against Bill C-34 for the reasons he outlined. I accept that. Obviously the opposition must oppose and if the opposition feels the bill is inadequate, so be it.

However, I will be very interested to see whether the member who just spoke and his party vote against or for the motion that is before the House because what the motion that is before the House does is put Parliament behind the courts.

We have seen only too vividly in the last few months the impact of judicial activism of the courts overruling Parliament on issues that are near and dear to Canadians. Therefore it strikes me as passing strange that the opposition should now say that it resists the government's very laudable intent to ensure that Parliament remains, as indeed it is, supreme above the courts and not answerable to the courts by having a section in it that would change the Federal Court Act. It states:

> For greater certainty, the expression “federal board, commission or other tribunal”, as defined in subsection (1), does not include the Senate, the House of Commons, any committee or member of either House, the Senate Ethics Officer or the Ethics Commissioner.

This is precisely what every member in the House of Commons should want. The whole problem that we are experiencing today in this Parliament is the fact that we pass laws and unelected courts overturn them.

Therefore I am going to look forward to watching very closely how the members opposite vote on this motion. Let them discard at third reading all of Bill C-34, but I do challenge them to vote with the minor party that put forward the motion. They should vote with them and see how the public feels about it when the next day they rise and complain about judicial activism and the fact that Parliament has been sidelined by the courts when they support this type of motion that is before the House.

Mrs. Lynne Yelich (Blackstrap, Canadian Alliance): Mr. Speaker, today we are speaking to Bill C-34 and the roles of the ethics commissioner and the Senate ethics officer. I am pleased to have the opportunity to add my concerns to those already outlined by my colleagues. By now members will have heard most of these points more than once and that fact should be an indicator that these are valid concerns held by a diverse group of people.

First of all, I must say that I am in favour of setting and maintaining a high ethical standard for government and parliamentarians. I am also in favour of ensuring that standard is met and enforced by an independent and objective body. Unfortunately, Bill C-34 does not fulfill those requirements.

What the Liberals have suggested is the creation of an ethics overseer who really would not be independent at all. As proposed, the ethics commissioner would be appointed by the Prime Minister and that choice would be ratified by a vote in the House of Commons by a majority government. It is true that the Prime Minister would have to consult the leaders of the other political parties, but the scope of that consultation has not been defined. Essentially the Prime Minister could ask the other party leaders what they thought about whom he had chosen and then simply ignore any feedback he received.

The ethics commissioner would be responsible for investigating misconduct of MPs from all parties. It is therefore absolutely mandatory that the commissioner be totally neutral from a political perspective. The appointment process outlined in the bill sets the foundation for just the opposite circumstance, an individual that could be biased in favour of the ruling party that chose him or her for the job. All parties should approve a truly independent commissioner; otherwise the government majority will prevail in handpicking its so-called independent watchdog and skewing any possible perception of fairness.

I am also concerned about the appearance and the presence of accountability within the system. The Canadian public has been exposed to scandal after scandal throughout the reign of the Liberal government: wasted money, a lack of transparency, conflict of interest and preferential treatment. Bill C-34 is an exercise in Liberal damage control. Unfortunately, there is no reason for Canadians to believe that the government that perpetuated these fiascos is capable of appointing an effective ethics commissioner to monitor its own behaviour.

Some time ago I sent a survey to every household in my riding. One of the questions asked constituents to rank several issues in terms of their importance. The number one issue was not health care; it was not taxes; it was not defence. The overwhelming majority of respondents identified government accountability as the most important issue facing our country today. That is where I am coming from in making my points.

To conclude, I would like to share a quote from Duff Conacher, coordinator of Democracy Watch and chairperson of the Government Ethics Coalition, which I believe sums up my concerns about Bill C-34:

> Prime Minister Chrétien has proposed a new 'Swiss-cheese' ethics enforcement system filled with holes that will prove to be fatal flaws, especially given that the new ethics watchdogs will conflict with each other, be appointed by Cabinet, operate in secret, and be unaccountable to the public or the courts.

● (1335)

The Deputy Speaker: Is the House ready for the question?

Some hon. members: Question.

The Deputy Speaker: The question is on Motion No. 1. Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

Some hon. members: No.

The Deputy Speaker: All those in favour of the motion will please say yea.

Some hon. members: Yea.

The Deputy Speaker: All those opposed will please say nay.

Some hon. members: Nay.

The Deputy Speaker: In my opinion the nays have it.

And more than five members having risen:

The Deputy Speaker: Call in the members.

And the bells having rung:

The Deputy Speaker: The vote is deferred until tomorrow at the end of government orders.

CRIMINAL CODE

Hon. John McCallum (for the Minister of Justice) moved that Bill C-45, An Act to amend the Criminal Code (criminal liability of organizations), be read the second time and referred to a committee.

Mr. Paul Harold Macklin (Parliamentary Secretary to the Minister of Justice and Attorney General of Canada, Lib.): Mr. Speaker,I am pleased to begin the debate on Bill C-45, an act to amend the Criminal Code concerning the criminal liability of organizations. The bill will transform the principles contained in the government's response to the 15th report of the Standing Committee on Justice and Human Rights looking into provisions in the Criminal Code. The standing committee's report was the result of hearings that were prompted by the debate on Bill C-284 sponsored by the hon. member for Churchill.

Fundamentally the bill has its origins in the tragic deaths of 26 miners in the Westray mine explosion in May 1992. I will not review in detail the lengthy and ultimately fruitless criminal proceedings that followed the investigation of the explosion. All members are aware that the company that operated the mine, and two of its executives, were charged with manslaughter. The trial judge ordered a stay of the charges because of problems with disclosure of evidence by the Crown. Although the appeal courts overturned that decision, the prosecution decided it could not go forward.

The Government of Nova Scotia appointed Justice K. Peter Richard to conduct an inquiry into the disaster. The inquiry itself was delayed by legal proceedings but when hearings got underway, the evidence disclosed, in Justice Richard's own words, “a complex mosaic of actions, omissions, mistakes, incompetence, apathy, cynicism, stupidity and neglect”. Justice Richard ultimately made 74 recommendations to enhance workplace safety. These recommendations dealt with such issues as training, ventilation, mine safety and the like.

The United Steelworkers of America, to their credit, have been the untiring champions of the families of the Westray victims. They urged Justice Richard to recommend fundamental reform of the criminal law as it affects workplace safety and the responsibility of corporate directors and officers for maintaining a safe workplace.

Justice Richard concluded that this was beyond his mandate but he did make recommendation 73:

> The Government of Canada, through the Department of Justice, should institute a study of the accountability of corporate executives and directors for the wrongful or negligent acts of the corporation and should introduce in the Parliament of Canada such amendments to legislation as are necessary to ensure that corporate executives and directors are held properly accountable for workplace safety.

In this Parliament all members of the standing committee have given careful consideration to both the issue of the role of the criminal law in promoting workplace safety and the general rules that should govern the liability of corporations and their officers and directors.

A discussion paper setting out the issues and reviewing the evidence of other countries, which had been prepared by the justice department, was provided to the committee. The committee heard from officials of the justice department and other experts. It heard moving testimony from victims and relatives of victims of industrial accidents. The 15th report of the committee recommended “that the government table in the House legislation to deal with the criminal liability of corporations, directors and officers”.

Clearly all parties in the House felt that it was time for fundamental reform in this area. The government in its response to the report reviewed the evidence that had been heard by the committee and agreed on the need for reform. The government also concluded that there was no perfect system in other countries that Canada could simply copy. The report therefore set out the principles that would guide the drafting of a made in Canada approach to the problem of corporate crime.

However, just as reform of the criminal law was not the primary focus of Mr. Justice Richard's report, this bill is not the primary response of the Government of Canada to the Westray tragedy. The government has already acted decisively to promote workplace safety because prevention of accidents is always better than prosecutions after a tragedy.

● (1340)

In 2000, amendments to part II of the Canada Labour Code established a number of improvements to occupational health and safety in workplaces under federal jurisdiction. Three fundamental employee rights were established: the right to know about hazards in the workplace; the right to participate in correcting those hazards; and the right to refuse dangerous work. The role of workplace health and safety committees and of policy health and safety committees was strengthened.

Bill C-45 builds on those changes by proposing to include in the Criminal Code a new section, section 217.1, which provides that everyone who undertakes, or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person or any other person arising from that work or task.

The importance of having such a duty in the Criminal Code is that if there is a breach of that duty, wanton and reckless disregard for the life or safety of people, and injury or death results from that breach, a person can be convicted of criminal negligence causing death which is punishable by up to life imprisonment, or criminal negligence causing bodily harm which is punishable by up to 10 years imprisonment.

Members will note that this duty is not specific to corporations. Many corporations already have a similar duty. The Canada Labour Code for example provides in section 124 that “every employer shall ensure that the health and safety of work of every person employed by the employer is protected”.

As well, a duty of care to workers may exist in provincial legislation or under the common law. Breach of these duties can currently lead to criminal charges where there is reckless disregard for the safety of others.

Bill C-45, if adopted, will have its greatest impact on the liability of corporations and other associations of persons for all criminal offences. The definitions of “representative” and “senior officer” and the rules for attributing criminal liability for negligence offences and other offences set out in proposed sections 22.1, 22.2 and 22.3 will modernize the approach to criminal liability of all corporations.

Members will have noted that although the standing committee held hearings on corporate criminal liability, the bill refers to “organizations” which is defined broadly to include all major participants in the economy and all associations of persons created for a common purpose, having an operational structure and holding itself out to the public as an association.

There has been a great deal of creativity shown by corporate lawyers in developing new structures, for example, limited liability partnerships and joint ventures. Quite simply we want to ensure the Criminal Code applies to every organization of persons without any artificial distinctions based on how those persons chose to structure their legal relations.

In practice of course, corporations are likely to be charged far more frequently than other forms of association because of their dominant role in Canadian society. The proposed rules for attributing criminal liability to an organization are necessarily complex because the criminal law requires proof of both the commission of a prohibited act and that the person had the necessary mental state.

Since organizations can only act through individuals, the fundamental problem with which the law has struggled is to decide whose acts are to be considered the acts of the organization and who in the organization has to have the necessary guilty mind for the organization itself to be considered as having a guilty mind.

● (1345)

Until now, Parliament has been content to have bodies, corporate societies and companies included as persons and to leave it to the courts to develop the tests for determining when they are criminally liable. At first, the courts were reluctant to find that a corporation could commit a crime, but case by case they have built up rules for holding corporations accountable for crimes carried out in their name and for their benefit by their employees and officers.

With respect to the first question, namely, whose acts should be considered the acts of the organization, we propose that the acts of representatives are the acts of the organization. Representative is defined broadly so that it includes not just officers and employees, but also agents and contractors. As long as they are acting within the scope of the authority given them by the organization, their actions should be the actions of the corporation.

As for whose guilty mind should be the guilty mind of the organization, the government in its response stated that it found the Supreme Court approach too narrow because of its insistence that a directing mind had to have executive decision making authority on matters of corporate policy.

Through the definition of senior officer, we propose to broaden who can be the directing mind by including, in addition to those who would already be so considered, a person who has an important role in establishing policy rather than having to have the ultimate power to make policy, and a person who is responsible for managing an important aspect of the organization's activities even if that person has no policy making authority whatsoever. The proposed change reflects the way that large modern corporations are organized.

While the courts would still have to decide in each case whether a particular person is a senior officer, I believe the proposal clearly indicates our intention that the guilty mind of a middle manager should be considered the guilty mind of the corporation itself. For example, the manager of a sector of a business such as sales, security or marketing, and the manager of a unit of the enterprise like a region, a store or a plant, could be considered senior officers by the courts.

An organization would be responsible for crimes based on negligence where the acts and omissions of its representatives, taken as a whole, are negligent and its senior officers showed a marked departure from the standard normally expected in the circumstances.

In a tragedy such as Westray, it may not be possible to find a single representative of a corporation who was criminally negligent. The deaths may have resulted from a series of actions and omissions by many representatives. Even though no single individual might be convicted of a criminal offence, it may be possible for the corporation operating the mine to be criminally liable. For example, if three employees simultaneously turned off three separate safety systems and death resulted, these employees might not be subject to criminal prosecution because they each believed that turning off one system would not endanger anyone because the other two systems would still be in operation. However, the corporation might be charged with criminal negligence.

For the court to convict the company that operated the mine, the Crown would have to show that the management fell well below the standard of care that would be expected in the circumstances. In making this determination, the court would have to consider industry practice and procedure. If other companies have a system to ensure that no more than one safety system could be turned off at a time, the court could well conclude that the accused corporation had fallen far below what was reasonably to be expected and convicted.

For all other criminal offences, we are proposing that the organization be criminally liable whenever a senior officer with intent to benefit the organization commits the prohibited act, or uses representatives lower down in the organization, or outsiders to commit the act, or fails to act on knowledge of criminal activity by its representatives.

● (1350)

An organization should not be able to avoid criminal liability by turning a blind eye to indications that its representatives are committing crimes.

All of these changes reflect the positions taken by the government when it tabled its response. At that time the government indicated that the Criminal Code should provide more guidance for the courts when they impose sentences on a corporation, but we made no specific proposal.

The Criminal Code contains principles of sentencing and aggravating factors for judges to consider, but mainly they are applicable to the individual. For example, it is an aggravating factor to abuse a spouse or a child in committing the offence.

We are seeking, through the proposed new section 718.21, to assist the courts in determining an appropriate sentence for an organization. Of course, jail is not an option for a corporation. Therefore, in practice the court has to decide how heavy the fine to impose.

In determining that fine the court should consider the moral blameworthiness of the organization through such factors as the profit it made and the planning involved in the offence. It should also consider the public interest. Except in unusual circumstances, a fine should not be so high that the company is bankrupted and morally blameless employees lose their jobs.

Just as the criminal record of an individual is very important in determining sentence, the court should take into account any previous criminal convictions and convictions for regulatory offences of the organization and its personnel involved in committing the offence.

Finally, rehabilitation of the offender is always important. An organization may have shown that it is determined not to commit further offences by imposing penalties on managers involved in the commission of the offence or by paying restitution to victims.

We are also proposing to encourage the courts to innovate by setting out optional conditions of probation geared to the corporate offender in the proposed new subsection 732.1(3.1). Probation is possible for corporations, but it is virtually never imposed.

We believe there may be circumstances where the court wants to ensure as best it can that the corporation will change its ways and commit no further crimes.

● (1355)

The Deputy Speaker: The hon. parliamentary secretary will have slightly more than 20 minutes left at his disposal to conclude his remarks after question period. At this moment, I would like to proceed with statements by members.

STATEMENTS BY MEMBERS

[*Translation*]

MEMBERS FOR LÉVIS-ET-CHUTES-DE-LA-CHAUDIÈRE AND TÉMISCAMINGUE

Ms. Hélène Scherrer (Louis-Hébert, Lib.): Mr. Speaker, it is our pleasure to welcome into our ranks two new Liberal members of Parliament who will be making their official entry into the House in a few moments. They represent the ridings of Lévis-et-Chutes-de-la-Chaudière and Témiscamingue, which they won in byelections held on June 16. Each of them defeated the leading opponent by more than 20% and obtained more than half of the votes cast.

These victories in ridings that were bastions of the Bloc Quebecois for 10 years constitute a vote of confidence in the

Liberal Party and follow close on the heels of the Quebec Liberals' defeat of the Parti Quebecois in the April provincial election.

I am convinced that the voters of Lévis-et-Chutes-de-la-Chaudière and Témiscamingue will find their new members to be valuable representatives who will watch over the social and economic development of their region within Canada.

* * *

[*English*]

KELOWNA

Mr. Werner Schmidt (Kelowna, Canadian Alliance): Mr. Speaker, my constituency of Kelowna has been tested severely this summer. The driest weather on record resulted in devastating fires which have scarred our community. The financial and emotional toll has been heavy. But times of such crises expose the best of a community and today I wish to pay tribute to the people of Kelowna.

For their community leadership, I pay tribute to Kelowna Fire Chief Gerry Zimmermann; Ron Mattiussi, Director of Kelowna's Emergency Operations Centre; and Mayor Walter Gray. For their bravery and heroic efforts, I wish to thank the firefighters and the Canadian armed forces. Words cannot express the gratitude we feel toward those who helped save our houses and property.

For their courage and humanity, I pay tribute to the people of Kelowna. In the midst of uncertainty, people went out of their way to help each other. The fires have been destructive, but we have learned that we can count on each other to get through the most challenging crises. In this way we have gained more than we have lost.

* * *

● (1400)

[*Translation*]

CHRYSOTILE ASBESTOS

Mr. Gérard Binet (Frontenac—Mégantic, Lib.): Mr. Speaker, last week a conference was held to denigrate Canadian chrysotile asbestos; it was chaired by the member for Windsor—St. Clair and the international ban asbestos movement.

Their goal was to accuse our government and pro-chrysotile stakeholders of hypocrisy and profiting from the export of Canadian asbestos.

At a rally organized last Friday by the pro-asbestos movement, 250 miners and regional stakeholders came to Ottawa to protest the holding of this conference.

On Tuesday, results of a study on the low biopersistence of Quebec chrysotile released by the directors of the Asbestos Institute provide sufficient evidence to support the debate over the safe and responsible use of chrysotile.

And I reiterated the position of the Government of Canada—that when chrysotile is used safely it poses no risk to health.

S. O. 31

I would like to thank the residents of Frontenac—Mégantic and Asbestos for this rally in Ottawa. We were able to demonstrate to all of Canada that properly used chrysotile is a fibre worth preserving.

* * *

[*English*]

HABITAT FOR HUMANITY

Mr. Peter Adams (Peterborough, Lib.): Mr. Speaker, the fine work of Habitat for Humanity is known around the world. This is a group which works to provide affordable houses. It encourages future homeowners to invest sweat as well as financial equity in their new homes.

I am pleased that Habitat for Humanity is now active in Peterborough building homes. The first will be for a low income family of six. I want to thank all those involved in this project, those who initiated it, those organizations and individuals who provided support in kind and in cash, and all those who volunteered their time to build the new house. All of them deserve our thanks and congratulations.

Affordable housing is a serious problem in many of our communities. Habitat is one solution for this.

* * *

ENERGY

Hon. Charles Caccia (Davenport, Lib.): Mr. Speaker, the energy blackout in Ontario had many repercussions, including an economic impact across the country, so serious it required the setting up of an international task force appointed by the Prime Minister and the U.S. President.

Blackouts could occur again. To prevent them the government should take several steps, including: first, facilitating the establishment of an east-west national electrical transmission system; second, making energy conservation a permanent feature in the behaviour of Canadians at home and at work; third, offering programs to advance renewable energy generating systems; and fourth, improving existing tax measures to encourage the production of green power.

Energy must be used carefully to prevent blackouts and achieve the Kyoto targets. I urge the government to give strong leadership in energy conservation to individuals, retailers, industries and the public at large.

* * *

ARTS AND CULTURE

Mrs. Carol Skelton (Saskatoon—Rosetown—Biggar, Canadian Alliance): Mr. Speaker, Beth Robertson and Elaine Kowpak put Harris, Saskatchewan on the map. These two ladies were already well known locally as the writers and producers of the Harris Ruby Rush Days famous vignettes. Their latest production has taken them places they have never dreamed.

I first saw their performance of “The Pull of the Land” in the Harris-Tessier School, but it soon garnered national attention with its story of modern farm life in Saskatchewan. The stories are told from the points of view of various family members, set to clever dialogue and music. The actors are drawn from the talent within our local community.

Their productions are a labour of love and have benefited the local church, community hall and health centre. They have found an imaginative and entertaining way to relive, recreate and restore much of the culture of rural Saskatchewan.

Our community and our country is richer as a result. We thank them both.

* * *

B.C. FOREST FIRES

Mr. Joe Peschisolido (Richmond, Lib.): Mr. Speaker, this has been one of the most challenging summers in history for the people of British Columbia. As we are all acutely aware, we have endured months of ferocious forest fires.

Communities like Kelowna, Cranbrook, Okanagan Mountain Park and others suffered through a summer of uncertainty, multiple evacuations and devastation. Thousands of firefighters, including 2,000 military personnel, continue to fight the fires. Firefighters from the B.C. Fire Service, Ontario and Saskatchewan are doing their best to protect and save communities.

On behalf of all members of the House, I extend our sympathies to those who have been displaced by the fires and our heartfelt thanks and gratitude to the thousands of firefighters who have risked their health and lives in doing their duty. They are true heroes and incredible Canadians.

* * *

● (1405)

[*Translation*]

CANADA LABOUR CODE

Ms. Monique Guay (Laurentides, BQ): Mr. Speaker, my colleagues from the Bloc Quebecois and I toured more than 30 ridings in Quebec to meet with union representatives and to raise awareness of the need for federal legislation that is as effective as the anti-scab legislation in Quebec.

All the stakeholders unanimously applauded and supported my bill, which is designed to prohibit the use of scabs. Adopting Bill C-328 will correct the injustice suffered by the workers at Cargill, Vidéotron, SECUR, Société du Vieux-Port and that the workers at Radio Nord Communications in Abitibi have been suffering for more than ten months.

In a few weeks parliamentarians in this House will be asked to participate in an historical vote. In a show of solidarity, I call on parliamentarians and the public to sign the petition that is circulating throughout Quebec and Canada in support of workers.

[*English*]

TERRY FOX RUN

Mr. John Harvard (Charleswood—St. James—Assiniboia, Lib.): Mr. Speaker, the first Terry Fox Run took place in 1981. It attracted 300,000 participants across Canada and raised $3.5 million.

The Terry Fox Run is held each year to carry on the quest of the young man who began this annual tradition. After losing his own leg to cancer, Terry discovered that funding for cancer research in Canada was minimal. This was the motivation for his Marathon of Hope: to raise funds to help find a cure for cancer.

In the last 22 years over $300 million have been raised for cancer research in Terry's name. Each year thousands of volunteers organize Terry Fox Run events in Canada and around the world. This year was no different as the 22nd Terry Fox Run was held yesterday.

The emphasis of this event is not on how much is raised but rather on participation in Terry's memory to help him finish his Marathon of Hope.

As Terry said in 1980, “If you've given a dollar you're part of the Marathon of Hope”.

* * *

CANADIAN ALLIANCE PARTY

Mr. Chuck Strahl (Fraser Valley, Canadian Alliance): Mr. Speaker, 10 years ago this fall 52 reform-minded individuals were elected to the House of Commons, part of a political movement dedicated to ushering in a new era of Canadian politics.

Ten years ago our party stood alone in its clarion call for balanced budgets, lower taxes and paying off the debt. We walked a deserted road when we championed victims rights and a return to the justice system for all, not a legal system for a few.

We also had the road to ourselves when we demanded the government treat all people and all provinces equally under the law because we believe Canadians deserve an impartial federal government that does not simply reward friends based on who one knows at the PMO or, for that matter, who one sniffs at Earnscliffe.

We proudly stood on our own as we championed changes to the parliamentary and electoral system itself because we know that democracy only thrives when voters, not political parties, become the number one priority of those who would seek elected office.

Ten years later the Canadian Alliance has grown to become Canada's official opposition and we remain committed to those original principles because to champion a principled vision not only gives Canadians a good country today, it promises an even better country for generations to come.

* * *

TERRORISM

Mrs. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Mr. Speaker, last week marked the second anniversary of the terrorist attacks of September 11, 2001.

On that tragic day two years ago Canadians displayed their generosity of spirit, sense of community and the strong bonds of friendship we share with our American neighbours.

Fighting terrorism means protecting Canadians at home and abroad and confronting the disparities that exist between rich and poor nations. That is why our Canadian Forces are leading the way in the global fight against terrorism.

[*Translation*]

Canada is a society based on diversity, tolerance and respect where all citizens from all backgrounds live in harmony. Never, in recent history, has that been more apparent than after September 11.

[*English*]

We will always remember the lives of the 24 Canadians who perished on that terrible day.

* * *

FOREIGN AFFAIRS

Mr. Scott Brison (Kings—Hants, PC): Mr. Speaker, there was a time when Canada played a leadership role in shaping the world. Under the Liberals, the government is trying to escape it.

For a decade now, Liberal indifference has eroded Canada's authority in the world. Canada has gone from a position of influence to a position of irrelevance.

Now it seems Canadians are paying the price for Canada's diminished influence abroad. Canadians can no longer assume that a Canadian passport will be respected by other countries. They can no longer assume that they will have meaningful access to and support from Canadian consular officials when in trouble.

Canadians are angry at the inability of the government to protect our own people, including people like William Sampson, Bruce Balfour, Mahar Arar and Zahra Kazemi.

When will the government stand up to protect Canadians travelling abroad?

* * *

● (1410)

[*Translation*]

CHILE

Mr. Yvan Loubier (Saint-Hyacinthe—Bagot, BQ): Thirty years ago, on September 11, 1973, the socialist government of Chilean President Salvador Allende was overthrown by a military coup orchestrated by the CIA and General Augusto Pinochet.

Knowing the final assault was imminent, President Allende took his own life. This event sounded the death knell for democracy in Chile and marked the start of a bloody dictatorship.

Chileans still have memories of loved ones who were tortured, disappeared or killed by a regime whose leaders continue to live in total impunity.

Thousands of Chileans fled the Pinochet regime and continued for thirty years to battle for the return of democracy. There are twelve thousand Quebeckers of Chilean origin, among them our former colleague and member for Bourassa, Osvaldo Nunez.

In this anniversary year, the Bloc Quebecois is in solidarity with the people of Chile and with all those who have made Quebec their new home. The Bloc Quebecois is in solidarity with all those who wish to see right, justice and democracy triumph, and who revere the memory of a great president motivated by these profound and fundamental values.

* * *

[*English*]

VETERANS

Mr. Ivan Grose (Oshawa, Lib.): Mr. Speaker, it was my very great pleasure this morning to attend a ceremony at the former Rideau Veterans Home here in Ottawa to dedicate a memorial park in honour of veterans.

I would like to take this opportunity to thank the leadership of Canada Lands Company Limited for its role in ensuring that there would be a permanent tribute to those veterans who resided in the home for so many years. In fact the park serves as a reminder to all of us of the courage and selfless devotion of our veterans to their beloved Canada.

Veterans exemplify the very highest ideals of courage and loyalty and their legacy is upheld by our Canadian Forces who serve in troubled regions the world over.

We thank those men and women who served and continue to serve their country.

* * *

INTERNATIONAL TRADE

Mr. Bill Blaikie (Winnipeg—Transcona, NDP): Mr. Speaker, the failure of the WTO meeting in Cancun should be seen as an opportunity to take stock of the whole WTO agenda and the false hope of trade liberalization and corporate globalization.

The Doha development agenda, or DDA as it is called, was DOA, or dead on arrival, because there was far too much corporate agenda on the agenda of developed countries, and far too little of an agenda that would lead to meaningful development. The developing countries finally ran out of patience with those who want them to give in on services and investment, but offer very little in return on agriculture or life saving medicines.

Instead of being a cheerleader for a dead horse, the Minister for International Trade should make Canada a leader in advocating a new model for the global economy, one in which people and the environment come before profit.

* * *

GRANDPARENTS DAY

Ms. Sarmite Bulte (Parkdale—High Park, Lib.): Mr. Speaker, I rise in the House today to recognize National Grandparents Day which took place on September 14.

Started in 1978, Grandparents Day is held the first Sunday after Labour Day.

Grandparents Day is an opportunity for Canadians, young and old, to recognize the important role that grandparents and seniors have played in all our lives.

This is a day that all Canadians should be able to appreciate, for even though we may not have grandchildren, we have all had grandparents.

Grandparents Day is a family day for many Canadians but it does not have to be only for families. On Grandparents Day we should also bear in mind the shut-ins and the elderly in nursing homes who are unable to be with their families, or those who do not have any families.

Perhaps most important is that Grandparents Day can signify a loving spirit that lives within us throughout the year, a spirit of love and respect for all our elders.

* * *

MEMBER FOR LASALLE—ÉMARD

Mr. Gurmant Grewal (Surrey Central, Canadian Alliance): Mr. Speaker, 10 years ago today the member for LaSalle—Émard stood before the Canadian people making empty promises.

The infamous red book contains a long litany of broken promises: scrap, kill or abolish the GST, but since 1993 Canadians have shelled out nearly $200 billion in GST; to preserve and protect medicare, but he cut over $25 billion in health transfers to the provinces; to restore faith in government, but there were five cabinet resignations last year alone; to have more free votes in the House, but there have been virtually none and certainly less than the previous government; to renegotiate NAFTA, and thankfully not.

Those are only five of the biggest whoppers in the red book. There are 131 more.

With his track record, it is little wonder the former finance minister now wants to keep the public in the dark about his agenda.

Canadians will not be hoodwinked a second time. Of course, that is unless he stands for nothing but being prime minister.

ROUTINE PROCEEDINGS

● (1415)

[*Translation*]

NEW MEMBER

The Speaker: I have the honour to inform the House that the Clerk of the House has received from the Chief Electoral Officer a certificate of the election and return of Mr. Gilbert Barrette, for the electoral district of Témiscamingue.

NEW MEMBER INTRODUCED

Gilbert Barrette, member for the electoral district of Témiscamingue, introduced by the Right Hon. Jean Chrétien and the Hon. Martin Cauchon.

* * *

NEW MEMBER

The Speaker: I have the honour to inform the House that the Clerk of the House has received from the Chief Electoral Officer a certificate of the election and return of Mr. Christian Jobin, for the electoral district of Lévis-et-Chutes-de-la-Chaudière.

* * *

NEW MEMBER INTRODUCED

Christian Jobin, member for the electoral district of (Lévis-et-Chutes-de-la-Chaudière), introduced by the Right Hon. Jean Chrétien and the Hon. Martin Cauchon.

ORAL QUESTION PERIOD

[*English*]

GOVERNMENT CONTRACTS

Mr. Stephen Harper (Leader of the Opposition, Canadian Alliance): Mr. Speaker, prosecutions have now been initiated into the sponsorship scandals with charges related to Communication Coffin. The Liberal Party of Canada itself is now at the centre of an RCMP investigation.

Will the Prime Minister confirm that the RCMP investigation is related to Liberal Party election communications work being paid for with Public Works contracts?

Right Hon. Jean Chrétien (Prime Minister, Lib.): Mr. Speaker, the RCMP is doing the job that the government asked it to do. Yes, when there were some problems we asked the Auditor General to look into that. We had an internal audit of the department conducted and the RCMP has done its job.

If someone has done something wrong they will have to face the consequences of their actions.

● (1420)

Mr. Stephen Harper (Leader of the Opposition, Canadian Alliance): Mr. Speaker, it is a sad comment when the Prime Minister will not take the first opportunity to deny allegations against his own party.

[*Translation*]

We have, on numerous occasions, called for a judicial inquiry into the sponsorship scandal.

In order to reassure us that there will be no interference in the investigation into the Prime Minister's own party, is he prepared to agree to a judiciary inquiry, yes or no?

Right Hon. Jean Chrétien (Prime Minister, Lib.): Mr. Speaker, the hon. member has just said that the RCMP is doing its job well and is doing its duty as far as these matters are concerned. Anyone who has defrauded the government will have to face the consequences before the courts.

[*English*]

Mr. Stephen Harper (Leader of the Opposition, Canadian Alliance): Mr. Speaker, I gather from that answer the Prime Minister still refuses to hold an independent judicial inquiry into this ongoing Liberal scandal.

Since the Prime Minister will not be staying around to be accountable for this, has he had the opportunity to discuss this with his successor? Does he know whether a full public airing of this matter would be supported by the member for LaSalle—Émard?

Right Hon. Jean Chrétien (Prime Minister, Lib.): Mr. Speaker, I just gave the answer to the member.

The RCMP is doing very independent work and the Auditor General, who is an officer of the House, is a very important independent officer of the House, and both of them are doing their jobs as they have to do. I have nothing else to add.

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FOREIGN AFFAIRS

Mr. Stockwell Day (Okanagan—Coquihalla, Canadian Alliance): Mr. Speaker, this summer a female Canadian photographer, Zahra Kazemi, was wrongly arrested by the Iranian regime, tortured and beaten to death. Our government has not even demanded a public apology or restitution to the Kazemi family.

Another Canadian, William Sampson, was wrongly arrested by the Saudi regime and for nearly three years was tortured and beaten, almost to the point of death. Our government has made no demand there for a public apology or restitution to Mr. Sampson.

Instead of making the Saudi ambassador feel at home in Canada, why will the government not send him home to Saudi Arabia until he gets restitution for Mr. Sampson and an apology to all Canadians?

Hon. Bill Graham (Minister of Foreign Affairs, Lib.): Mr. Speaker, as the hon. member knows, as well as every member of the House, the responsibility of the government is to protect Canadians abroad. The responsibility of the government is to rest in communications with governments where Canadians are in problems.

We are making statements. We are working with the Iranian government. We have taken strong positions with the Iranian government to deal with the Kazemi case. We are taking strong steps with the Saudi government to deal with the treatment of Mr. Sampson.

In spite of the efforts of this member and his party, I will not put Canadians at risk abroad by breaking off public relations—

The Speaker: The hon. member for Okanagan—Coquihalla.

Mr. Stockwell Day (Okanagan—Coquihalla, Canadian Alliance): Mr. Speaker, we are here to protect Canadians.

On January 31, while Canadian Bill Sampson was close to death in a Saudi torture chamber, our Minister of Foreign Affairs said that they were making sure that Mr. Sampson was well treated and that he had all his rights available to him. Now in a disturbing revelation, foreign affairs officials have admitted that the minister knew for some time that Mr. Sampson was being tortured.

Why did the minister not go public with this information and shame the Saudi regime into stopping the torture of Mr. Sampson?

Hon. Bill Graham (Minister of Foreign Affairs, Lib.): Mr. Speaker, the hon. member will remember the record and he can check with what I said to the press.

I consistently said to the hon. member and to members of the press that we would do nothing which would put Mr. Sampson's life at risk, and the hon. member would have. That was his choice. Our choice was the responsible one.

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[*Translation*]

GOVERNMENT CONTRACTS

Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ): Mr. Speaker, in the sponsorship scandal, Communication Coffin is charged with fraud of $2 million, and the Liberal Party of Canada, which received a percentage in the form of a $20,000 contribution, is now under investigation.

Since the RCMP investigation led it as far as the Quebec wing of the Liberal party, how can the Prime Minister continue to refuse to order an independent public inquiry that would shed light on the political involvement of his ministers in the sponsorship scandal, which the RCMP is unable to do?

Right Hon. Jean Chrétien (Prime Minister, Lib.): Mr. Speaker, I just said that, several months ago, we asked the RCMP and the Auditor General to do their work. In the case cited by the hon. member, they did do their work. The individual in question is presumed to have defrauded the government. If so, and if that individual is found guilty by the courts, he will have to suffer the consequences, which will in all likelihood be quite serious.

● (1425)

Mr. Gilles Duceppe (Laurier—Sainte-Marie, BQ): Mr. Speaker, the public has the right to know what role Alfonso Gagliano and other ministers played in the sponsorship scandal. The public has the right to know the truth before the next election campaign. Therefore, an independent public inquiry is essential.

Will the Prime Minister authorize such an inquiry now or will he do the same thing he did during the last election, which was to sweep everything under the rug, say that the RCMP is investigating and not talk about it. There is still no word on what happened with HRDC. Perhaps it is still under investigation. No one knows. Meanwhile, the election took place and the Prime Minister got off the hook.

Right Hon. Jean Chrétien (Prime Minister, Lib.): Mr. Speaker, in the case mentioned by the hon. member of the Bloc Quebecois, the investigation phase has been completed. We are now at the point where charges have been laid. What does this mean? This means that the Office of the Auditor General and the RCMP, completely independent bodies, have fulfilled the mandate they received from Parliament.

Mr. Michel Gauthier (Roberval, BQ): Mr. Speaker, at the end of his mandate, the Prime Minister cannot deny that the sponsorship scandal will leave a terrible blot on his personal record.

Instead of trying to have his successor get through the entire next election hiding behind investigations that we hardly ever hear about afterwards, will the Prime Minister admit that the best way to exonerate his cabinet ministers—who were probably not involved in the sponsorship scandal—would be to call for nothing short of a public inquiry?

Right Hon. Jean Chrétien (Prime Minister, Lib.): Mr. Speaker, I am pleased that the member concedes that the ministers probably did nothing wrong. That confirms what we have been saying all along in this House.

The fact that this is before the courts as we speak proves that we were right to ask the Auditor General and the RCMP to step in. Anyone who has cheated will have to suffer the consequences, which is what is happening in the case the leader of the Bloc Quebecois and the member are referring to.

Mr. Michel Gauthier (Roberval, BQ): Mr. Speaker, it is common knowledge that the police and the Auditor General are investigating the administration of the program. Now it is expanding to include benefits apparently derived by the Quebec wing of the Liberal Party.

Does the Prime Minister not understand that what really concerns us is the role some of his ministers played in the sponsorship scandal? Those are the people the public wants to know more about. Only a public inquiry could look into such aspects as the role certain cabinet ministers played in the scandal.

Right Hon. Jean Chrétien (Prime Minister, Lib.): Mr. Speaker, again, the charges are unfounded. The police are doing their job. At present, charges have been laid against individuals who are not linked in any way with the government.

I cannot conclude that the government is involved. The police are doing their job. The Office of the Auditor General is doing its job. These are independent organizations. The fact that action is being taken in the courts clearly proves they are doing a good job.

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[*English*]

AGRICULTURE

Mr. Peter MacKay (Pictou—Antigonish—Guysborough, PC): Mr. Speaker, the government has picked up where it left off in the spring, mired in scandal, infighting and under investigation by the RCMP. What is really scandalous is the way it has handled some of the big crises in the country, whether it be softwood lumber, SARS or BSE.

In July I wrote to the Prime Minister and I invited him to lead an all party delegation to Washington to personally intervene on behalf of farmers and those stakeholders affected by the BSE crisis.

Will the Prime Minister commit to personally intervening in this file on behalf of all farmers and Canadians being affected by the ban on Canadian beef?

Right Hon. Jean Chrétien (Prime Minister, Lib.): Mr. Speaker, I have done it. I have talked with the President and with other officials of the administration. The Minister of Agriculture did such a good job on this file that even the provincial government of a different colour, the Conservative Premier of Alberta, has congratulated the Minister of Agriculture because he has done a very good job on behalf of farmers of Canada.

Mr. Peter MacKay (Pictou—Antigonish—Guysborough, PC): Mr. Speaker, it is obviously not enough because there are still hundreds of thousands of Canadians being affected by the partial ban on Canadian beef.

I ask the Prime Minister again. Will he personally involve himself in this file? Will he endorse or lead an all party delegation to Washington with stakeholders to make those face to face representations to the Americans to help lift that ban on beef, or will he stay in 24 Sussex and just wait out his time?

● (1430)

Right Hon. Jean Chrétien (Prime Minister, Lib.): Mr. Speaker, if the hon. member did a bit of reading, he would understand that there has been only one country that has had cases of mad cow that has managed to sell into the American market. Take the British for example. They have not been able after a year to sell one pound of beef to the American market. We have managed to reopen the market within weeks.

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THE ECONOMY

Mr. Bill Blaikie (Winnipeg—Transcona, NDP): Mr. Speaker, the fact of the matter is that since the House rose in June, over 57,000 Canadians have lost their jobs.

I want to say this to the Prime Minister. While the Liberals were playing their silly insider games having to do with the leadership and while we have this strange mating dance going on between the Conservatives and the Alliance, 57,000 Canadians lost their jobs. When will the government make that a priority? When will we hear something from the government about what it will do about unemployment in this country because it is growing.

Right Hon. Jean Chrétien (Prime Minister, Lib.): Mr. Speaker, in the spring the hon. member was running for the leadership. We did not complain because he was not in the House of Commons. The leadership this summer we were not in the House of Commons. He cannot use that. The number of ministers running in the leadership is not great.

The reality is that while the Americans lost millions of jobs last year, the Government of Canada created 565,000 new jobs in the previous months. We had two bad months—

The Speaker: The hon. member for Winnipeg—Transcona.

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SOFTWOOD LUMBER

Mr. Bill Blaikie (Winnipeg—Transcona, NDP): Mr. Speaker, I could put it more eloquently, but certainly when it comes to quality and quantity, there is something wrong with the Liberal leadership race. That is not what I wanted to ask the Prime Minister about.

He was not in the House of Commons. Maybe he was on the golf course. The point of the matter is that they were not on the file of all those Canadians losing their jobs, over 50,000 Canadians.

I wish to ask the Prime Minister with respect to softwood lumber, for instance, when will he get tough with the Americans and tell them if they keep this up, despite Canada winning court battles, that we will start to link softwood lumber exports to oil and gas if they do not start treating this country fairly?

Right Hon. Jean Chrétien (Prime Minister, Lib.): Mr. Speaker, what he is doing at this moment is the best recipe to ensure that we make no progress at all.

At the moment we have won many cases in front of the international courts on these subjects. We are making progress. The level of export to the United States is still very high. However just to blackmail our partners on that I do not think is a very practical instrument.

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GRANTS AND CONTRIBUTIONS

Mr. Brian Pallister (Portage—Lisgar, Canadian Alliance): Mr. Speaker, it has been almost three years since the premier of the HRDC billion dollar boondoggle and it looks as though it is continuing. Now several HRDC employees have been implicated for their mishandling of funds. This is billion dollar boondoggle two, the sequel, and it is a tragedy.

Despite implementing a six point action plan and committing an additional $50 million, the minister missed the boat on this one. Why did it take a municipal police force to unearth this wrongdoing?

Hon. Jane Stewart (Minister of Human Resources Development, Lib.): Mr. Speaker, it is appalling and it is shocking when we get information about employees who wilfully choose to cheat the system.

In this case the police advised us of the possible involvement of some employees in one of their investigations. We immediately took action, starting our own investigation, bringing in forensic auditors, containing our files and making referrals to the RCMP.

The hon. member will know that we have taken severe disciplinary action up to and including firing. We continue to work with the police on this file, and their investigation continues.

Mr. Brian Pallister (Portage—Lisgar, Canadian Alliance): Mr. Speaker, over the last three years the minister's answer for everything has been this $50 million six point plan, yet the mismanagement seems to continue. The six point plan is in danger of becoming a pointless sham.

Could the minister provide an estimate to the House of how many more such cases of blatant taxpayer abuse will be coming forward from HRDC?

Hon. Jane Stewart (Minister of Human Resources Development, Lib.): Mr. Speaker, in fact I am very happy with the implementation of our new control plan work around grants and contributions.

Let us be clear here. What we are talking about is individual wrongdoing, employees who have chosen to thwart the system and to cheat the system.

We are working with the RCMP and the police on their investigation. They have asked us not to share full details of the investigations because we want to ensure that it comes to the most appropriate conclusion.

* * *

● (1435)

[*Translation*]

EMPLOYMENT INSURANCE

Mrs. Suzanne Tremblay (Rimouski—Neigette-et-la Mitis, BQ): Mr. Speaker, statistics from the CLC and the FTQ confirm what we are seeing every day in the field: fewer than 40% of workers benefit from employment insurance.

After 40 years of political life, how can the Prime Minister feel comfortable retiring after plunging thousands of families into poverty by denying more than 60% of workers access to employment insurance?

[*English*]

Hon. Jane Stewart (Minister of Human Resources Development, Lib.): Mr. Speaker, the hon. member makes reference to a CLC document. In its calculations, it is counting individuals for whom the employment insurance system is not designed, employees that have never been employed, those who have not paid premiums, those who were in school or who were formerly self-employed.

As I have said on a number of occasions in the House, the monitoring and assessment report clearly indicates that close to 90% of those for whom the program is designed would be eligible should they need employment insurance benefits.

[*Translation*]

Mrs. Suzanne Tremblay (Rimouski—Neigette-et-la Mitis, BQ): Mr. Speaker, the transitional measures for the Lower St. Lawrence and the North Shore will end on October 11. This means that, at that time, thousands more unemployed workers will be unable to qualify for employment insurance.

Given the conditions brought about by the softwood lumber crisis and the decline in tourism, among others, is the minister prepared to extend these transitional measures on which hundreds of families in the Lower St. Lawrence, North Shore and Saguenay-Lac-Saint-Jean regions depend for their survival?

[*English*]

Hon. Jane Stewart (Minister of Human Resources Development, Lib.): Mr. Speaker, I am glad the hon. member recognizes the work this government has undertaken in support of seasonal workers in this particular area of the country as well as in New Brunswick.

We have seen, as a result of these transitional measures, communities coming together to create and diversify their economies to provide new employment for those who need it. I am glad these transitional measures have worked, as well as other programs we have put in place to expand the seasons in the forestry industry, in the fishery and in tourism.

NATIONAL DEFENCE

Mr. Jay Hill (Prince George—Peace River, Canadian Alliance): Mr. Speaker, two years ago the Liberal government committed us to the war on terror, yet our armed forces still face chronic underfunding for troops and equipment.

The Canadian Alliance would immediately begin to increase the number of personnel from 53,000 to 80,000 to combat the stress that our troops silently endure due to frequent operational rotations.

Why do the Liberals care so little about the mental health of our troops that two years after we declared war on terrorism we still have less personnel available than when the Liberals took power 10 years ago?

Hon. John McCallum (Minister of National Defence, Lib.): Mr. Speaker, first let me congratulate the hon. member for his elevation to the position of defence critic, although I must say I will miss the back and forth I enjoyed with his predecessor, the member for Lakeland.

In response to his question, the government, in the last budget, had a 7% increase in its baseline budget at a time when many NATO countries have experienced cuts in their defence budgets. The government has maintained a very strong commitment to the military. We are embarked on a crucially important mission in Afghanistan where we represent 40% of the ISAF forces, and I am very proud of that contribution.

Mr. Jay Hill (Prince George—Peace River, Canadian Alliance): Mr. Speaker, today the highly respected British military publication *Jane's Defence Weekly* delivered a scathing indictment of the Liberal government's attack on our nation's armed forces, but we know who the real culprit is. As finance minister, it was the member for LaSalle—Émard who slashed $20 billion from Canadian Forces' budgets.

He wrote the cheque for posh new Challenger jets for the cabinet while our military continues to try to keep 40 year old Sea Kings and Hercules in the air. Is this what our military can expect once he achieves leadership?

Hon. John McCallum (Minister of National Defence, Lib.): Mr. Speaker, I have already mentioned the $800 million base increase in the last budget, but in previous budgets in recent years as well there has been $5 billion added to the budget under the previous finance minister. I might also mention that life is a balance between on the one hand respecting the families and the members of the Canadian Forces and on the other hand stepping up to the plate to do what is right. The Afghanistan mission is important and it is right, and at the same time we are taking great care of the Canadian Forces and their families.

● (1440)

[*Translation*]

MONTREAL GRAND PRIX

Mr. Réal Ménard (Hochelaga—Maisonneuve, BQ): Mr. Speaker, the Montreal Grand Prix is at risk, and the difficulty in finding a middle ground is making it increasingly unlikely that this event will be held in 2004.

What does the government intend to do, short of amending the Tobacco Act, to keep the Grand Prix, an event which generates an estimated $80 million in economic and tourist benefits, in Montreal?

[*English*]

Hon. Anne McLellan (Minister of Health, Lib.): Mr. Speaker, we have said throughout this episode that Health Canada has no intention of changing our law, which in fact is a very effective law in relation to tobacco reduction. In fact, recently over the summer I had the opportunity to sign, on behalf of this country and all Canadians, the global convention on tobacco reduction. I can inform the House that indeed we are viewed as a world leader in relation to dealing with a habit that kills approximately 42,000 Canadians every year.

[*Translation*]

Mr. Réal Ménard (Hochelaga—Maisonneuve, BQ): Mr. Speaker, the government did not hesitate to shamelessly squander tens of millions of dollars in the sponsorship scandal.

Given how important the Grand Prix is, did the government consider setting up a transitional fund for a maximum of two years to allow this event to take place and bring Canadian regulations in line with those in force in the European Union?

Hon. Martin Cauchon (Minister of Justice and Attorney General of Canada, Lib.): Mr. Speaker, I would simply like to remind the House that, basically where the Tobacco Act is concerned, recognizing precisely the economic benefits involved, this government has already granted a seven year postponement in implementing the legislation.

As for the creation of a special fund, which means using public funds, I just want to tell this House that this option has also been ruled out by this government.

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[*English*]

VETERANS AFFAIRS

Mr. Roy Bailey (Souris—Moose Mountain, Canadian Alliance): Mr. Speaker, over the summer the Minister of Veterans Affairs created two classes of veterans' widows: those who receive the veterans independence program and those who were cut off. Veterans' widows lobbied the minister that these benefits be ongoing, but instead of that, the only ones now receiving the veterans independence program as part of their pension are those whose husbands died in the last year. Why will the minister not treat these veterans' widows equally and give benefits to the past recipients of the VIP?

Hon. Rey Pagtakhan (Minister of Veterans Affairs and Secretary of State (Science, Research and Development), Lib.): Mr. Speaker, we wish that we could have done it. The reality is we were to address equally five other urgent veterans' priorities. The fiscal situation will only allow us to address the six urgent veterans' priorities following consultation with the three major veterans' organizations. By doing it this way, it is effective on the day we announce it, and we made the announcement, so we could not make it retroactive. However, we will assist any spouse, who may be needing services, eligible for provincial programs, to the best the department can do.

Mr. Roy Bailey (Souris—Moose Mountain, Canadian Alliance): Mr. Speaker, today I sent a letter to nearly 1,000 veterans' widows who say they cannot afford to live on their paltry pensions. They do not deserve being cut off the VIP. I have told them to write to the minister and to their MPs. They are responsible for explaining to these widows why some will get the pension benefits and others will not.

How can the minister stand by this decision to deny worthy veterans' widows the VI portion of their pensions?

Hon. Rey Pagtakhan (Minister of Veterans Affairs and Secretary of State (Science, Research and Development), Lib.): Mr. Speaker, as the member will appreciate, there are many urgent issues. For example, we would like to extend benefits to dependent children of members of the forces killed in the line of duty. We would like to enhance compensation for prisoners of war. We would like to extend benefits to other veterans. We would like to extend benefits for overseas veterans. We could not do everything at the same time. At this time we have done our best, and I think from now on and into the future the spouses will be eligible for the veterans independence program.

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[*Translation*]

INTERNATIONAL TRADE

Mr. Guy St-Julien (Abitibi—Baie-James—Nunavik, Lib.): Mr. Speaker, my question is for the Minister for International Trade. What actions will be taken so that the independent remanufacturers of Quebec can export the bulk of their products without paying duties?

● (1445)

[*English*]

Mr. Murray Calder (Parliamentary Secretary to the Minister for International Trade, Lib.): Mr. Speaker, first of all, NAFTA and WTO rulings ruled that U.S. duties are unjustifiable and Canadian industry should not be subject to these measures. U.S. and Canadian negotiators worked out a draft agreement that provided free access for most exports, including the independent remanufacturers. The U.S. industry's response is unreasonable demands. We have won an important WTO ruling that the U.S. did not treat remanufacturers appropriately in its investigations, and we are also pursuing remanufacturers' interests in the U.S. administrative review of the duties.

DISASTER ASSISTANCE

Mr. Rick Borotsik (Brandon—Souris, PC): Mr. Speaker, the Prime Minister shortchanged the province of Quebec during the ice storm, he abandoned Ontario during the SARS crisis, he disappeared during the blackout, and he has yet to offer a workable assistance package to Manitoba, Saskatchewan and Alberta cattle producers. It seems the Prime Minister's broken promises are moving west.

Recently he promised federal assistance to the fire-scarred regions of British Columbia. When can the good people of B.C. expect the Prime Minister to break that promise?

Hon. John McCallum (Minister of National Defence, Lib.): Mr. Speaker, I think Canadians can take pride in the back-breaking work done by up to 2,000 Canadian soldiers in fighting the fires in British Columbia. The federal government has an excellent relationship with the premier of that province and with the minister, Rich Coleman, both of whom expressed great appreciation for our work. We have already undertaken to provide financial assistance to British Columbia and we are working with that province to bring that about.

Mr. Bill Casey (Cumberland—Colchester, PC): Mr. Speaker, the fire victims in British Columbia should not hold out a lot of hope because the people in Newfoundland, Nova Scotia and New Brunswick have not been paid yet for their contribution made during the September 11, 2001 terrorist attack. Nova Scotia has not been paid for the floods of 1999, and the victims of this year's floods in Newfoundland and Nova Scotia have been subjected to a series of conditions that just do not make any sense.

When will the minister pay these overdue accounts to the provinces and when will he change the ridiculous rules imposed on the victims?

Hon. John McCallum (Minister of National Defence, Lib.): Mr. Speaker, we have received a request for assistance from the Province of Newfoundland and Labrador related to the flood in Badger. We are in touch with Newfoundland and Labrador officials and we are working with them to determine which components of those expenditures will be eligible for federal assistance under the DFAA program.

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AGRICULTURE

Mr. Dick Proctor (Palliser, NDP): Mr. Speaker, the mad cow crisis continues to threaten the livelihood of tens of thousands of farmers, ranchers and packing house workers throughout Canada. The federal response has been half-hearted at best. The BSE recovery program ended last month but the hurt and devastation remain, especially for the smaller operator. Cattle on pasture when the borders first closed are returning to barns and feedlots, with higher maintenance costs.

Would the Prime Minister please inform the beef industry what his government is going to do and when, before we witness the utter devastation of the Canadian beef industry?

[*Translation*]

Mr. Claude Duplain (Parliamentary Secretary to the Minister of Agriculture and Agri-Food, Lib.): Mr. Speaker, I want to mention here that the minister and his team did an extraordinary job. This is the first time anywhere that, 100 days after the disease was detected, the borders have reopened so that meat can be sold.

To date, the measures taken in the first phase total $460 million. The second phase is estimated at $57 million. The situation continues to be evaluated in order to help farmers. This is proof that the government is addressing this issue.

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[*English*]

FOREIGN AFFAIRS

Mr. Svend Robinson (Burnaby—Douglas, NDP): Mr. Speaker, my question is for the Minister of Foreign Affairs. Last week, two respected Canadian Muslim religious leaders and Islamic scholars, Ahmed Kutty and Abdool Hamid, travelled to Florida to lead prayer services. Instead, they were handcuffed, thrown in jail, interrogated and kicked out of the United States.

Why has the Liberal government not called for a full independent inquiry and apology and why has it not protested this shameful racist treatment of these and too many other Muslim and Arab Canadians?

Hon. Bill Graham (Minister of Foreign Affairs, Lib.): Mr. Speaker, clearly we recognize that the United States of America determines who goes across its borders and who does not, as every sovereign country does. What we do is we tell our American friends on every occasion that those of us living in Canada are not involved in terrorism and we wish to work with Americans to establish moderate voices. I understand the people who went there were moderate people trying to establish links with moderate voices in the United States of America. We will continue to make sure the American government understands that from Canada we come as friends. That is the voice we have with the United States and we will continue to keep that tone.

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● (1450)

GOVERNMENT CONTRACTS

Mr. Leon Benoit (Lakeland, Canadian Alliance): Mr. Speaker, the RCMP is rolling out its prosecutions in the Gagliano Group-action affair. First up is Liberal supporter Paul Coffin of Communication Coffin, who has been charged with 18 counts of fraud. We can expect a number of others in the weeks to come, but the one person we will not see is the former public works minister. Why will the government not initiate a judicial inquiry into the sponsorship program that will include recalling the former public works minister, Alfonso Gagliano?

Hon. Ralph Goodale (Minister of Public Works and Government Services, Minister responsible for the Canadian Wheat Board and Federal Interlocutor for Métis and Non-Status Indians, Lib.): Mr. Speaker, first let me congratulate the hon. member upon his promotion to the role of official critic for public works. I welcome him to that role.

On the substance of the question, our approach over the past 15 months has been to put first things first, moving steadily forward, step by step. We want to make sure that nothing interferes with the appropriate independent investigations of both the RCMP and the Auditor General. We have encouraged and co-operated with both those investigations and obviously the action taken recently by the police indicates the wisdom of that approach.

Mr. Leon Benoit (Lakeland, Canadian Alliance): Mr. Speaker, this government's actions in the past in fact clearly have not solved the problem and the government cannot distance itself from ministerial responsibility. The fact is, the minister is responsible for his department. If there is criminal conduct at the public works department, the minister must be held accountable. Why is the former minister not being held accountable and why is a judicial inquiry being refused? Who in this government will be held accountable?

Hon. Ralph Goodale (Minister of Public Works and Government Services, Minister responsible for the Canadian Wheat Board and Federal Interlocutor for Métis and Non-Status Indians, Lib.): Mr. Speaker, since May of last year we have frozen all activity to stop the abuses. We terminated the use of private sector middlemen. We stopped doing any business with certain firms in question. We set up financial holdbacks and launched money recovery proceedings. We toughened the program rules and procedures. We reduced its budget. We conducted extensive transparent internal inquiries. Disciplinary proceedings are underway. All legal issues have been referred to the RCMP. We called in the Auditor General; in fact we expanded her mandate to make sure that the job could be done right.

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[*Translation*]

BIOCHEM PHARMA

Mr. Paul Crête (Kamouraska—Rivière-du-Loup—Témiscouata—Les Basques, BQ): Mr. Speaker, when BioChem Pharma, one of the bright lights of Quebec's pharmaceutical industry, was purchased by Shire, a British company, Shire promised to invest $27 million over four to six years in research and development into leukemia and pancreatic cancer.

Following this agreement between Shire and Industry Canada in 2001, the minister approved the transaction. Can the minister confirm to the House that his approval was dependent on these conditions and, if so, is he prepared to make these conditions public, now that Shire has closed the BioChem Pharma lab in Laval, putting 120 leading scientists out of work?

Hon. Allan Rock (Minister of Industry, Lib.): Mr. Speaker, I can tell you that the government has the firm intention to ensure that the commitments are respected.

Mr. Paul Crête (Kamouraska—Rivière-du-Loup—Témiscouata—Les Basques, BQ): Mr. Speaker, if the minister is not prepared to go farther than that, he will allow an important company to disappear. The minister is aware that the law authorizes him to reveal information contained in the agreement with Shire, if he feels that it is in Canada's best interest to do so.

Therefore, does the minister intend to make the agreement public and help save these jobs?

Hon. Allan Rock (Minister of Industry, Lib.): Mr. Speaker, I intend to obey the law. I also intend to make sure that the company respects all the commitments it made at the time it purchased BioChem Pharma.

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[*English*]

AGRICULTURE

Mr. Gerry Ritz (Battlefords—Lloydminster, Canadian Alliance): Mr. Speaker, since May of this year the Canadian livestock industry has been reeling from the impact of a single BSE infected cow. All the stakeholders in the provinces agree there was and continues to be a lack of leadership at the federal level.

When will the agriculture minister abandon his heavy-handed attempt to force his APF strategy on the provinces and concentrate on resolving the BSE crisis?

[*Translation*]

Mr. Claude Duplain (Parliamentary Secretary to the Minister of Agriculture and Agri-Food, Lib.): Mr. Speaker, I would like to reiterate what the Minister of Agriculture and Agri-Food achieved by working hard with his colleagues.

This is the first time we have managed to reopen a border to trade. Several millions of dollars have been invested in trying to rebuild the industry.

Consultations will continue to try to find ways in which to assist the farmers even more. I do not think that consultations are useless at this time.

● (1455)

[*English*]

Mr. Gerry Ritz (Battlefords—Lloydminster, Canadian Alliance): There you have it, Mr. Speaker, some more of that BS package that they were spouting all summer.

The minister knows his April fool's joke contains no provisions that will address a crisis like the BSE outbreak. Farmers and ranchers reject the APF as again too bureaucratic and off target. Using their own calculations, farmers will receive even less support from the Liberal government than they have in the past.

Why will the minister not sit down with the producers and provinces and actually work at resolving this crisis before he cripples another industry?

[*Translation*]

Mr. Claude Duplain (Parliamentary Secretary to the Minister of Agriculture and Agri-Food, Lib.): Mr. Speaker, that is totally untrue. The new strategic plan will provide farmers with tools to receive all the support necessary. As the provinces sign the framework agreement and we sign bilateral agreements, farmers will be able to benefit from them.

[*English*]

Hon. Charles Caccia (Davenport, Lib.): Mr. Speaker, my question is addressed to the minister responsible for the Canadian Wheat Board.

According to Ken Ritter, the chair of the Canadian Wheat Board, 82% of the board's customers say they do not want to use genetically engineered wheat.

Does the minister agree with the position taken by the Wheat Board's customers and the board's opposition to Monsanto's application to cultivate and market genetically engineered wheat in Canada?

Hon. Ralph Goodale (Minister of Public Works and Government Services, Minister responsible for the Canadian Wheat Board and Federal Interlocutor for Métis and Non-Status Indians, Lib.): Mr. Speaker, as all hon. members will know, given our painful experience this summer with BSE, it is important to take a science based approach to cross-border trade issues. That having been said, I have a great deal of concern about the same things the Canadian Wheat Board is concerned about. We do not want to lose either markets or market share. A great deal of work therefore remains to be done to ensure intelligent and responsible behaviour in respect of genetically modified products.

The government is working very closely with the Canadian grains industry and other stakeholders, including the Canadian Wheat Board, to determine how best to proceed in a responsible manner.

Mr. Rick Casson (Lethbridge, Canadian Alliance): Mr. Speaker, with the collapse of the trade talks in Cancun, Canadian agriculture producers have been dealt yet another blow. Producers in Canada have been placing their future hopes on these negotiations.

The Minister for International Trade stated that WTO members must redouble their efforts to build bridges and find consensus. The minister needs to redouble his efforts to build bridges in his own backyard. Canadian producers are hurting. When will the Liberal government rebuild damaged relationships with our farmers and our international trading partners?

Mr. Murray Calder (Parliamentary Secretary to the Minister for International Trade, Lib.): Mr. Speaker, everybody knows that there was nothing in the draft agreement that was agreed to in Cancun, but additional insights have been gained and that will lead to further discussions which will be taking place on December 15 in Geneva when the WTO group meets again.

Mr. Rick Casson (Lethbridge, Canadian Alliance): Mr. Speaker, Liberal policies continue to destroy international relationships and alienate and harm our Canadian farmers.

When will the government deal with opening the Canada-U.S. border to live cattle? When will it deal with high tariffs placed on grain farmers? When will it deal with restricted market access to agriculture producers?

Why is the Liberal government continuing to harm our Canadian agriculture producers?

[*Translation*]

Mr. Claude Duplain (Parliamentary Secretary to the Minister of Agriculture and Agri-Food, Lib.): Mr. Speaker, Canada went to Cancun to agree on a framework document on agriculture that would allow us to continue to pursue our negotiation objectives, in other words, the elimination of export subsidies, maximum reduction of internal support that distorts trade, and true improvements to market access for all agri-food products, which is very important to us.

* * *

FOREIGN AFFAIRS

Ms. Francine Lalonde (Mercier, BQ): Mr. Speaker, the deputy prime minister of Israel has acknowledged that assassination was among the options Israel had contemplated to get rid of Yasser Arafat, the president of the Palestinian Authority.

Does the Minister of Foreign Affairs plan to summon the Israeli ambassador to Canada in order to indicate to him his strong disapproval of this statement by the deputy prime minister of the Israeli government, advocating murder as a method of resolving political conflict?

Hon. Bill Graham (Minister of Foreign Affairs, Lib.): Mr. Speaker, last week I had the opportunity to meet with the Israeli Minister of Immigration and the ambassador in my office. We discussed this policy of the government of Israel. I indicated to him the position of the Canadian government, which is the same as that of the U.S. government and many others, namely that it is unwise at this time for the Israeli government, in the interests of security, to take steps that might not be in its long term interests, which depend on implementation of the road map for peace.

We are therefore asking our Israeli friends to exercise restraint in order to guarantee—

● (1500)

The Speaker: The hon. member for Peterborough.

* * *

[*English*]

ELECTORAL BOUNDARIES

Mr. Peter Adams (Peterborough, Lib.): Mr. Speaker, my question is for the government House leader.

The electoral boundary commissions completed their work during the summer and the new riding boundaries will not come into effect until August 2004. When does the government expect to introduce its bill to advance the coming into force of the new electoral boundaries?

Hon. Don Boudria (Minister of State and Leader of the Government in the House of Commons, Lib.): Mr. Speaker, I am pleased to inform the hon. member and indeed the entire House that I intend to introduce such legislation later this day in order to give effect to the bill as early as next April 1.

I want to thank members on all sides of the House who brought forward this suggestion to me in the past. I also asked the parliamentary committee to undertake a study about the future of this measure and a one year provision, with a view to shortening it permanently.

* * *

[*Translation*]

ELECTIONS ACT

Ms. Pierrette Venne (Saint-Bruno—Saint-Hubert, Ind. BQ): Mr. Speaker, my question is for the government House leader and is along the same line as the previous one.

As a result of the latest reform of the Elections Act, only those parties which meet the 50 candidate rule qualify for an allowance of $1.75 per vote obtained. In the spirit of the decision mentioned by the previous speaker, it is clear that such an advantage is contrary to the charter.

In light of the upcoming election in the next few months, how does the government intend to amend its legislation to comply with the Supreme Court decision?

Hon. Don Boudria (Minister of State and Leader of the Government in the House of Commons, Lib.): Mr. Speaker, these are two separate issues. The hon. member's remarks were about the new electoral map. The question the hon. member opposite is asking me concerns the decision in the Miguel Figueroa case before the Supreme Court.

The government intends to respond through legislation to make the necessary changes within a few weeks.

* * *

[*English*]

NATIONAL DEFENCE

Mrs. Elsie Wayne (Saint John, PC): Mr. Speaker, *Jane's Defence Weekly* military magazine reports that our Canadian Forces are in a state of crisis caused by reduced spending on military equipment and personnel, but while it argues that the damage will be irreversible, the minister insists “we are making progress”.

Well, if we are making progress, where are the Sea Kings' replacements? Where is the money for the parts for the Hercules? Where is the $200 million he needs to find? Why is the minister so impotent when it comes to the military? When is he going to get some money?

Hon. John McCallum (Minister of National Defence, Lib.): Mr. Speaker, I can assure you that many of my cabinet colleagues would enjoy the impotence in the form of an $800 million increase in their base budget. That is a lot of money and the government has put that to very good use dealing with some of the issues that the hon. member has raised.

We have put this into spare parts, into training, into medical attention. We have increased our capital budget. We have done a whole range of measures to increase both the sustainability and the transformation of the Canadian armed forces.

* * *

FOREIGN AFFAIRS

Ms. Alexa McDonough (Halifax, NDP): Mr. Speaker, my question is for the Minister of National Defence as well. Last week the minister publicly patted himself on the back about the progress of talks with Bush on the star wars missile defence. We need the minister to come clean on who is driving the star wars talks because certainly Parliament is not.

Why is the minister taking direction from the next Liberal leader and not from this Parliament?

Hon. John McCallum (Minister of National Defence, Lib.): Mr. Speaker, I am not patting myself on the back. I am just stating that there have been a number of meetings over the summer. They seem to be progressing well. There may be a long way to go in these long conversations about matters of such importance to Canada. While the NDP may think it makes good policy to negotiate with the Americans in public through the media, that is not the position of the government.

* * *

PRESENCE IN GALLERY

The Speaker: I draw the attention of hon. members to the presence in the gallery of the Hon. Cecil Clark, Minister of Energy of Nova Scotia.

Some hon. members: Hear, hear.

● (1505)

The Speaker: The Chair has notice of two questions of privilege. The first is from the hon. member for Yorkton—Melville. I will hear the hon. member for Yorkton—Melville on his question of privilege.

* * *

PRIVILEGE

MINISTER OF JUSTICE

Mr. Garry Breitkreuz (Yorkton—Melville, Canadian Alliance): Mr.Speaker, I wrote to you on July 17, 2003 to give you notice of my intention to raise a question of privilege with respect to: first, misleading statements made by the justice minister in the House on February 3, 2003; second, similar misleading statements made in a new release issued by the justice minister's department that same day; and third, the failure of the justice minister to provide all the documents requested by the Auditor General in her office's letter to his department dated February 14, 2003.

We were not made aware of these misleading statements or the Auditor General's letter until Tim Naumetz reported it in several CanWest newspapers on July 16, 2003. This is the first opportunity I have had to raise this matter as Parliament has been in summer recess until today.

Privilege

I will start by listing the documents I have reviewed in preparing my question of privilege today and that I will have delivered to your office today: first, a copy of the *National Post* article that broke the story dated July 16, 2003 titled "Auditor-General raised alarm over gun registry audit: Justice Department misrepresented financial review, officials said"; second, a copy of the letter from the Auditor General's office to the deputy minister of justice dated February 14, 2003; third, a copy of page 3068 from the Commons *Debates* dated February 3, 2003; fourth, a copy of the news release issued by the Department of Justice dated February 3, 2003 titled "Minister Of Justice Releases Results Of Independent Gun Control Program Reviews"; fifth, a copy of the KPMG transmittal letter to the justice department dated January 31, 2003; sixth, a copy of the KPMG report titled "Canadian Firearms Centre: Report of Findings from the Performance of Specified Procedures" dated January 31, 2003; and seventh, a copy of the *Hill Times* article from Monday, August 4, 2003 titled "[Minister of Justice] in contempt of Parliament: Alliance MP Says Justice Minister misled House over gun registry boondoggle".

After reviewing the justice minister's statements in *Hansard* and in his press release, I have come to the conclusion that the minister is in contempt of Parliament. The evidence is overwhelming.

The crux of the case is the minister's statement in the House on February 3, 2003 when he said:

> —the KPMG study assured the department that the information compiled about past spending was accurate...

I underline the word accurate.

However, on February 14 the Auditor General's office informed the justice minister that the KPMG study did not do this because KPMG did not conduct an attest audit.

In the letter from the Office of the Auditor General to Mr. Morris Rosenberg, deputy minister of justice, dated February 14, 2003, assistant auditor general, Mr. Hugh McRoberts, wrote:

> We are concerned that there may be insufficient information in the KPMG Report to support the conclusions in the Press Release. We would like to be able to respond to any Parliamentary concerns about the KPMG Report that may be raised in the forthcoming hearings.
>
> There are two statements in the Department's Press Release that are causing concern. These statements conclude that the KPMG Report—

For everyone's benefit I would like to point out that these are quotes right from the minister's press release.

> "Has allowed the Department of Justice to confirm that the necessary systems are in place to ensure the integrity and completeness of relevant financial data; and
>
> This work has provided the Department with confidence that the information compiled on past expenditures is accurate".
>
> We are concerned that the work described in the KPMG report and accompanying transmission letter does not appear to be sufficient to support these statements. For example, KPMG states on page 2 of its Report that "the procedures performed on the expenditures are limited, they do not constitute an attest audit of the expenditures of the Canadian Firearms Centre". Further, KPMG states that it is not expressing an audit opinion on the expenditures of the Centre or the Canadian Firearms Program.
>
> Since KPMG's work was of a limited nature and was not an attest audit, we are concerned that it may be being inappropriately used in the Press Release to draw conclusions about the integrity and completeness of the Departmental financial information on the expenditures of the Centre or the larger Canadian Firearms Program.

● (1510)

I think the use of the word "may" was being polite. The fact is that the minister's press release of February 3, 2003 was inappropriately used. The quotes in the press release speak for themselves.

In fact, on page 2 of the assistant auditor general's report to the deputy minister of justice he stated:

> We continue to be concerned about this issue because Parliamentary debates relating to information in the Department's Press Release suggest that the KPMG work is being interpreted as having been an attest audit of Program expenditures; and that the KPMG has concluded that the Department's financial information on the Program is complete and accurate.

Here is the contentious quote from the minister's press release:

> The first report, by consulting firm KPMG, has allowed the Department of Justice to confirm that the necessary systems are in place to ensure the integrity and completeness of relevant financial data. This work has provided the Department with confidence that the information compiled on past expenditures is accurate.

Not only did the justice minister show his contempt for Parliament and the public by making public these misleading conclusions in his press release but he also said much the same thing in the House of Commons on February 3 during routine proceedings.

This is a direct quote from the justice minister from page 3068 from the Commons *Debates* for that day:

> Mr. Speaker, as I was saying, the KPMG study assured the department that the information compiled about past spending was accurate and corresponds to the figures submitted to this House in the public accounts. In addition, the KPMG report provides us with a basis for continuing to report the full costs of the program, as requested by the Auditor General of Canada.

Based on the concerns raised by the Office of the Auditor General about the limited nature of the KPMG report, it is clear to everyone that the justice minister misled the House with this statement and represents a prima facie case of contempt of Parliament.

The 22nd edition of Erskine May on page 63 describes ministerial responsibility and states:

> —it is of paramount importance that ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister;

On page 119 of Erskine May's 21st edition it states:

> The Commons may treat the making of a deliberately misleading statement as a contempt.

A Speaker in 1978 ruled a matter to be a prima facie case of contempt where the RCMP were alleged to have deliberately misled a minister of the crown and the member for Northumberland—Durham resulting in "an attempt to obstruct the House by offering misleading information".

More recently the Speaker ruled a question of privilege to be prima facie on February 1, 2002. It involved the Minister of Justice who made misleading statements in the House. In that case the minister advised the Speaker that he had no intention of misleading the House, which would not make it deliberate. Nevertheless the Speaker felt that it was in the best interest of the House to have a committee look into the matter.

The Speaker said:

> I am prepared, as I must be, to accept the minister's assertion that he had no intention to mislead the House. Nevertheless this remains a very difficult situation. I refer hon. members to Marleau and Montpetit at page 67:
>
> "There are...affronts against the dignity and authority of Parliament which may not fall within one of the specifically defined privileges...the House also claims the right to punish, as a contempt, any action which, though not a breach of a specific privilege, tends to obstruct or impede the House in the performance of its functions; [or that] obstructs or impedes any Member or Officer of the House in the discharge of their duties;..."
>
> On the basis of the arguments presented by the hon. member and in view of the gravity of the matter, I have concluded that the situation before us where the House is left with two versions of events is one that merits further consideration by an appropriate committee, if only to clear the air. I therefore invite the hon. member for Portage-Lisgar to move his motion.

● (1515)

The facts are clear. The justice minister's statements in the House were not accurate. For this he should be found in contempt of Parliament.

Since the minister's deputy received the letter from the Office of the Auditor General on February 14 warning him of the inaccurate statements in his press release, the minister has not corrected the public record nor has he corrected the statements he made in the House about the KPMG report. For this he should be found in contempt.

The minister must also have known that they were not accurate at the time he made them. Consequently, he knowingly misled the House, and for this he should resign.

Finally, the February 14 letter from the Office of the Auditor General pointed out even more contemptible behaviour on the part of the Minister of Justice and the officials in his office.

On page 2, the assistant auditor general wrote:

> We understand that KPMG may have provided additional verbal or written assurance to the Department to allow it to form the conclusions in the Press Release. We would appreciate receiving the letter sent to the Department from KPMG indicating that it had provided assurances to the Department to support the statements the Department made in the Press Release. We would also appreciate it if the Department would obtain and forward to us copies of KPMG working papers that support the specific assurances it made to the Department and which support—

The Speaker: Order, please. I think the hon. member has made his point and now he is going off on what I would have to regard as a tangential argument that might be helpful but I suspect it is not. I wonder if he could perhaps bring his remarks to a conclusion. I sense he is getting near the end but I cannot tell how many pages there are left of his helpful notes.

Mr. Garry Breitkreuz: Thank you, Mr. Speaker. I have about 20 seconds left.

The letter continues on to say:

> —the statements in the Press Release.
>
> As well, we would appreciate receiving any analysis the Department conducted on the KPMG work or any other work it did to support the above cited conclusions.

In conclusion, it is my understanding that all the information requested in the assistant auditor general's letter has not been provided by the department. If your investigation proves this point, then the justice minister has also shown his contempt for the Office of the Auditor General, a respected officer of Parliament.

There is a volume of evidence here, as is obvious by this lengthy intervention. If the Speaker agrees with the documented evidence I presented today, I am prepared to move the appropriate motion.

Hon. Don Boudria (Minister of State and Leader of the Government in the House of Commons, Lib.): Mr. Speaker, I want to comment briefly on the question of privilege, at least the alleged question of privilege.

The hon. member for Yorkton—Melville alleges that the Minister of Justice has, in his view, misled the House of Commons concerning the findings of a report by KPMG on the financial records of the firearms program.

On February 3 the Minister of Justice tabled a report in the House of Commons. We all recall that. When tabling the document, the minister stated:

> ...the KPMG study assured the department that the information compiled about past spending was accurate and corresponds to the figure submitted to this House in the public accounts.

The member for Yorkton—Melville relies upon the letter dated February 14 from the assistant auditor general to the deputy minister of justice to support his claim that the minister, in his view, misled the House. However the letter from the assistant auditor general does not state that the minister misled Parliament. I am sure Mr. Speaker will become acquainted with that. Rather, the letter is focused on a potential misinterpretation that the KPMG report is a so-called attest audit of the program.

At most, the Auditor General states that "there may be insufficient information in the KPMG report", and that the Office of the Auditor General "would like to be able to respond to any parliamentary concern about the KPMG report that may be raised in forthcoming hearings". And of course the Auditor General regularly testifies before a committee of Parliament.

I submit that this is a matter for debate and not at all a question of privilege. The Minister of Justice tabled a report in the House so that it is available for the scrutiny of members. The minister tabled a report to meet his commitment to be open and transparent with the House on firearms issues. That is not the responsibility of another minister of the crown.

The member for Yorkton—Melville, thanks to the minister, was provided access to that information. If he disagrees with the minister's interpretation insofar as the result of the report is concerned, of course he is free to do so. That is what debate is all about.

MPs can question the government over findings of the report, or any other report, in question period, in committee or in subsequent adjournment debates at the end of the day, and MPs are able to seek the views of the Auditor General on the scope of the report all the time, as I indicated a while ago.

In fact, the public accounts committee already investigated this matter on February 24 when the minister and the Auditor General appeared on the firearms program. At that meeting the Auditor General clarified the fact that the study was not an attest audit. That was clarified on February 24 and presumably has remained clear since then. The *Hansard* or the committee report will attest to that.

On the basis of this information, it is clear that no question of privilege exists or at least not in this matter.

● (1520)

The Speaker: I want to thank the hon. member for Yorkton—Melville for his usual zeal in pursuing this matter and certainly for the assistance that he and the government House leader provided to the Chair in dealing with this matter. I understand he is going to deliver a volume of material to the Speaker's office later this day for me to read. I will plow through it at some point and then return to the House in due course with a decision in respect of the issues raised by the hon. member and responded to by the government House leader.

I have notice of another question of privilege from the hon. member for Ancaster—Dundas—Flamborough—Aldershot.

SUPREMACY OF PARLIAMENT

Mr. John Bryden (Ancaster—Dundas—Flamborough—Aldershot, Lib.): Mr. Speaker, I rise on a question of privilege to cite what I believe to be an affront to the dignity and authority of Parliament and, therefore, a contempt of this House by the courts.

I am going to refer you, Mr. Speaker, to two sentences that were first used by a justice in 1998, repeated in support of a decision in 2001, and then again cited in a decision in 2003. The reason why I could not bring this before the House earlier was that I only became aware of these two sentences when they were cited in the third case in 2003.

I shall read the paragraph, but first, let me impress upon you that the issue that was before the courts is not relevant to the argument that I am making today in the House. The matter needs to be considered by the weight of the words alone. This is what was said by Mr. Justice Iacobucci in Vriend v. Alberta in 1998 and repeated, as I said, several times subsequently:

> In my opinion, groups that have historically been the target of discrimination cannot be expected to wait patiently for the protection of their human dignity and equal rights while governments move toward reform one step at a time. If the infringement of the rights and freedoms of these groups is permitted to persist while governments fail to pursue equality diligently, then the guarantees of the Charter will be reduced to little more than empty words.

I will demonstrate a little later that the use of the word government in this citation is meant to mean government as we understand it in this House, where a majority of parliamentarians make decisions with respect to legislation and introduce legislation.

The problem is simply this. Implicit in these words is the suggestion that a government—that is, Parliament—is not capable of moving with alacrity in bringing reforms to society. It implies that some other authority should be charged with bringing the reforms forward that the authority deems appropriate.

I would suggest to you, Mr. Speaker, that that absolutely erodes the democratic principles of this House. I think most Canadians believe, perhaps not some justices but most Canadians, that this place exists in order to bring change to society, but bring change to society in a democratic forum. In other words, we have to have an eye toward the people who elected us.

To suggest that some other authority should take over from Parliament to bring in reforms because Parliament is not acting as fast as that authority thinks is appropriate—and that authority in this case is the courts—then I think that is an affront to Parliament.

Furthermore, I would ask you, Mr. Speaker, to examine these two sentences very carefully because when the justice made these remarks he also stated:

> If the infringement of the rights and freedoms of these groups is permitted to persist while governments fail to pursue equality diligently,...

Mr. Speaker, this is a terrible affront to members of Parliament because I do not think there is a single person on either side of this House that does not believe that we should be bringing in equality diligently.

The problem is that we might want to bring in reforms and want to make everything equal for all Canadians, but we have to balance the conflicting interests of other Canadians. That is what a democracy is all about. To suggest that people in this place or the other place are not pursuing equality diligently is an absolute affront to the House. It is very contemptuous of the House.

The impact of these words was profound and that is why I am standing here because this obviously reflects a form of judicial activism that sets the courts above Parliament in formulating laws and it did have an immediate impact. I do not know the details of the case that was being heard by Mr. Justice Iacobucci, although I suspect it was on the same issue that was subsequently heard by the Ontario Superior Court of Justice in the case of Halpern in 2001.

Here is the impact of those two sentences. Mr. Justice LaForme, in the Halpern case, in section 306 if the table officers would like to look it up, begins:

● (1525)

> First, I do not accept that some form of legislative response to this issue that goes about implementing the denied rights of the Applicants in some piecemeal form is appropriate. ...I would agree with the comments of Iacobucci J. when he considered a not dissimilar issue in Vriend.

In other words, Mr. Justice LaForme is saying that the courts should not accept the right of Parliament to bring in legislation to address an issue.

I would submit to the House that it is none of the court's business whether that legislation is brought in piecemeal, that is, over one day, another day, one year or another year.

The point is that Mr. Justice LaForme admits, in his comments here, that Parliament is aware of the issue and Parliament is prepared to act. He simply says that if Parliament does not act all at once and in the way that the courts previously have decided should be the way Parliament should act, then what is the point of Parliament?

I would suggest to you, Mr. Speaker, that the problem is the courts when they hear charter cases—any case for that matter—look to the decisions that occurred in the past as precedent. Sure enough, this issue again came before the B.C. Court of Appeal in the Barbeau case, and I refer members to paragraph 151, we find Mr. Justice Iacobucci's words being cited yet again.

I do not have the expertise to determine whether this is indeed a breach of privilege and a contempt of Parliament. I defer the matter to the House.

However, should the House find that there is a prima facie case and that this is worth looking into, I would suggest that Parliament call before the bar one of the justices who have used this particular citation of Mr. Justice Iacobucci and have him stand before the House and explain why he thinks that Parliament should not be allowed to go ahead with legislation or change in society in a piecemeal fashion. He should explain why he feels that the MPs in the House do not want to pursue equality diligently. I would like the courts to explain to the higher court their reasoning in this matter.

● (1530)

Mr. John Reynolds (West Vancouver—Sunshine Coast, Canadian Alliance): Mr. Speaker, I would like to congratulate the member for Ancaster—Dundas—Flamborough—Aldershot for bringing the matter up. I will not say anything more. The member has made a great representation. I know the Speaker will use his usual wisdom in looking into this and if there is a case we will follow through with it.

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Speaker, I want to also lend my support to the argument made by the hon. member for Ancaster—Dundas—Flamborough—Aldershot.

This is very similar to the argument that was made with regard to the recent Ontario Court of Appeal decision with regard to the constitutionality of the definition of marriage.

In its decision and because of its decision it also decided that the change would be effective immediately on a matter which has clearly been so divisive and sensitive in Canada. Three judges changed the laws and changed them immediately thereby pre-empting Parliament's right to continue the work of the justice committee and its report.

I believe that this judicial activism has been breeding for some time. I believe that the points raised by the hon. member who raised the question of privilege bears some consideration. It does touch on the fundamental supremacy of Parliament, the issue of judicial activism and the rights and privileges of parliamentarians to do the work that they were elected to do.

The Speaker: I thank the hon. member for Ancaster—Dundas—Flamborough—Aldershot for having raised the matter, the hon. member for West Vancouver—Sunshine Coast for his usual helpful comments and the hon. member for Mississauga South for the same.

The Chair will take these matters under advisement and get back to the House in due course with a ruling that I trust will meet in every respect the desires of the hon. member for Ancaster—Dundas—Flamborough—Aldershot.

ROUTINE PROCEEDINGS

[*Translation*]

NATIONAL CHILD BENEFIT

Hon. Jane Stewart (Minister of Human Resources Development, Lib.): Mr. Speaker, pursuant to Standing Order 32(2), I have the honour to present today two copies, in both official languages, of the National Child Benefit Progress Report: 2002.

* * *

[*English*]

ORDER IN COUNCIL APPOINTMENTS

Mr. Geoff Regan (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, I am pleased to table, in both official languages, a number of order in council appointments made recently by the government.

* * *

GOVERNMENT RESPONSE TO PETITIONS

Mr. Geoff Regan (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, pursuant to Standing Order 36(8) I have the honour to table, in both official languages, the government's response to 100 petitions.

* * *

PUBLIC SERVICE INTEGRITY OFFICER

Mr. Joe Peschisolido (Parliamentary Secretary to the President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs, Lib.): Mr. Speaker, pursuant to Standing 32(2), I am pleased to table, in both official languages, two copies of the first annual report of the Public Service Integrity Officer for the period 2002-03.

* * *

ELECTORAL BOUNDARIES READJUSTMENT ACT

Hon. Don Boudria (Minister of State and Leader of the Government in the House of Commons, Lib.) moved for leave to introduce Bill C-49, an act respecting the effective date of the representation order of 2003.

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

* * *

COMMITTEES OF THE HOUSE

CANADIAN HERITAGE

Mr. Clifford Lincoln (Lac-Saint-Louis, Lib.): Mr. Speaker, I have the honour to present, in both official languages, the third report of the Standing Committee on Canadian Heritage regarding its order of reference of Tuesday, May 27, 2003, in relation to Bill C-36, an act to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence.

● (1535)

[*Translation*]

Having carefully considered Bill C-36, the committee has agreed to report it with amendments.

[*English*]

PETITIONS

STEM CELL RESEARCH

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Speaker, I wish to present two petitions. The first one deals with the issue of stem cells.

The petitioners would like to draw to the attention of Parliament that Canadians support ethical stem cell research, which has already shown encouraging potential to provide the cures and therapies that Canadians need.

They also want to point out that non-embryonic stem cells, which are also known as adult stem cells, have also shown significant progress without the immune rejection or ethical problems associated with embryonic stem cells.

The petitioners therefore call upon Parliament to focus its legislative support on adult stem cell research to find those cures and therapies for Canadians.

CANADA POST

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Speaker, the second petition is with regard to rural route mail couriers.

The petitioners would like to advise the House that rural route mail couriers often earn less than minimum wage and have working conditions which are very poor. They have not been allowed to collectively bargain, et cetera, and that the denial of basic rights helps Canada Post keep wages and working conditions at an unfair level with regard to these persons.

They therefore petition Parliament to repeal section 13(5) of the Canada Post Corporation Act.

FIREARMS REGISTRY

Mr. Jay Hill (Prince George—Peace River, Canadian Alliance): Mr. Speaker, like many members of Parliament, the constituents of Prince George—Peace River have been very busy over the summer. I have a number of petitions, but I will only be presenting the one today.

Well over 100 people from the cities of Dawson Creek and Fort Saint John, as well as the smaller communities of Pouce Coupe, Taylor, Farmington, Charlie Lake, Altona, Buick, Hudson Hope, and Rose Prairie in my beautiful riding have forwarded the following petition.

The petitioners believe that the federal firearms registry has obviously cost Canadian taxpayers well in excess of $1 billion. They wish to draw attention to the fact that six of Canada's provinces have refused to prosecute federal firearms registration law infractions under the Firearms Act .

They pray that Parliament pass legislation to wind up the federal firearms registry and reallocate spending to frontline policing and effective controls against the illegal weapons that are coming across our borders at airports and ports.

AGRICULTURE

Mr. Peter Adams (Peterborough, Lib.): Mr. Speaker, I rise to present a petition from farmers in the Peterborough and that general part of Ontario. The petitioners point out that the Canadian beef cattle, dairy, goat and sheep industries are in a state of crisis due to the bovine spongiform encephalopathy, BSE, problem. The whole industry is in a state of crisis.

The aids package to the industry is inadequate as it does not deal with the problems which the industry is facing. In fact there is an imminent collapse of key sectors of the rural economic community.

These citizens urge Parliament to develop a long term solution and economic relief that is fair and reflects the importance of these industries to Canada. They know that the ultimate long term solution is opening the border.

CHILD CARE

Mr. Peter Adams (Peterborough, Lib.): Mr. Speaker, I have a petition from citizens of the Peterborough area who point out that the universal declaration of human rights has proclaimed that childhood is entitled to special care and assistance. Members of the National Council of the Catholic Women's League of Canada passed a resolution in support of a national strategy on child care. The Government of Canada they know has offered increased finances toward a national day care strategy in the February 2003 budget. They point out though that the implementation of improved child care over the next five years will meet many of the obstacles faced by children today.

The members of the Catholic Women's League of Canada request that Parliament give priority to accessible, quality child care for all children.

CANADIAN FOOD INSPECTION AGENCY

Mr. Brian Masse (Windsor West, NDP): Mr. Speaker, it is my honour to rise today and present a petition on behalf of the residents of Windsor West with specific reference to the Canadian Food Inspection Agency in the treatment of British products that are imported. They have been detained in Toronto because they do not have both official languages on the label although they are determined a specialty good.

There are actually approximately 1,000 people who petition that those goods be let into British stores in Canada and customers who want those goods.

● (1540)

MARIJUANA

Mr. Brian Masse (Windsor West, NDP): Mr. Speaker, the second petition I would like to present deals with the issue of marijuana. I have approximately 70 signatures from my constituency for the legalization of marijuana.

MARRIAGE

Mr. Brian Masse (Windsor West, NDP): Mr. Speaker, I have a third petition for same sex marriage, that marriage be restricted to being between one man and one woman. There are 27 signatures from my constituency on this petition.

RIGHTS OF THE UNBORN

Mr. Brian Masse (Windsor West, NDP): Mr. Speaker, my last petition is to enact legislation that will provide legal recognition and protection of Canadian children from fertilization to their birth. There are approximately 300 names on that petition.

CRUELTY TO ANIMALS

Mr. James Lunney (Nanaimo—Alberni, Canadian Alliance): Mr. Speaker, I have two petitions to present today. The first one originated in my riding. It contains about 500 signatures of citizens from Nanaimo, Lantzville, Parksville, Qualicum, Bowser, Coombs and Errington. The issue concerns animal cruelty. The petitioners are calling for harsher penalties for the prevention of cruelty to animals.

There have been increasing incidents of cruelty to animals not only in our area but across Canada. The petitioners point out that this cruelty to animals undermines Canadian values of compassion and that strong legislation preventing cruelty to animals should be implemented.

They call on Parliament to take this seriously. We have had some very nasty episodes of animal cruelty in our area.

FOOD AND DRUGS ACT

Mr. James Lunney (Nanaimo—Alberni, Canadian Alliance): Mr. Speaker, the second petition deals with the Food and Drugs Act. Petitioners are declaring that Canadians deserve freedom of choice in health care products and that herbs, dietary supplements and other traditional natural health products should be properly classified as food and not arbitrarily restricted as drugs. They state that the weight of modern scientific evidence confirms the mitigation and prevention of many diseases and disorders through the judicious use of natural health products.

The petitioners call upon Parliament to provide Canadians with greater access to natural health products and to restore freedom of choice in personal health care by enacting Bill C-420, an act to amend the Food and Drugs Act.

These petitioners come from across Canada, many from my own constituency of Nanaimo—Alberni. Others are from Salmon Arm, B.C., from Calgary, from Parry Sound and King in Ontario, from Sackville, Truro and Bible Hill in Nova Scotia, St. Andrews, New Brunswick and Montague, P.E.I. Across the country, Canadians are calling for these changes that would be implemented by Bill C-420. That is my private member's bill which will be up for a second hour of debate soon.

* * *

QUESTIONS ON THE ORDER PAPER

Mr. Geoff Regan (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, the following questions will be answered today: Nos. 36, 205, 206, 207, 214, 223, 231, 232, 234, 237 and 244.

[*Text*]

Question No. 36—**Mr. Richard Marceau**:

What, in detail, are all of the options being considered regarding the fate of the Quebec City office of the Meteorological Service of Canada (MSC) related to the process to centralize operations, and with respect to this process: (*a*) are there plans to close the office; (*b*) what other options are being considered and have they been studied according to their economic impact, and if so, what would this impact be; (*c*) what kind of consultations have there been with the people who would be affected and what conclusions have been drawn from these consultations; (*d*) how have MSC employees been consulted and what conclusions have been drawn from these consultations; (*e*) what was the whole decision-making process that led to this possible decision to centralize services; (*f*) what are the minister's intentions with respect to the jobs that would be affected and what types of measures are being planned for those who would be affected (transfers, layoffs, retirement, etc.); (*g*) how much is expected to be saved by closing the Quebec City office of the MSC; (*h*) how much is expected to be saved by all of the other options under consideration; (*i*) when was the Minister of the Environment informed of the department's intentions to consider closing the Quebec City office of the MSC; and (*j*) what would be the impact on the immediate transmission of meteorological data to the people of the region of Quebec City in general, and to the media in particular?

Hon. David Anderson (Minister of the Environment, Lib.): The Meteorological Service of Canada, MSC has a history stretching back over 130 years. By constantly adapting to keep pace with technological evolution, it has met the increasing needs of Canadians for weather information over that time period. It is a respected member of the World Meteorological Organization of the United Nations and a core-of-government service to Canadians.

Publicly funded national weather services such as the MSC provide meteorological services to citizens through a network of public and private sector organizations. In Canada, the MSC serves as the backbone of this national network. These national weather services develop and manage large-scale monitoring networks, satellite and telecommunications systems, certain critical science and modelling work, data management and communication and dissemination functions for which no other public, private or academic partner has the mandate, expertise or resources.

The $75 million investment announced on March 13 will allow the MSC to improve its services to all Canadians. With respect to the specific questions: (a) the MSC office in Quebec City is not closing. However, some staff will need to relocate.

With respect to (b), Environment Canada did not conduct city by city economic assessments. The department was seeking a configuration of weather forecasting offices across the country that would best serve all Canadians, including those currently served by the Quebec City forecasters. Many options were considered, including models for weather services that are used in other countries. The model of five forecasting centres is the model that best serves the unique Canadian situation, since the country has a vast geographic territory to serve and a limited population and resources to do it with.

With respect to (c), consultation with stakeholders is an ongoing exercise in the MSC. The information gathered in support of the announced direction was extensive. Farmers indicated that they want better forecasts on precipitation. Energy groups also expressed their need for better precipitation forecasts. Forest agencies noted their need for more weather data over Canada's vast forests to better assess forest flammability and manage large forest fires. Several economic sectors across Canada depend heavily on the MSC for weather information. These include energy, forestry, agriculture, transportation, fisheries, construction and tourism which account for about $150 billion of the country's GDP.

With respect to (d), discussions were held with employees across the country. Twenty-two workshops were held in Calgary, Charlottetown, Edmonton, Fredericton, Gander, Halifax, Kelowna, Montreal, the National Capital Region, Quebec City, Regina, Rimouski, Saskatoon, St. John's, Thunder Bay, Toronto, Vancouver, Victoria, Whitehorse, Winnipeg and Yellowknife. In these workshops, the employees stated in particular that they wanted the MSC to be recognized as a science based organization with greater visibility in Canada and that there was a need for greater investment in technology to modernize the infrastructure. They added that they were not receiving the training they needed to stay abreast of new science and technology.

With respect to (e), the origins of the exercise can be traced back to 1997 when the MSC conducted an alternative service delivery study. The conclusions of this two year review indicated that changes had to be made in order to take advantage of the evolving sciences and to address employee concerns in areas such as training and development. Over the next few years, various options were discussed by management to address these needs in a sustainable manner for the next 10 to 20 years, including consideration of human resource rejuvenation, observing equipment re-capitalization, forecasting technology advances, research priorities, and developing user needs.

With respect to (f), since there is no downsizing, there will be jobs within MSC for all employees, though there will be a need to relocate some staff. This will not be an easy choice for some. A guarantee of a reasonable job offer will be provided to all affected employees. Over the next two years, managers will work with affected employees in identifying their options regarding redeployment opportunities within the MSC, Environment Canada or, if required, other federal departments. Every reasonable effort will be made to respond to employee concerns, needs and career aspirations. In this regard, affected employees will have access to services to support them through this process.

With respect to (g), the Quebec City office is not closing; the forecast function is being relocated. There will continue to be MSC staff in Quebec City.

With respect to (h), again, this is not and never was a downsizing exercise.

With respect to (i), the Quebec City office is not closing; the forecast function is being relocated. There will continue to be MSC staff in Quebec City.

With respect to (j), the people of the Quebec City region and the media will not see anything different from today. All the services and information to which they have become accustomed will continue to be provided uninterrupted. In fact, the quality of the products and services will improve.

The MSC will continue its tradition of excellence in service to the people of Quebec and indeed, all Canadians, 24 hours a day, every day of the year no matter where they live, and that this service will continue to improve. This can only be accomplished by the ongoing professional development of MSC employees, by the continued optimization of emerging technologies, by the expansion of partnerships with other government departments, academia and the private sector, and with the outreach to Canadians for an improved understanding of their needs and the MSC products related to these changes.

Question No. 205—**Mr. Loyola Hearn**:

> With respect to the March 13, 2003 announcement by the Minister of the Environment concerning the decision to downgrade the service and responsibilities of the Gander weather office: (*a*) how many jobs will be lost as a result; (*b*) was the government of Newfoundland and Labrador notified of this decision prior to its implementation; and, (*c*) if so, when was the provincial government first notified that Environment Canada was thinking of downgrading the service of the Gander weather office?

Hon. David Anderson (Minister of the Environment, Lib.): The Meteorological Service of Canada MSC has a history stretching back over 130 years. By constantly adapting to keep pace with technological evolution, it has met the increasing needs of Canadians for weather information over that time period. It is a respected member of the World Meteorological Organization of the United Nations and a core of government service to Canadians.

Publicly funded national weather services such as the MSC provide meteorological services to citizens through a network of public and private sector organizations. In Canada, the MSC serves as the backbone of this national network. These national weather services develop and manage large scale monitoring networks, satellite and telecommunications systems, certain critical science and modelling work, data management and communication and dissemination functions for which no other public, private or academic partner has the mandate, expertise or resources.

The $75 million investment announced March 13, 2003 will allow the MSC to improve its services to all Canadians. We are not downsizing our organization, for we are keeping all of our staff, recruiting new staff and opening focused service offices, such as the one in Gander, to ensure that we are providing the needed products and services.

With respect to (a), no jobs will be lost. We are keeping all of our staff, though some employees will be relocated.

With respect to (b) and (c), the MSC operates a national program with offices distributed across the country in a manner which takes advantage of science and technology opportunities to guarantee the best service and products for all Canadians. The relocation of the forecasting functions currently in Gander is in response to such opportunities. Since the citizens of Newfoundland and Labrador will continue to receive their weather information and services with the quality to which they have become accustomed, the Government of Newfoundland and Labrador was not notified of this decision prior to its announcement: it is an internal re-organization.

Question No. 206—**Mr. Loyola Hearn**:

> With respect to air travel in Canada, does the government intend to reduce the cost burden to Canadian travellers by reducing taxes and fees associated with air travel?

Mr. Geoff Regan (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): I am informed as follows:

Finance Canada

The air transportation industry is under pressure globally. The events of 9/11 exacerbated a weak air market caused by a slowdown in global growth. The war in Iraq and the SARS outbreak intensified these challenges.

In the budget presented to the House of Commons on February 18, 2003, the government reduced the air travellers security charge for air travel within Canada from $12 to $7 for one way travel and from $24 to $14 for round trip travel. This represents a reduction of more than 40 per cent that will benefit all domestic travellers in Canada.

To help the tourism industry, the government committed $20 million to promote Canada as a business and leisure travel destination. The federal government is also working with the tourism industry and provinces to promote Canada. The government continues to review carefully the policy underpinnings for a safe, reliable and viable air transportation industry for Canada.

I am informed by Transport Canadaas follows:

The government has taken, and continues to take, the necessary action to stabilize the industry in the long term interest of travellers and airlines alike. For example, after the events of September 11, 2001, the federal government created a fund to compensate carriers for revenues that were lost during the closure of Canada’s airspace. Later, a number of carriers received funds to reinforce cockpit doors to promote safety and security. Air carriers also continue to benefit from relief from insurance costs since the government is still providing coverage for war risk insurance.

Furthermore, in March 2003 the government introduced Bill C-27, the new Canada Airports Act, that will provide airlines with more input into fees charged by airports. The government is also undertaking a review of airport rents, since those rents directly affect the amount charged by airport operators to airlines using the airport.

The government is also assessing recommendations with respect to relief for the industry made recently by the Standing Committee on Transport.

Question No. 207—**Mr. Loyola Hearn**:

With respect to the Minister of Revenue's statement in the House on February 10, 2003 in relation to GST fraud, that “...last year the work of the 5,000 auditors and 1,000 investigators resulted in an additional $850 million in GST revenue”, was the $850 million actually collected or just assessed, and if the latter is the case, what portion was actually collected and how much was written off?

Hon. Elinor Caplan (Minister of National Revenue, Lib.): Through responsible enforcement, the Canada Customs and Revenue Agency CCRA continues to collect the vast majority of taxes assessed, including the additional $850 million in question.

In 2001–02, the CCRA collected over $300 billion in taxes. The amount written off was only 0.34% of the gross revenues or about $1 billion. This illustrates the exceptional work being performed by the CCRA when it comes to the collection of monies owed to the crown.

In addition, for GST alone in 2001–02, the CCRA collected more than $62 billion and wrote off only $190 million, representing a mere 0.31% of GST revenues.

Question No. 214—**Mr. John Duncan**:

From 1994 to the end of 2002: (*a*) what is the total number of Export Development Canada (EDC) loans that have been placed in the category of “allowance for losses on loans, loan commitments and guarantees”, or otherwise written off on an annual basis and later collected; and (*b*) what amount of money has been recovered for these written off loans by year?

Hon. Pierre Pettigrew (Minister for International Trade, Lib.): In response to (a) EDC's General Allowance includes allowances for practically all loans and commitments on our books. We can advise that approximately 413 obligors are included in the total loans receivable for which we have provisioned for only in the event of a loss.

The amount of the allowance varies depending on the risk involved. For highly rated counterparties in OECD markets, the allowance will be very small. For loans with lower credit ratings, the allowance amount will be higher. This allowance represents amounts set aside to be used only in the event that there may be a loan loss.

Write offs as outlined in EDC's annual reports, 1998 to 2002—see page 79 of EDC'S current annual report are

2002 $194 million

2001 $191 million

2000 $105 million

1999 None

1998 None

1997 $18 million

1996 None

1995 None

In 2002 the allowances set aside per item (a) above totalled $4.5 billion and in addition, EDC'S total paid-in capital, retained earnings plus allowances, was $6.6 billion.

The write offs are very small in comparison to the size of EDC'S loan portfolio, $194 million v. $26 billion or .007% as at Dec. 31, 2002.

EDC has made profit in all but one year in almost 60 years of existence.

With respect to b) No recoveries to date on write offs.

Question No. 223—**Mr. Bill Casey**:

With respect to compensation related to the events of September 11th, 2001: (*a*) how much compensation did the government commit to deliver in total and broken down by province; (*b*) of the total amount that has been committed how much has been delivered to the provinces, in total and broken down by province; (*c*) if the funding has not been delivered in full what factors have held up the delivery of the compensation; and (*d*) what is the expected date of the delivery of the compensation in full to each province?

Mr. Marcel Proulx (Parliamentary Secretary to the Minister of Transport, Lib.): Transport Canada is basing its response on two assumptions, that the question was addressed to expenditures within provinces, and not to provincial governments specifically, and recognizing that the programs were not designed by province.

Given that the word "compensation" is very broad, Transport Canada advises as follows regarding grants in the FY 2001-02 to Canadian airlines and specialty air operators, as payments of financial assistance in respect to losses incurred due to the temporary closure of Canadian air space as determined by the Minister of Transport. The program existed only for FY 2001-02.

Further, a provincial breakdown of actual expenses must bear in mind that an entity may have operations across several provinces and territories, while the payments indicated below represent the HQ location.

Total funding identified: $ 158,500,000

Actual Expenses: $ 99,318,415

Alberta: $ 2,365,819

British Columbia: $ 5,143,928

Manitoba: $ 783,408

New Brunswick: $ 34,837

Newfoundland: $ 262,504

Northwest Territories: $ 595,913

Nova Scotia: $ 9,006,112

Ontario: $ 12, 606, 917

Quebec: $ 67,973,761

Saskatchewan: $ 416,890

Yukon Territory: $ 128,326

Question No. 231—**Mr. James Lunney**:

With respect to the recreational and medical use of marijuana: (*a*) does Health Canada consider that smoking marijuana is harmful to health; (*b*) has Health Canada established estimates of public health impact of smoking marijuana, and if so, what are they; (*c*) since 2001, what measures has Health Canada taken to educate Canadians of the health consequences of smoking marijuana; (*d*) since 2001, what research has Health Canada conducted into public knowledge, attitudes, beliefs and behaviours; (*e*) since 2001, how much has Health Canada spent on (i) research, (ii) surveillance, (iii) mass media or public education and (iv) regulatory issues regarding medical marijuana; (*f*) for 2003-2004 what research and public education activities are planned by Health Canada; and (*g*) what information has Health Canada provided to the Minister of Justice, the Solicitor General or the Prime Minister for consideration in the proposed decriminalization of marijuana?

Hon. Anne McLellan (Minister of Health, Lib.): With respect to (a), Health Canada considers all forms of smoking harmful to health. Many of the potential long term health risks of cannabis use, such as respiratory damage and disease, are due to smoking as a means of ingestion. Heavy cannabis smoking during pregnancy has been associated with low birth weight babies. Smoking cannabis interferes with the ability to concentrate and impairs learning processes. Cannabis users can become dependent. Research indicates that cannabis smoking may trigger psychotic episodes among users who already have or are at high risk for schizophrenia or depression.

With respect to (b), Health Canada has not established estimates of public health impact of smoking marijuana. However, under the renewed drug strategy, research on this topic will be considered.

With respect to (c), there have been no specific Health Canada initiatives. However, under the renewed drug strategy, a public education program targeted at youth will be launched in the fall of 2003, on the health risks of smoking marijuana.

With respect to (d), no research has been conducted, but under the renewed drug strategy, research is underway and a survey is scheduled to start in November 2003. Thereafter, surveys on this subject will be conducted every four to five years.

With respect to (e), (i) and (ii) an medical marijuana, in 1999, Health Canada developed a strategy to determine the risks and benefits associated with the use of marijuana and cannabinoids for the treatment of the symptoms of targeted serious diseases in patients unresponsive to usual treatment modalities. This strategy now includes the medical marijuana research program MMRP, a partnership with the Canadian Institutes of Health Research, a contribution agreement with the Community Research Initiative of Toronto CRIT, a community based HIV-AIDS non-profit research organization, and the Marijuana Open Label Safety Initiative MOLSI, another partnership with the Canadian Institutes of Health Research. An undertaking with Public Works and Government Services Canada PWGSC to award contracts to the private sector to conduct clinical trials, is currently under consideration. These initiatives aim at developing new knowledge concerning the risks and benefits associated to the medical use of marijuana. This knowledge will allow Canadians suffering from some serious and chronic conditions and diseases and their physicians to make better informed choices of proven therapies and further inform Health Canada's policy making capacity in formulating sound science based decisions regarding access and use of marijuana for medical purposes.

Health Canada is dedicating $7.5 million over five years to marijuana clinical research through its MMRP. The first study granted under this program will be conducted by the Pain Centre of McGill University. It is a short term study, involving 32 clinical subjects to evaluate the effects of smoked marijuana for chronic neuropathic pain. In addition, through a contribution, Health Canada is funding CRIT to conduct a pilot study on the efficacy of smoked marijuana on appetite stimulation in persons living with HIV-AIDS. In total, since 1999, not including in-house human resources and administrative costs, Health Canada has invested $1,292,385 in its marijuana clinical research strategy. This amount includes contribution and grant payments for the conduct of clinical studies, the holding of three workshops to assist the Canadian medical community in addressing specific issues related to conducting of clinical studies on marijuana for medical purposes, and contracts with consultants to develop two information documents for distribution to patients and clinicians. These documents describe the current scientific knowledge on marijuana and the risks and benefits associated with its use for medical purposes.

The Canadian Institutes of Health Research CIHR, has supported 13 projects related to marijuana use since 2000, with a total investment of approximately $2,832,902.

With respect to (iii), see (c) above. Final costs of the program have yet to be determined, as the scope of work is under development.

With respect to (iv), The salary and operating costs of the Office of Cannabis Medical Access, for fiscal year 2002-03, were approximately $3.5 million. These costs include the administration of the medical marijuana access regulations and related regulatory and policy work.

With respect to (f), see (c) above. The medical marijuana research program described in (e) (i) and (ii) will continue. Costs for research will depend on projects approved for funding by CIHR.

With respect to (g), during the development of the proposed cannabis reform legislation, Health Canada provided the Department of Justice and the Department of the Solicitor General summary documents on the health effects of marijuana. These summaries were based on published literature.

On May 27, 2003 the Government of Canada announced the renewal of Canada's drug strategy and the investment of $245 million over five years. The renewed strategy will take a balanced approach to reducing both the demand for, and the supply of drugs. Health Canada, in close collaboration with its partners, including the provinces, territories, communities and stakeholders, will take the lead on implementing and coordinating this renewed strategy by investing in: increased government and stakeholder coordination and funds to support community-based prevention, treatment and harm reduction initiatives; enhanced partnerships, education programs and interventions designed to discourage and treat substance abuse, particularly among youth; new research activities, including funding for statistical analysis of drug trends to enable more effective decision-making; new enforcement resources to address marijuana grow operations and clandestine chemical laboratories.

Health Canada has stressed that any move towards decriminalization must be done in tandem with a renewed and fully funded drug strategy in order to provide the necessary emphasis on public education, prevention programs, enforcement resources and new research activities.

Question No. 232—**Mr. James Lunney**:

With respect to simian virus 40 (SV40): (*a*) what research has Health Canada done on the virus, and what were the results; (*b*) what research has Health Canada done to determine whether there is a causal link between the virus and human disease, and what were the results; (*c*) what research is Health Canada currently doing to determine whether there is a causal link between the virus and human disease, and when is it expected to be completed; (*d*) what research has Health Canada done to determine a link between the virus, polio vaccines administered in the 1950s and 1960s, and human disease, and what were the results; (*e*) what research is Health Canada currently doing to determine whether there is a link between the virus, polio vaccines administered in the 1950s and 1960s, and human disease, and when is it expected to be completed; and (*f*) since 1995, how much money has been spent, on an annual basis, on research concerning the virus?

Hon. Anne McLellan (Minister of Health, Lib.): With respect to (a), Health Canada and external partners have developed the testing methodology for detecting SV40 in cells and tissues from patients with non-Hodgkin lymphoma, NHL, and are currently developing blood tests to detect antibody to simian virus 40 (SV40) to permit our planned studies of the correlation of SV40 infection and certain cancers.

With respect to (b), "A review of relevant literature on Simian Virus 40 published between July 2000 and November 2002: Update to July 2000 Simian Virus 40 paper presenting recent knowledge on the zoonotic aspects of SV40 and any identified relationship to blood safety" was completed in early 2003. The review was aimed to identify research priorities and concluded: No firm link has established SV40 as a cause of human cancer. As in the July 2000 report, more recently published studies continue to show no evidence of a significant increase in rates of cancer linked to SV40. Continued research into SV40 will be important as SV40 may yet prove to be a cofactor in the development of certain types of cancers.

With respect to (c), risk assessment of SV40 for human diseases associated with blood is being done through two approaches:

One, the risk of SV40 for the Canadian blood supply is being assessed through Health Canada's Rapid Response Surveillance System for Emerging Bloodborne Pathogens, RRSS; RRSS has in place a system which has been activated in response to this issue.

Two the Canadian Blood and Marrow Transplant Group, CBMTG, approach: has stored blood specimens of patients with non-Hodgkin's lymphomas, NHL, and other conditions who are being studied both retrospectively and prospectively and compared to assess the clinical implications of SV40 in NHL and possibly other malignant conditions, as well as, its transmissibility through blood and blood product transfusion, and organ and tissue transplantation.

Blood specimens from a sample of the general Canadian population and from patients at risk of multiple blood transfusion will be tested for SV40 infection with consent to assess: one, the level of SV40 infection in the general population; two, the risk of SV40 transmission through blood transfusion. The research is expected to be completed in 2004 upon the completion of an ethical review.

With respect to (d), it is presumed that SV40 is being transmitted among humans, but it is not known if this transmission occurred prior to the use of polio vaccine in the late 1950s and early 1960s, or was a result of its use. No study has satisfactorily confirmed whether SV40 found in the human population is from contaminated polio vaccine, or from some other source, and epidemiological studies to date have not determine whether SV40 contaminated polio vaccine did or did not cause cancer in the recipients of vaccine.

Research shows a remarkable rise in incidence of NHL over the last 30 years, double from 1973 to 1998; the incidence rate estimated for 2002 is 14.9/20.7 (female/male) per 100,000 (age standardized). However, it is not known if the doubling of NHL in Canada is related to the presence of SV40.

On November 22, 2002, Health Canada sponsored a meeting of our partners at the National Microbiology Laboratory, NML, in Winnipeg to discuss progress on the various research projects. Health Canada informed the group that it had developed the testing methodology for detecting SV40 in cells and tissues from patients with non-Hodgkin lymphoma and was in the process of developing blood tests to detect antibody to SV40 to permit our planned seroprevalence studies. A proposal is being prepared to conduct relevant study.

With respect to (e), it is not known how many Canadians may have been exposed to contaminated vaccine in Canada, nor is it currently known if the virus is detectable in cancers in the Canadian population. The evidence to date is inadequate to accept or reject a causal relationship between SV40-contaminated polio vaccine and cancer in humans.

Health Canada and external partners including the BC Cancer Agency, the Canadian Blood and Marrow Transplant Group CBMTG, the BC Transplant Society, hospitals, provincial laboratories, as well as, academics are currently undertaking a risk assessment of SV40. This risk assessment involves a number of independent research studies which collectively aim to address several research questions, including: one, is there an any evidence of SV40 infection in the Canadian population? Two, is SV40 associated with non-Hodgkin lymphoma or other human cancers? Three, is SV40 transmissible through blood? and four, what is the risk of SV40 for the Canadian blood supply?

A proposal is being prepared to determine the relative incidence of markers indicating viral infection with lymphotropic viruses in tissues of patients with NHL and other diseases. The proposal is also aimed to corelate findings of viral infection of SV40 in tissue with clinical parameters and diagnostic subsets of NHL, and to compare prevalence of SV40 infection in tissues among NHL patients born between 1955 and 1963, before and after that period.

With respect to (f), since 1995, only approximately $20,000 for the FY 2002/03 is for testing and approximately $50,000 from the Blood Safety Surveillance and Health Care Acquired Infections Division to support the CBMTG and other groups.

Question No. 234—**Mr. Scott Reid**:

Concerning federal public servants, how many whose first language is *a*) French, and *b*) English are employed in (i) bilingual imperative positions, and (ii) bilingual non-imperative positions, for each of the following Official Language profiles: "E" (Exempt from further testing); "CCC" (Reading, Writing and Oral Interaction at Superior levels); "CBC" (Reading and Oral Interaction at Superior levels, Writing at Intermediate level); "CCB"(Reading and Writing at Superior Levels, Oral Interaction at Intermediate Level); "CBB" (Reading at Superior Level, Writing and Oral Interaction at Intermediate Levels); "BCB" (Reading and Oral Interaction at Intermediate Levels, Writing at Superior Level); "BCC" (Reading at Intermediate Level, Writing and Oral Interaction at Superior Levels); "BBB" (Reading, Writing and Oral Interaction at Intermediate Levels); "BBC" (Reading and Writing at Intermediate Levels, Oral Interaction at Superior Level); "BBA" (Reading and Writing at Intermediate Levels, Oral Interaction at Minimum Level); "BAA" (Reading at Intermediate Level, Oral Interaction and Writing at Minimum Levels); "BAB" (Reading and Oral Interaction at Intermediate Levels, Writing at Minimum Level); "ABA" (Reading and Oral Interaction at Minimum Levels, Writing at Intermediate Level); "ABB" (Reading at Minimum Level, Writing and Oral Interaction at Intermediate Levels); "AAB" (Reading and Writing at Minimum Levels, Oral Interaction at Intermediate Level); and "AAA" (Reading, Writing and Oral Interaction at Minimum Levels)?

Hon. Lucienne Robillard (President of the Treasury Board, Lib.): Data on bilingualism in the federal Public Service are derived from the position and classification information system, PCIS, which is managed by the Treasury Board Secretariat but fed and updated by the departments. The PCIS contains information on all employees of federal departments and agencies for which the Treasury Board is the employer under the Public Service Staff Relations Act.

For this inquiry, it is not possible to provide a breakdown by imperative v. non-imperative positions, since this information has more to do with staffing than with position identification. Moreover, the E level is not really a linguistic profile; rather, it is an indication that an employee is sufficiently proficient in his or her second language to be exempted.

The following table shows, for each of the linguistic profiles requested, the number of bilingual positions held by anglophones and the number held by francophones, as well as the total number of bilingual positions.

Breakdown of Bilingual Positions by Anglophones & Francophones according to the Linguistic Profiles Requested

Anglophones Profile	Total	Francophones Profile	Total	Total global
CCC	2082	CCC	5668	7750
CCB	148	CCB	104	252
CBC	3015	CBC	2234	5249
CBB	313	CBB	317	630
BCC	29	BCC	77	106
BCB	10	BCB	22	32
BBC	551	BBC	1350	1901
BBB	12791	BBB	20548	33339
BBA	45	BBA	28	73
BAB	122	BAB	335	457
BAA	18	BAA	27	45
ABB	10	ABB	30	40
ABA	0	ABA	0	0
AAB	55	AAB	230	285
AAA	51	AAA	202	253
Total	19240	Total	31172	50412

Question No. 237—**Mr. Andy Burton**:

What is the total number of employees in the entire Department of Fisheries and Oceans, what is the breakdown of this number per region in Canada and, specifically, what is the total for the following areas: Ottawa (National Capital Region), East Coast (Atlantic Region) and West Coast (Pacific Region)?

Hon. Robert Thibault (Minister of Fisheries and Oceans, Lib.): The number of departmental employees is as follows:

Region	Population	(Information as at April 1, 2003)
National Capital	1,301	
Atlantic	4,041	includes DFO regions Newfoundland and Labrador, Maritimes and Gulf
Pacific	2,486	includes DFO Pacific region
Other	2,525	includes DFO regions Quebec and Central and Arctic
Total	10,353	

Figures include all indeterminate employees and determinate employees whose term of employment is greater than three months.

Question No. 244—**Mrs. Cheryl Gallant**:

With regard to the recent Statistics Canada survey, Canadian Community Health Survey (CCHS): (*a*) what is the amount of money spent on the survey by Statistics Canada; (*b*) what was the response as a percentage by Canadian households contacted to participate in the survey; and (*c*) what is the cost of mailing the second notices and courier charges thereof?

Hon. Allan Rock (Minister of Industry, Lib.): STATISTICS CANADA

With respect to (a), the funding earmarked for the CCHS was $28.4 million over four fiscal years to conduct the first two cycles of the survey, cycle 1.1 in 2000-01 and cycle 1.2 in 2002).

With respect to (b), for the 2000-2001 survey, 84.7% of contacted Canadians agreed to participate in the survey. The rate for the 2002 survey was 77.0%.

With respect to (c), it cost approximately $5,000 for sending second notices.

* * *

[*English*]

QUESTIONS PASSED AS ORDERS FOR RETURNS

Mr. Geoff Regan (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, if Questions Nos. 204, supplementary, 229 and 240 could be made orders for return, the returns would be tabled immediately.

The Speaker: Is that agreed?

Some hon. members: Agreed.

[*Text*]

Question No. 204—**Mr. James Rajotte**:

With regard to border crossings between Canada and the United States since June 1, 2002: (*a*) what submissions have been made to the government of the United States; (*b*) what forms did these submissions take—verbal or written or both; (*c*) what was on the agenda at any face to face meetings or conference calls; (*d*) what were the titles of any written submissions; (*e*) what were the dates of the meetings and/or written submissions; (*f*) what correspondence, if any, was sent directly to the President of the United States or, if not, to which departments and/or agencies of the United States government were the submissions made; (*g*) have there been any submissions specifically dedicated to the possibility of a second checkpoint; (*h*) have there been any submissions specifically dedicated to the proposed 24 hour advance notice for commercial trade; (*i*) has there been any discussion and/or memoranda within Canadian departments concerning the possibility of sending a trade team or special envoy to the United States with respect to border crossing, trade and/or trade corridors; (*j*) have Canadian departments received submissions—verbal or written—from Canadian industries concerning problems with the border, and if so, how many; and (*k*) have Canadian departments received submissions—verbal or written—from Canadian exporters concerning a possible decline in trade and/or exports with the United States?

(Return tabled)

Question No. 229—**Mr. Benoît Sauvageau**:

In fiscal years 1997-1998, 1998-1999, 1999-2000, 2000-2001 and 2001-2002, how much money was paid out in subsidies and contributions by each of the government's departments and agencies, including Crown corporations and quasi- or non-governmental agencies subsidized by the government: (*a*) to support the anglophone community in Quebec; (*b*) to support francophone communities outside Quebec; and (*c*) in each case, to fund what needs?

(Return tabled)

Question No. 240—**Mr. Rahim Jaffer**:

With regard to ports of entry into Canada: (*a*) what are the standards used by all customs officers across Canada to determine a high-risk traveller or shipment, and what is the standard procedure as to what to do with such a traveller or shipment once it is determined to be high-risk; (*b*) under what standard procedure are customs officers expected to refer travellers to immigration officers, and is there any standard for immigration officers to notify customs officers as to the results of such referrals; if it is determined that a traveller should be referred to an Immigration officer and there is no immigration officer at that location, what is the standard procedure that a customs officer should follow; (*c*) why are there no joint Citizenship and Immigration Canada (CIC) and Canada Customs and Revenue Agency (CCRA) evaluations planned to determine the effectiveness of customs officers and immigration officers at the border; (*d*) is there a standard for the sharing of data and intelligence between customs officers and immigration officers; (*e*) is there a standard referral procedure by which customs officers can clearly determine by which points should a traveller be referred to immigration officers; (*f*) is there an agreement between the CCRA and CIC that would provide for periodic evaluations to be performed jointly by CCRA and CIC to determine the effectiveness of their joint operations; (*g*) what percentage of the time does the Primary Automated Lookout System-Highway equipment correctly read licence plates of vehicles stopped at border crossing booths; (*h*) what facilities exist for examining commercial shipments at the Ambassador Bridge in Windsor and where are they located in relation to the bridge customs site: (*i*) what is the standard procedure for ensuring that truck operators told to report to the facility actually arrive there; and (ii) under what circumstances would procedures dictate that a truck be escorted to that facility, regardless of the amount of traffic at the port; (i) in 2002: (i) how many people passed through customs checkpoints without authorization from Customs officers; (ii) when and where did these incidents occur; (iii) what were the sequences of actions taken following the breach of the checkpoint; and (iv) and were the individuals apprehended; (*j*) how many applications have been denied for: (i) FAST; (ii) CANPASS-Air; (iii) NEXUS-Air; and (iv) NEXUS-Highway; (*k*) at what Customs locations has the CCRA placed the following new technology, how many of each does each facility have, and what portion of incoming traffic does it service: (i) mobile gamma ray scanners; (ii) low-energy baggage and cargo x-ray systems; (iii) ion scanners; (iv) gamma ray pellet scanners; (v) hand-held ion mobility spectro-meters; (vi) fibre-scopes; (vii) density meters; and (viii) other new technology that has been purchased by the government within the past two years to be used at ports of entry; and (*l*) for every Custom office reporting to the district offices in Nova Scotia, Newfoundland and Labrador, Northern New Brunswick, Central New Brunswick, Southern New Brunswick and Prince Edward Island, Quebec, Montérégie, Eastern Townships, Montréal Metro, Montréal Airport, Ottawa, St. Lawrence, Sault Ste. Marie, Thunder Bay, Fort Frances, Greater Toronto Area—Commercial, Pearson International Airport—Passenger Operations, Area Operations (Hamilton), Area Operations (Mississauga), Niagara, Windsor, St. Clair, Winnipeg & Northwest Territories, Emerson, Saskatchewan, North Central Alberta, Southern Alberta, Metro Vancouver, Vancouver International Airport, Pacific Highway, West Coast and Yukon, and Okanagan and Kootenay: (i) how many customs personnel are employed at the location, and of them, how many are Customs inspectors; (ii) are there immigration personnel at the location, and if so, how many; (iii) are there computers at the location, and if so, (1) do they have internet access, and if so, (*A*) what type of internet access do they have (dial-up, broadband, digital subscriber line, etc.); (*B*) do they have access to the Primary Automated Lookout System; (*C*) do they have access to CIC's lookout system; (*D*) do they have access to US Federal Bureau of Investigation and US Department of Homeland Security databases or watchlists; and (*E*) do they have access to Canadian Police Information Centre; (iv) what is the distance to the nearest US or Canadian village, town, or city, and what is the name of that location; (v) is there a permanent police presence on location, and if not, (1) what is the distance to the nearest police post, (2) what is its location, and (3) what is the minimum number of officers on duty at any time; (vi) is there at least one telephone at this location; (vii) is this facility open 24 hours a day, and if it is not, what steps are taken to ensure that no one passes through while the facility is unattended; (viii) if there are representatives from departments other than CIC and CCRA, (1) what department or agency is represented; and (2) what is the purpose and responsibility of that department or agency at this location; and (ix) if this is a land border crossing, is there equipment for reading license plates at this location?

Return tabled

* * *

[*English*]

STARRED QUESTIONS

Mr. Geoff Regan (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, would you be so kind as to call Starred Question No. 241. I ask that the answer to Question No. 241 be printed in *Hansard* as if read.

[*Text*]

*Question No. 241—**Mr. Jim Pankiw**:

—With respect to each of the years between 1993 and 2002, what has the government, through the Canada Customs and Revenue Agency, determined to be the total amount of Goods and Services Tax paid by: (*a*) Canadian municipalities; (*b*) municipalities in Saskatchewan; (*c*) the City of Saskatoon; and (*d*) municipalities located in the federal riding of Saskatoon-Humboldt?

Hon. Elinor Caplan (Minister of National Revenue, Lib.): The Canada Customs and Revenue Agency does not capture the information in the manner prescribed in the question. To capture the information in this manner would require an inordinate amount of time and cost to produce and could not be completed within the expected timeframe.

[*English*]

Mr. Geoff Regan: Mr. Speaker, I ask that the remaining questions be allowed to stand.

The Speaker: It is my duty pursuant to Standing Order 39(5) to inform the House that the matter of the failure of the minister to respond to the following questions on the Order Paper is deemed referred to the several standing committees of the House as follows: Question No. 230 in the name of the hon. member for Repentigny, referred to the Standing Committee on Official Languages; Question No. 233 standing in the name of the hon. member for Prince George—Peace River, to the Standing Committee on Human Resources Development and the Status of Persons With Disabilities; Question No. 238 standing in the name of the member for Abitibi—Baie-James—Nunavik, to the Standing Committee on Government Operations and Estimates; Question No. 239, standing in the name of the hon. member for Abitibi—Baie-James—Nunavik, to the Standing Committee on Government Operations and Estimates.

Is it agreed that the remaining questions stand?

Some hon. members: Agreed.

* * *

● (1545)

REQUEST FOR EMERGENCY DEBATE

AGRICULTURE

The Speaker: The Chair has notice of an application from the hon. member for Palliser.

Mr. Dick Proctor (Palliser, NDP): Mr. Speaker, I am indeed applying under Standing Order 52 for Mr. Speaker to grant permission for the House to debate a matter that merits immediate and special consideration by the House. I am referring of course to the continuing crisis that arose through the discovery of a single case of bovine spongiform encephalopathy in Alberta this past May.

The crisis began four months ago but continues to threaten the livelihoods of tens of thousands of farmers, ranchers and beef industry workers across the country, as I noted the member for Peterborough commented on in his petition a few moments ago.

A BSE recovery program announced in mid-June ended in late August, but the crisis remains with us. The borders of the United States and dozens of other countries remain largely closed to our beef and beef products so there is an urgent need to discuss what further actions the federal government should take to alleviate conditions surrounding a crisis that threatens the very existence of our beef industry in Canada. That is why I am applying under Standing Order 52.

SPEAKER'S RULING

The Speaker: I thank the hon. member for Palliser for having brought this matter to the attention of the House. I note that a similar request for a debate on this matter was granted by the Chair on May 26. The request came from the right hon. member for Calgary Centre at that time but there were three other requests the same day, including one from the hon. member for Palliser. The Chair considered his submission of a letter at the time as relevant to the application made by the right hon. member for Calgary Centre in granting the request at that time.

Having considered the matter, I do not believe that it is one that meets the exigencies of the standing order at this time. Accordingly, I am not inclined to grant another debate on the same topic at this particular time.

GOVERNMENT ORDERS

[*English*]

CRIMINAL CODE

The House resumed consideration of the motion that Bill C-45, an act to amend the Criminal Code (criminal liability of organizations), be read the second time and referred to a committee.

Mr. Paul Harold Macklin (Parliamentary Secretary to the Minister of Justice and Attorney General of Canada, Lib.): Mr. Speaker, just before the break we were talking about the issue of probation as it related to Bill C-45 and I would like to carry on with that thought.

Probation is possible for a corporation but it is virtually never imposed. We believe there may be circumstances where the court wants to ensure as best it can that the corporation will change its ways and commit no further crimes and recognizes that a heavy fine would cripple the corporation's efforts to reform.

In those circumstances probation makes sense for the corporate offender. Accordingly, we propose that a court be able to order an organization to establish policies to reduce the likelihood of further criminal activity, to communicate those policies to employees, to name a senior officer to oversee their implementation and to report periodically to the court.

We propose as well to give the court the power to order the organization to inform the public of the offence, the sentence and remedial measures being undertaken by the organization. Not only will this allow the public to decide whether it wishes to continue to do business with the organization after the conviction, we believe it could also be a powerful deterrent. No corporation would want to risk having to take out ads in the various media to tell Canadians it has been criminally negligent or it has been committing fraud.

Finally, we are proposing that the maximum that can be imposed on a corporation for a summary conviction offence be quadrupled to $100,000 from its $25,000.

The changes that we are proposing will give Canada a regime for determining the criminal liability of organizations and for sentencing them in a manner that is appropriate for the complex business arrangements that are common today.

I am proud to present Bill C-45 to the House for its consideration.

● (1550)

Mr. Vic Toews (Provencher, Canadian Alliance): Mr. Speaker, I am pleased to rise today to discuss this bill, an act to amend the Criminal Code (criminal liability of organizations).

The incident that took place in the Westray Mine near New Glasgow, Nova Scotia in 1992, in which 26 miners were killed, resulted from gross negligence on the part of managers, directors and workplace inspectors. It was a tragedy that could have been prevented. It was a crime that should never have taken place.

I think it is appropriate that we have this discussion to determine whether that action on the part of the corporation and its directors in fact should result in the criminal penalties being proposed here.

The inquiry released in November 1997 by Mr. Justice Peter Richard made the recommendation for the federal government to institute a study of the accountability of corporate executives and directors for the wrongful or negligent acts of the corporations and suggested that the government introduce amendments to ensure that corporate executives and directors are held accountable for workplace safety and health.

In the last session of Parliament, a private member's bill to deal with this issue, Bill C-284, was approved in principle by all parties in the House of Commons, including the Canadian Alliance. However, at that time we cited concerns about the legislation and maintained that certain constitutional issues must be addressed before the bill could be passed.

In May 2002, the justice committee referred the subject matter to the Department of Justice in order to draft legislation in accordance with the objectives of the bill. The result is Bill C-45.

Bill C-45 accomplishes three main goals: first, it makes changes to the Canada Labour Code to protect against workplace hazards; second, through changes to the Criminal Code, if employers and managers do not take reasonable measures to protect employee safety and harm results, the organization could be charged; and third, it expands conditions for liability.

I fully agree that the issue of corporations providing safe working conditions for employees must be addressed by the federal law. I agree that it is not sufficient that we simply have provincial legislation in place. However, I would at the same time caution members of the House against passing legislation that could be legally or constitutionally flawed. If the legislation is in fact put to use in the future, let us not put the families of future victims through the agony of a trial only to find out that there are legislative or constitutional flaws that make the entire legal proceeding under these provisions defective.

It should be noted that one defence that previously existed under the Criminal Code has been repealed by this legislation. For example, section 391 of the Criminal Code states:

> Where an offence is committed under section 388, 389 or 390 by a person who acts in the name of a corporation, firm or partnership, no person other than the person who does the act by means of which the offence is committed or who is secretly privy to the doing of that act is guilty of the offence.

Without this defence, concerns have been raised that a person could be held responsible for an offence even if he had no knowledge of the commission of that offence. While the motivation behind the bill and its predecessors are obviously well intentioned, and I think strive to meet an existing need, we must carefully consider the implications of these amendments. That is why we need to be careful in the context of our constitutional framework to ensure that they do in fact comply with the requirements of our Constitution.

In further discussion on the bill it must be remembered that the one of the principal reasons that businesses choose to incorporate in the first place is to protect shareholders and directors from personal liability arising from the activities of the business. I am not suggesting that simply because individuals have arranged their affairs in such a way as to avoid personal responsibility it should excuse criminal conduct. Criminal conduct should be punished whether it is done directly by individuals or indirectly through the mechanism of the corporation.

● (1555)

Executives, directors or other officers and employees of the corporation presently do not and should not have the benefit of immunity from criminal liability. Under our current Criminal Code provisions, they are legally accountable for their own personal wrongdoing. As well, corporations can be held criminally liable in their own right. In cases of offences of absolute or strict liability, a corporation would be subject to penal liability for unlawful acts or omissions of such persons who, because of their position or authority in the corporation, may be said to constitute the directing mind of the corporation.

However, this bill expands further conditions of liability, which must be carefully studied once the legislation is referred to the committee.

Another matter to consider is that this legislation could create concerns among corporations, be they large or small, successful or struggling. I am not suggesting that we jeopardize the health or safety of our workers at the expense of economic growth and jobs, but we do have to be mindful of the impact that these amendments may have if the legislation is not legally or constitutionally sound.

Furthermore, some businesses may have difficulties in attracting viable candidates to sit on a board with the prospect of such Criminal Code penalties. Smaller or struggling companies would be at a particular disadvantage if such standards for accountability were universally applied.

The question that must be asked is whether these provisions will dissuade from managing corporations precisely those who could provide the appropriate guidance to strengthen the health and safety of the workers. If we pass legislation, will it discourage those individuals in our society who would make responsible directors and managers from in fact directing and managing those corporations? If by our legislative action we frighten those individuals, we then leave corporations in the hands of those who do not care about the safety of workers and that is a situation that we need to avoid. Given the civil liability that has attached to directors, will this increase the difficulties that many corporations find in attracting qualified and competent directors?

I think everyone here wants a safe workplace. They want viable economic units that create jobs and keep the engine of wealth moving in this country. We need to balance these concerns against some of the proposals being made here. I am not in a position yet to say whether these amendments in fact do that in an inappropriate way. On a reading of the legislation, I find much to commend it.

We do not want to create the situation where we dissuade competent people from becoming the directing minds of corporations. We want to encourage competent people who exercise sound skill and judgment to continue working through the vehicle of corporations to ensure that jobs are preserved and created in Canada.

Again, that is an issue we need to bear in mind given the difficulty that many corporations today may have in attracting directors to their boards.

In summary, I think it is important to be careful that this legislation does not open up the door to penalties for people who may not have acted with criminal intent. That, I think, is the major issue the House needs to consider. Our Constitution does not support imposing criminal penalties where there is no criminal intent. If we pass legislation that is constitutionally flawed, it does not help the families of those workers who may face a tragedy in the future. I want to hear from witnesses at the justice committee before formally proposing any amendments to the legislation.

● (1600)

I would like to note that the member for Kootenay—Columbia and other Canadian Alliance representatives have done a substantial amount of work in this area. They have met with representatives of the Westray victims' families and other parties around Antigonish. In fact, the member for Kootenay—Columbia will be addressing this legislation and will share some of the insight he has gained.

I want to say that the Canadian Alliance supports the intent of this legislation and we look forward to working proactively to overcome any identified legal and charter concerns that may be present in the proposed legislation.

[*Translation*]

Mr. Richard Marceau (Charlesbourg—Jacques-Cartier, BQ): Mr. Speaker, I am pleased to initiate, on behalf of the Bloc Quebecois, the debate on Bill C-45 sponsored by the Minister of Justice and dealing with criminal liability of organizations.

Hon. members will recall that this bill was introduced at the very end of last spring's session, when the leadership crisis within the Liberal Party of Canada was at its peak.

At that time, people may have wondered just how far the government might go to get its bills through. The answer to that question provided today is pretty revealing.

It seems that the government will try anything it can to curb controversy, in order to keep a lid on the tensions within the Liberal caucus and the divisions within the government. As a result, it will opt as much as possible for passing legislative measures that will gain the support of the House and not stir up any debate.

That said, the odds are pretty good that the government leader will attempt to minimize the untenable situation his party finds itself in, and it is possible that we will not sit beyond November 7, the date of the coronation of the member for LaSalle—Émard as leader of the Liberal Party of Canada.

In the meantime, however, it is important for us to do our jobs conscientiously, because the Liberals do not seem to be on top of their game, and they have lost sight of our primary role: to legislate.

Coming back to the bill of concern to us today, I will state at the outset that the Bloc Quebecois will be supporting this amendment to the Criminal Code, and will also be in favour of its prompt passage in order to address an important ethical aspect in the role of corporations and organizations.

The objective of Bill C-45 is, in fact, to carry out an indepth review of the principles of law governing the liability of corporations and other associations of persons for all criminal offences.

It must be kept in mind that Bill C-45 is the outcome, first and foremost, of the efforts of ordinary members of this House and not an initiative by the government, which has put off taking action for a long time, too long we might say.

Before offering a historical overview, it would be worthwhile making reference to the findings of the public inquiry into the causes of the explosion that took place at the Westray mine in Nova Scotia.

This explosion, which took place several years ago, as hon. members will recall, left 26 men dead. The public inquiry revealed that the tragedy was in large part caused by the negligence of the bosses, who had turned a blind eye to some serious safety problems.

Thus, as I said, the government's inertia in enacting legislation is balanced by the tenacity of some members in trying to get substantial legislative changes passed so that such a situation cannot happen again, or, at the very least, there is a form of criminal recourse if a similar unfortunate tragedy were ever to take place.

The purpose of these private members' bills was to establish and clearly set out, under certain circumstances, the criminal liability of corporations for the errors of neglect or criminal intent committed by their directors or employees, and to create a new category of offence in the Criminal Code, with respect to companies that fail to provide a safe workplace for their employees.

Similarly, in June of 1999, a motion was brought forward to amend the Criminal Code and other federal legislation so that the directors and officers of a company would be held responsible for workplace safety.

At that time, the Bloc Quebecois supported the motion, but when Parliament was dissolved the motion was deferred. Since then, similar motions have been presented three times to the House, but the government, unfortunately, has dragged its feet until now.

Many similar bills have been introduced in recent years, and I think it is important to remind the House of the position taken in 2001 by my hon. colleague for Laurentides, with respect to Bill C-284.

In fact, the Bloc Quebecois supported passage of Bill C-284, but we also pointed out that in Quebec, an organization already exists, called the Commission de la Santé et de la Sécurité au Travail, or CSST, whose mandate is to ensure the safety of employees in the workplace.

Similarly, also in relation to that bill, we maintained that it was essential to adopt the proposal so as, legally, to establish a method of redress and to strengthen the Criminal Code, in order to prevent loss of life among workers.

● (1605)

The Standing Committee on Justice and Human Rights also held public hearings on this matter in the spring of 2002; it recommended and I quote:

> That the Government table in the House legislation to deal with the criminal liability of corporations, officers and directors.

The government's concrete response to the Standing Committee on Justice and Human Rights and the ongoing efforts of members have resulted in Bill C-45, of which we are proud. We regret the delay, but the adoption of Bill C-45 will be our just reward.

This bill to amend the Criminal Code before the House contains eight key points that I want to list for my hon. colleagues and those interested in this matter.

The main changes pertain, first, to the use of the term “organization”, rather than “corporation”. This will broaden the definition, thereby affecting more institutions.

Second, companies can now be held criminally liable for the acts of their employees who are not necessarily in positions of authority or, as they are commonly referred to, the “higher ups”.

Third, the material aspect—the act of committing a crime—and the moral aspect—the intent to commit a crime, the *mens rea*—of criminal offences attributed to companies and other organizations no longer need be the work of the same person.

Fourth, the category of persons whose acts or omissions can constitute the material aspect, meaning the criminal act which can be attributed to a corporation or any other organization, is broadened to include all employees, representatives or contractors.

Fifth, with regard to crimes resulting from negligence, generally referred to as criminal negligence, the fault can now be attributed to the organization to the extent that one of the senior officers of the organization can be charged with the offence.

In the case of deliberate crimes, an organization can now be held responsible for the actions of its senior officers to the extent that a senior officer is party to the offence, directs other employees to commit an offence or, knowing that an offence will be committed by other employees, does nothing to prevent it.

It is important to clarify, nonetheless, that the acts or actions of senior officers must be committed with the specific purpose of procuring an advantage for the organization.

Similarly, the bill is designed to place the onus explicitly on anyone who undertakes to direct the work of other employees to take all reasonable steps to prevent bodily harm to these employees.

Finally, the bill also contains provisions for establishing general sentencing principles and probation conditions in respect of the organizations.

Before going any further in our deliberations on Bill C-45, it should be noted that in our justice system it is essentially jurisprudence that determines the conditions under which a company can be held responsible for a criminal offence.

In criminal offences that require culpable intent or intent to commit a crime, companies are only responsible for acts or omissions by people who may be said to constitute the directing mind of the company. In order for a company to be found guilty of an offence with culpable intent, it must be shown that the individual who materially committed the criminal act in the performance of his duties had implicitly or explicitly been given the authority to write policies for the company and to oversee their implementation.

For each situation, the court must decide whether the individual who committed the criminal act in the performance of his duties can be deemed the directing mind of the company. This is commonly referred to as the identification theory.

Ultimately, we are entitled to believe and maintain that, based on this approach, individuals who are the directing mind of the company personify the intentions of the company.

● (1610)

I could also enter into a technical argument justifying our support of Bill C-45, but I will settle for merely pointing out that this bill defines an organization as including a public body, body corporate, society,company, firm, partnership, tradeunion or municipality. Thus the term organization also includes any association of persons created for a common purpose, which has an operational structure and holds itself out to the public as such.

The main intent of the bill is to broaden the category of individuals whose actions and intentions may engage criminal responsibility of the organizations they represent. Therefore a differentiation will be made between two groups of individuals, namely representatives and senior officers, whose conduct may constitute a criminal offence attributable to an organization.

Thus a representative includes essentially any person who works on behalf of an organization or is affiliated with it, which generally means a director, partner, employee,member, agent or contractor of the organization. In this view, a senior officer means a representative who plays an important role in the establishment of the organization's policies or is responsible for managing an important aspect of the organization's activities.

The effect of this new designation will be to change the present state of the law by introducing new elements to the theory of identification.

It is also proposed to add sections to and expand existing sections of the Criminal Code to take into account in sentencing a reality peculiar to organizations. The same goes for the definition of specific conditions of probation applicable to organizations.

Once passed, Bill C-45 will increase from $25,000 to $100,000 the maximum fine for an organization under summary conviction or convicted of lesser offences.

There is currently no limit set on the maximum amounts of fines for criminal acts or more serious offences, a situation that the proposed legislation does not address. However, the bill specifies factors the court will have to take into account in setting the amount of fines.

For example, the courts will have to take into account aggravating factors such as the degree of planning and any financial advantage realized by the organization as a result of the offence or, conversely, mitigating factors such as efforts made by the organization to reduce risks.

Before concluding, I want to reiterate the support of the Bloc Quebecois for the principle of Bill C-45 at this stage of the legislative process. The committee stage will also provide an opportunity to consider further the proposed legislation and, above all, ensure once and for all that there are no loopholes organizations can use to abdicate their responsibilities.

I remind the House that the current state of the law forces us to establish a regime of criminal responsibility for businesses that is effective and takes into account the differences between an individual and an organization. I also look forward to hearing what my hon.colleagues have to say on this matter. I remain convinced that we will be able to pass this legislation with diligence for the benefit of our fellow citizens thanks to, among other things, the evidence we will be hearing in the Standing Committee on Justice and Human Rights.

● (1615)

[*English*]

Mr. Inky Mark (Dauphin—Swan River, PC): Mr. Speaker, it has been a while since I have been in the House and I am certainly glad to be back.

I am very honoured to speak today on behalf of the Progressive Conservative Party on Bill C-45 proposed by the Minister of Justice, which is an act to amend the Criminal Code regarding the criminal liability of organizations.

Bill C-45 amends the Criminal Code to establish rules for attributing organizations with criminal liability for the acts of their representatives. It also purports to establish the legal duty of persons directing work which will ensure worker safety.

Clause 15 of the bill sets out the framework for courts to consider when sentencing organizations and also provides conditions for court imposed probations.

It is very important that those people who are giving the orders are held accountable for a lot of the things that happen in any organization. The Westray mine example demonstrates that liability should go right to the top. In fact, it should start at the top.

A number of aspects of the bill are very similar to the private member's motion tabled by the member of Parliament for Pictou—Antigonish—Guysborough. It began as Motion No. 455 and then changed to Motion No. 79 before it was passed, having received overwhelming all party support.

I realize that many of the issues of workplace safety fall under provincial jurisdiction. There are corporations in this world that hold no concern for their employees. They do not see them as people. They only look at the bottom line. I believe those days are gone. It is the responsibility of government to ensure that all people are held accountable for their actions.

The attempt of the bill, and of the PC motion which preceded it, is to remind government and parliamentarians that the House and all provincial legislatures throughout the country must do everything in their power to ensure that there is a safe workplace for those who engage in labour activity. If it costs a lot of money and input into making sure that the environment is safe, if that is necessary, it needs to be done.

We need safety in mines but also in farming, manufacturing industries and fish plants, wherever employees work. In any occupation where danger may be encountered, the workplace environment should be safe.

It is a daunting task to put into law provisions that will encourage those in the industry to abide by these legislative initiatives to ensure safety.

I am hopeful that the bill will help to ensure that those with the implicit responsibility for ensuring safety will abide, leading to a higher level of accountability among executives, CEOs and the management in companies. They need to be held accountable if they make decisions to place convenience or practicality over safety in the workplace.

The Progressive Conservative Party has concerns about the safety of employees. Too often we are accused of speaking only for the management of the corporate world, but the House can be sure that we are always concerned about how the corporate world operates and that it is responsible for its actions.

The bill will make corporations liable for permitting unsafe working conditions. For example, the maximum fine for a summary conviction offence for an organization has been raised from $25,000 to $100,000. As well, offences committed on behalf of a corporation by managers or people in positions of authority will also become offences.

● (1620)

Furthermore, directors and officers of corporations who participated in, knew of, or ought to have known of the act or omission that constituted the offence would be considered guilty of an offence and liable on conviction and penalty as if they personally had committed the offence. In other words, the courts shall make a determination based upon the individual's experience, duties, et cetera. No longer can those in management say that they did not know what was happening. By admission, omission is no longer a valid excuse. We are now putting in place rules and policies to make sure that the environment is safe for all people.

Although I do have some concerns regarding Bill C-45, I do commend the government for finally presenting a bill that attempts to deal with the problems in the criminal justice system and give a more clear direction to prosecution of these very often complex and cumbersome cases.

I must stress that the fundamental responsibilities for the safe operation of an underground coal mine or any industrial undertaking will rest with owners and managers.

Westray management, starting with the CEO, was required by law, along with good business practices and good conscience, to design and operate a mine safely. If this legislation had been in place, perhaps the story of Westray would have been different than it was. The significance of their failure cannot be overstated or mitigated. Others were also abdicating their responsibility, and thus the issue of shared responsibilities, which can be encompassed in both the criminal and civil context, was reflected in the recommendations from Mr. Justice Richard's report.

Business executives and corporate executives need to be accountable, and thus should be prepared to seek input from front line workers. This would allow employees to be part of management's schemes when it comes to safety. They should be relied upon to lend their knowledge and create the maintenance of a safe work environment. That is something that was also acknowledged in the report.

It is not a politically popular thing to say, but there was an element of culpability and responsibility on the workers themselves. This has to be taken into the entire context of what legislative change should occur to ensure that accountability and responsibility are held by all.

Businesses must also ensure that their employees are adequately supervised and constantly updated on safe work practices. That is a very important point. It is one thing to make the environment safe. It is another to make sure that the employees themselves are well trained, skilled, and know the safety policies that are put into place to ensure that they work safely.

It stands to reason that when weighing business goals, for example meeting production deadlines versus those of safety, shutting an operation down obviously has huge financial consequences, yet the human element should have outweighed the business demands. That is a new direction which the corporate world is following, that is, that the safety of people's lives comes first before the bottom line.

In closing I would say that business executives must promote and nurture safe work ethics and have an open and approachable attitude toward their employees. No one ever wants to feel the effect we felt in Plymouth with the Westray mine.

Hon. Lorne Nystrom (Regina—Qu'Appelle, NDP): Mr. Speaker, I want to say a few words on Bill C-45 today. It is an important piece of legislation regarding corporate accountability and corporate criminal liability.

The bill comes from the disaster in 1992 at Westray mine in Pictou County, Nova Scotia. I looked at the Westray story, the first volume of the Richard commission when the report was tabled back in 1997. On the front page there is a quote from a French sociologist, the inspector general of mines in France back in the 1800s. He said "The most important thing to come out of a mine is the miner".

Over the years we have seen many tragedies around the world and in this country and many people have died because of unsafe working conditions in mines. Many times the company that owns the mine, the directors and senior management team who make the decisions are not held responsible or liable for what has happened, for the human suffering, for the people who have died and for the people who have been injured.

Regarding the bill before the House today, I want first of all to commend the families who have put a lot of pressure on the federal Parliament and other parliamentarians to make sure we have legislation that addresses the issue of corporate responsibility. I also want to publicly acknowledge the work done by the trade union movement, particularly the steelworkers, in terms of lobbying for the legislation before the House.

I also want to put on the record that two members of my caucus, the member for Halifax and the member for Churchill, both had private members' bills that were discussed in the House. They were very instrumental in promoting the idea of doing something about corporate criminal responsibility for directors and for senior management teams of companies in this country.

Finally, throughout the process, which included a private member's motion by the now leader of the Conservative Party, the justice committee tabled a report in the House of Commons. In November 2002 the government responded and on June 12, 2003 Bill C-45 was tabled in the House.

I want to go over some things which may be a bit technical but which are important in terms of analyzing the bill. I want to say at the outset that we offer support in principle, as does the steelworkers union, to the bill before the House. We will be moving amendments in committee and arguing for changes to make sure we tighten and strengthen the bill at committee stage.

At the outset Bill C-45 attempts to provide a modern sentencing regime for corporations and other organizations. By exposing the decision makers to the consequences of their actions, the legislation represents a step forward in corporate accountability. There is now a body of law that has been extensively developed to assign civil liability for various regulatory offences and torturous acts. Often these means of redress are only available to government, creditors or shareholders, but not for the average worker, the average consumer, the average Canadian. That is where I hope the legislation would be a positive thing in the years that lie ahead.

The proposed legislation brings Criminal Code provisions in line with civil law liability by making corporations, the directors and officers of those corporations, responsible for their activities and for those of the representatives of the management of the company. This translates into greater accountability because decision makers will be obliged to undertake a more rigorous supervision and control over the actions of their employees and their agents, which we hope will prevent disasters such as that which we saw in Westray in Pictou County, Nova Scotia.

These Criminal Code amendments would also create greater accountability for corporations, because judicial action against corporations is not limited to one's financial relationship with the corporation. Instead, the crown would be able to prosecute a corporation on behalf of the public for wrongful conduct which, in its absence, would be absorbed by the public market. We must look carefully into what the legislation does in order to keep the parent companies accountable. That is something new in terms of what is in the legislation.

● (1625)

One thing to keep in mind is that there is a fine line to be walked between accountability and the public interest. For example, sometimes it would not make sense to indict a corporate director or other people in corporate management and impose massive criminal fines if those fines meant having to wind up a company which employs 500 people to meet those liabilities.

It is important to note that in a situation where a corporation is only competitive because of its low operating costs which were achieved only at the expense of worker safety, for example, a sweatshop, it may be in the best interests of the public to completely liquidate the company.

These are decisions that have to be made by the courts. We must not be afraid to wind up a company and that is at the discretion of the judiciary, and it is our job as legislators to message such a situation to the public. It would not make sense to impose a criminal fine for a negligent act that damaged the homes of a community if those fines are not going to be used for rebuilding those homes in that community.

The legislation or the courts should understand that there are broad mitigating circumstances to be considered in sentencing. These circumstances should include things like how widely held securities are, how many employees the company has, how many people depend on the operation of the company for a job, for taxes, and how many institutions or public services the company supports.

What I mean is that we have to pick the proper forums for our legal battles. It does not make sense to assign criminal liability where civil liability offers a better solution. If someone has been harmed by the negligent actions of a corporation, I think most people would want compensation and restitution. This can only be achieved in many cases through civil litigation. In some cases the director may well have to be the person directly responsible for the conditions that led to the negligent activity. In these cases, justice in the court of public opinion would only be served by incarceration.

We must be clear that both options need to be possible in order to achieve the maximum social good. That being said, I must be clear on the fact that public opinion often has a very short memory. Justice must first and foremost be served for the family who has lost a spouse, or a family who has lost a brother or a sister and now has to figure out how to care for the children or the family without the companionship, without the support, and yes, without the salary of the mother, the father or the brother or the sister.

Bill C-45 addresses this concern by adding section 732.1 to the Criminal Code whereby a judge may order the offender to pay restitution to a person for any loss or damage suffered as a result of the offence, or the judge may order the corporation to establish policies to prevent further offences. This section has an added benefit whereby anyone who cannot afford to take civil action against a corporation could be awarded restitution through the criminal prosecution of the offender.

I would be interested to see how this section would operate and we would have to find this out at committee stage. For instance, can a victim petition the court for a restitution order during criminal proceedings or is it solely at the prosecutor's discretion? It is curious to note that the section uses the term “person” as opposed to “persons”. I hope the legislation contemplates that more than one person could be affected by an offence.

There are many questions and concerns about this legislation as well. The legislation makes corporate negligence a criminal offence. However in law, negligence has nothing to do with intent. The civil test for establishing negligence lies on the balance of probabilities, whereas the criminal test in general is beyond a reasonable doubt. Would criminal negligence have to be determined on the balance of probabilities or on the question of reasonable doubt? Again this has to be determined at committee stage.

Corporate gross negligence should usually fall under the jurisdiction of both civil and criminal courts. Determining those tests will be outlined by the court. One can only hope this legislation will establish new avenues that will allow the courts to make the best possible use of the civil and criminal systems to deliver the broadest possible form of justice to the workers of Canada.

Where do civil claims stand in line against criminal fines? If there is a civil claim and a criminal fine, where does the civil claim stand in line against the criminal fine?

● (1630)

For instance, would a court order take priority over the claims of unsecured creditors, such as those of employees, secured creditors such as banks, or victims? For instance, if a civil court orders a corporation to pay a million dollars to a victim for a negligent act, a criminal court has fined the company a million dollars for the same act and the corporation has only enough to meet one order, then who will the court see is going to get paid first, the victim? Or do they share the awarded fine? I would not want to see the victim's damages jeopardized by the criminal court order, especially if the order is against a faceless corporation that cannot physically enter a prison anyway.

One can hope that this law exposing corporations to criminal liability would not deflect attention from the reality of the situation. A corporation is made up of shareholders, officers, employees and the assets of that particular company. The only people it makes sense to punish are the directors and officers, because in the end they are the decision makers. However, a director can hide behind a corporate name if the court is satisfied that it does not need to pierce the corporate veil in order to assign corporate liability to the directors personally.

But the point of the legislation is accountability. It is not enough to hold an office building responsible when the managers are the people who should be responsible.

One can hope that the opportunity to assign criminal liability would not reduce the diligence of regulators and litigants in civil courts, where there is a stronger incentive to make directors personally responsible as opposed to making the corporation responsible.

The legislation should be approved in principle as a positive step forward in terms of corporate responsibility, but the key thing is that this is just one tree of a larger forest. This piece of legislation is not the be-all and end-all. It must be complemented with more practical and responsive forms of redress, be they civil, criminal or regulatory in nature. By developing a more coherent cross-discipline regime, true accountability can be attained, because what we are really dealing with is a stack of issues that make up the whole.

One should keep in mind that the point of punishment is accountability and helping out the people who have been the victims. Criminal liability does not always meet those objectives because imprisoning an officer or making a corporation pay a fine to the Crown does not do anything to ease the hardships faced by the victims. In the end it is the victims who have to be compensated. Where a wrong has been committed, it is the victims who must have the compensation. Civil court, in that case, is really the most appropriate place to get justice for victims.

Certainly the principle of the bill is a good one and it is going in a certain direction: toward improving the law of our country. At second reading we certainly support the bill before us, but I think we have to work closely with our friends in the trade union movement and with other workers to maintain the political momentum for the bill. As it stands now, the justice committee is swamped and may not even give the bill the priority it deserves. Ultimately Bill C-45 could die on the Order Paper if this session of Parliament is not a long one.

An hon. member: For the third time.

Hon. Lorne Nystrom: It would die on the Order Paper for the third time if that were to happen.

Bill C-45 is a step in the right direction and we should work at committee stage to achieve the amendments that would clarify some of the issues I have raised in my comments today.

For instance, the bill should include a clause stating the exact test to be used when assigning liability to a corporation, a director or an officer personally. Those are the kinds of things that have to be done. We have to clarify the role and the responsibility of the parent corporation and its criminal responsibility. If none exist, then we must be mindful that actions taken against a corporation might be successful but may not in fact hold the primary offender to task. These are the things that I believe we have to do. In the end, we have to make sure that we can hold large corporations in our country responsible in a legal way in terms of the civil courts and in terms of the criminal law for any negligence that might have caused an unsafe working place and caused injury or death on the job.

● (1635)

Twenty-six people were killed in May 1992 in Westray. As I said at the beginning of my comments, their families and the people of that community have worked hard to change the law. We have now come a fair way over 11 years, but this bill has died on the Order Paper a couple of times so I appeal to members of all parties in this House to make sure it is a priority.

I do not know what the Prime Minister's plans are, and the member for LaSalle—Émard may not even know what the Prime Minister's plans are, but there is a possibility that come the eleventh of November the House of Commons may adjourn, and it may not come back again until February, with a new prime minister. I hope the government House leader and the other House leaders will make sure that if this is a short session one of the bills that passes in this session will be this bill on corporate responsibility. That is the least we can do as a testimony to those who died in Westray and a testimony to those who have fought so hard to make corporations responsible for any criminality or negligence in the workplace.

● (1640)

Mr. Brian Masse (Windsor West, NDP): Mr. Speaker, it is a pleasure to add to this debate. I believe this is important legislation that needs to be pressed forward.

In the Windsor area, and in Chatham in particular, in this last year we have seen a difficult situation. Navistar International trucks actually had a strike. They brought in strikebreakers and a company from the United States for security. Approximately two miles away from the actual site location where the strike was happening, a worker, Mr. Milner, was run over by someone from the American security company. It has certainly had a big impact on his life and his family, as well as his future in terms of earnings, and it had a big impact on our community in terms of rallying against this type of practice and also in terms of corporate responsibility.

I would like to ask my colleague, as I recognize his long-standing commitment to this issue, what other things could happen over the duration of the next few years if this dies on the Order Paper again, and if we do not take the time and seize this opportunity to put this to bed and make sure we have the protection and the rules in place to have corporate responsibility. I ask him, if that does not happen this time, what is the potential for other things out there across the country?

Hon. Lorne Nystrom: Mr. Speaker, that is like asking me to look into a crystal ball. That is difficult to do, except to say that in almost any industry in this country there could be examples where people are killed because a company is not careful enough in terms of the workplace and workplace safety, and I even think of long distance truck drivers and the long hours they work. Someone has to be responsible for those long hours and make sure they have adequate rest before they take their trucks back out on the road.

There are many industries where people can be hurt or killed on the job because a company is trying to cut corners, because it is trying to improve the bottom line, because the motivation of its shareholders is to improve the bottom line. Unless we have legislation that also says when we improve the bottom line we have to do so with a safe workplace, then often it is the workplace that is sacrificed in order to make a profit or a buck. That is why this legislation is extremely important.

I gather that in the case of Westray, despite all the fanfare about this most modern mine that was supposed to work extremely well, the workers at the time were really concerned about safety in that mine. I know that some of what came forward in the Richard commission pointed out workers who were concerned about safety and concerned about the possibility of methane gas down in the mine. These are things that were raised, but the workers were ignored. That is why we need this legislation that is before the House.

Ms. Alexa McDonough (Halifax, NDP): Mr. Speaker, I would like to pursue this further with the hon. member for Regina—Qu'Appelle, who has very accurately put forward the position of the NDP caucus, which is that we absolutely support in principle the bill before us.

But we are very concerned about the possibility, and this has certainly been the assessment of one of the most outstanding lawyers that participated in the Westray inquiry, that in fact were the legislation now before the House, unamended, in place at the time of the Westray disaster, there still would not have been the possibility of holding the correct managers and owners criminally accountable for their completely disgraceful actions.

This, as the hon. member knows, was an inquiry that was correctly entitled, I think, by Justice Peter Richard: "The Westray Story: A Predictable Path to Disaster". What came out was, and I quote directly from that inquiry, "a story of incompetence, of mismanagement, of bureaucratic bungling, of deceit, of ruthlessness, of cover-up, of apathy, of expediency, and of cynical indifference".

My question to the hon. member is whether he shares the unease people feel that the government has already let this matter die twice on the Order Paper and that we now have a prime minister in waiting who is a corporate clone if there ever was one. Does he share the concern that Mr. CEO, who may become the new prime minister or very likely will be the new prime minister, in fact is likely to put the corporate interests ahead of the interests of workers?

● (1645)

Hon. Lorne Nystrom: Mr. Speaker, I certainly share that concern. That is why I think we should be trying as hard as we can to make sure this gets into the justice committee right away and goes through the House of Commons before this session ends, probably around the middle of November or the early party of November. I do not think the member for LaSalle—Émard, the former minister of finance, will have this as a very high priority on his list. If there was ever someone who is tied to corporate Canada, it is the person who used to be the minister of finance and who will be the next prime minister of this country, at least until the next election takes place. It is important that this bill goes through the House now, because I do not think we will have a friendly audience when the next prime minister takes the chair.

Mr. Larry Bagnell (Yukon, Lib.): Mr. Speaker, welcome back. I am delighted to be standing here to give a speech on a second piece of legislation today. It shows that we have a lot of legislation to cover this fall and a lot of work to do and that a lot of important things are being done to help Canadians.

I would also like to add a special welcome to the member for Dauphin—Swan River, who is a tremendous contributor to the House and who has been away for some time. We are all very happy to see him back.

Of course I also want to, as other speakers have, pay tribute to the families and friends not only of Westray but of other organizations where accidents have deprived families of their loved ones, and to the people who have worked toward improving the legislation, such as the friends of Westray and the steelworkers and all those who have contributed to getting to this stage with Bill C-45, the Westray bill, to address corporate responsibility for workers' safety.

I also want to thank many ministers and members of Parliament who came to my riding this summer to see the various problems and issues there first-hand. I think it is very important to Yukoners that so many saw these issues. They look forward to progress on such issues as placer mining. There was a problem, but now we are making progress on it.

Talking about mining, it has been the mainstay of the Yukon for the last hundred years, and while the bill of course does not deal only with mining, mining is a very important and special type of corporate entity. Often it is based around one mineral find and one property, and then the corporation dissolves thereafter. A way is needed to ensure that the corporation maintains safety in the perhaps short time it is in existence through the life of an ore body and that individuals responsible for unsafe actions are held to account.

In response to the standing committee's report, the government stated that the principles of sentencing in the Criminal Code should provide more guidance to the courts when imposing sentences on corporations. However, the government did not indicate its support for any particular changes. Indeed, it expressed concern as to the relationship between the criminal law and regulation and whether a form of community service order could result in managers who were culpable requiring their subordinates to do the actual community service work.

I am pleased to see that in Bill C-45 the government has gone beyond these concerns and has developed very substantive provisions that should result in much more effective and indeed creative sentencing of corporations.

The bill proposes three major changes. First, section 718.21 would provide the courts with what amounts to a checklist of 10 things that should be considered in setting the level of a fine. Second, proposed section 732.1 would open the way for the courts to take a supervisory role in rehabilitating a corporation. Finally, that section also points to the possibility of shaming the corporation.

Canadian law does not provide a mechanical process whereby the punishment is predetermined. Judges have a great deal of latitude to craft the appropriate sentence. I suspect that often judges find sentencing the most difficult part of their job. The guilt of the accused is often pretty clear. Indeed, often the accused pleads guilty and the only real question is what sentence to impose.

Courts are often criticized by the media and the public for the sentences they impose, but I believe that is the inevitable result of giving them the latitude we have. Neither the reporter nor the members of the public who read or hear the media report have to fashion a sentence that reflects the six, and sometimes competing, purposes of sentencing set out in section 718.

When a court has before it an individual who has pleaded guilty to a serious offence, who has expressed remorse, who claims to be dealing with his or her alcohol problems, and who has a family to support, the decision whether to emphasize denunciation and deterrence, perhaps at the expense of assisting the offender to rehabilitate himself, must be very difficult.

● (1650)

The task is no less difficult when a corporation is convicted. Of course, a corporation cannot be imprisoned and so fines are virtually the exclusive way of punishing a corporation. Even that is not without difficulty, since the individuals who actually committed the unlawful act and had the necessary criminal intent will not bear the cost of the fine. It will be borne by the investors and shareholders who are quite likely totally innocent.

Moreover, the corporation may have been transformed between the time of the commission of the crime and the imposition of the sentence. All the managers and employees involved may, for example, have been fired.

There is no way to ensure a perfect result. This does not mean that we should do nothing. Parliament should at least indicate to the courts the factors that they should consider when an organization has to be sentenced. The factors found in proposed section 718.21 are intended to reflect for corporations the factors that govern sentencing of individuals. Judges probably already apply many of these factors, but providing a list should result in judges having a more complete picture of the corporation. I believe that members will agree that the factors are comprehensive and appropriate. They are as follows:

First, the economic advantage gained by committing the crime. Clearly, the more money the corporation made the higher the fine should be.

Second, the degree of planning involved. Careful planning shows a deliberate breaking of the law and should be punished more than a case where the senior officers took advantage of an unexpected opportunity to make a quick, illegal profit.

Third, the need to keep the corporation running and preserve employment. Just as individuals should not be fined so heavily that they will not be able to provide for their families, so a corporation should not normally be bankrupted by a fine so its employees are thrown out of work.

Fourth, the cost related to an investigation and prosecution. Many corporate fraud offences require lengthy investigations and the cost to the public of detecting the crime and building a case should be considered by the judge.

Fifth, any regulatory penalties imposed on the corporation for the offence. Courts consider whether individuals have been punished in other ways, for example, by losing their jobs. Similarly, a court should consider whether the public interest is served by adding a large fine to the penalties that may have been imposed on the corporation by a body such as a securities commission or any other regulatory body.

Sixth, penalties imposed on managers and employees for their role in the crime. A court should consider whether a corporation has disciplined or even fired employees who participated in the offence. Doing so sends a powerful message to other potential wrongdoers in the corporation. Individuals who plays a role in breaking the law risk ending their career even if criminal prosecution is avoided.

Seventh, noting whether there have been previous convictions or regulatory offences. Just as the criminal record of an individual is very important to determining the appropriate penalty, so it is important for a judge to consider whether the corporation and its workers had been sanctioned for similar activities in the past, not just in the criminal courts but by regulators like occupational health and safety departments.

Eighth, restitution, which has been mentioned by other speakers today. Compensating victims shows that the corporation is trying to make up for the harm that it caused.

Ninth, attempts to hide assets to avoid paying a fine. A corporation that tries to pretend it is poor, rather than being open with the court about its financial situation, is showing that it has not changed its ways.

Tenth, measures taken to reduce the likelihood of further criminal activity. New policies and practices, like spot audits or changes in personnel, could indicate that the corporation has learned its lesson.

After considering all these factors, a court should have as complete a picture of the corporation's situation as it has of an individual's circumstances when it receives a pre-sentence report. Indeed, the factors may encourage the Crown and defence counsel to give serious thought to what is an appropriate fine leading to a joint recommendation. There is nothing wrong with negotiations on the level of the fine to be paid, provided everyone has considered the appropriate factors.

Although the factors are important, a potentially more effective tool for rehabilitating the offender and protecting the public from further crimes is the possibility of putting a corporation on probation. Courts often place individual offenders on probation. The court imposes conditions that allow the offender to deal with the underlying problems like substance abuse.

● (1655)

Probation is virtually unheard of for corporate offenders, but there may be circumstances in which probation would be appropriate to ensure that the corporation would take steps to reduce the chances it would commit further crimes .

The bill proposes to put into the code a specific section dealing with probation orders for corporations. The list of conditions the judge can impose begins with providing restitution to the victims of the offence, to emphasize that their losses should be uppermost in the sentencing judge's mind. But it then sets out conditions that may be imposed by the court to supervise the efforts of the corporation to ensure that it does not commit crimes in the future.

A court order can order a corporation to implement policies and procedures to reduce the likelihood of further criminal activity, to communicate those policies and procedures to employees, to name a senior officer to oversee their implementation, and to report on progress.

In its response, the government expressed a concern about the potential overlap of probation under criminal law and regulation, and that is an appropriate concern. It is noteworthy that Bill C-45 would require the court to consider whether another body would be more suitable to supervise the corporation. There is no need for the court to get involved in overseeing changes in a corporation's safety practices, for example, if a territorial or provincial occupational health and safety department is already doing so. Such an agency has trained inspectors and expertise that the courts lack.

Finally, the bill would give the court the power to require the corporate offender to inform the public of the offence, the sentence imposed, and the remedial measures being undertaken by the corporation.

Cheryl Edwards in her article on Bill C-45 in the August 22 edition of *Lawyers Weekly* called this possibility the most interesting of the proposed creative sentencing options. She wrote:

> Imagine a court directing the posting of a criminal conviction and sentence prominently on a corporate website, in a corporate annual report, or in the news media. For many organizations the resulting profound impact on public relations and public image would far outweigh any monetary penalty.

I ask members to consider how a CEO would explain to the board of directors or to the annual general meeting of the shareholders having to run full page ads in the major dailies across Canada telling everyone that the corporation was guilty of serious fraud or killing its workers through criminal negligence? Surely the very possibility would be an incentive for the corporation to review its policies and procedures now to avoid the possibility of such embarrassment in the future.

These innovative proposals should be supported by all members. Therefore, I hope for the families and friends of future workers and for the safety of Canadians that we adopt Bill C-45 as quickly as possible before the House prorogues.

[*Translation*]

Mr. Pierre Paquette (Joliette, BQ): Mr. Speaker, I think perhaps the vacation was a bit too long.

I would like to thank the hon. member for his comments, particularly at the end of his remarks when he called upon the House to vote quickly in favour of Bill C-45, which meets a need he himself described very well.

I would like to ask him the following question: Since this bill is the result of repeated initiatives by opposition members, and since for many months, not to say years, the government appeared to be totally oblivious to the needs addressed by Bill C-45, what can explain his slow response to a need felt not only by the workers in many industries, but also by the opposition parties?

● (1700)

[*English*]

Mr. Larry Bagnell: Mr. Speaker, I would like to thank the member for the question. I do not think it matters who raised this important issue. He suggests it was raised by the opposition, but I think it has considerable support by all members in the House from what I have heard so far in the debate.

It will take the support of all members in the House to have it go through expeditiously. As we know, usually when a bill is being slowed down it is quite often one of the opposition parties, even though several others may be on side. However, from what I have heard today everyone seems to be in strong support of this and we should be looking to the future to get the bill through as quickly as possible and also to consider suggested improvements that various people have put forward in the early part of this debate but to do all of that quickly so that we get the main components of the bill in place.

Everyone seems to be in favour of it because of its protection of workers and its efforts to reduce the inappropriate activity of anyone at any level in a corporation who directs people to do something that is unsafe.

Ms. Alexa McDonough (Halifax, NDP): Mr. Speaker, I would like to pose a question to the hon. member on the government side. I appreciate the sentiment about the fact that it does not matter who finally brought the bill forward although it is exceptionally important to recognize that it has been the families of the victims of the Westray disaster as well as the steelworkers working in tandem with them and recognizing that it required parliamentary remedy that has brought us to this point.

My question concerns the member's suggestion that we should just get on with passing this bill as quickly as possible. I want to ask the member whether he has read the critique from the lawyer who represented the deceased Westray miners in the Westray inquiry and whether he recognizes him to be a considerable expert on the topic? He has acknowledged, and I want to quote directly because I do not want to misrepresent this for a moment, that it is a good thing that the government finally brought forward legislation but he goes on to say that the response of the government is by no means adequate, in fact, “if the proposed amendments were law when the Westray Mine exploded in May 1992, it is unlikely they would have made any difference to the events that followed the disaster”.

I am sure the member is aware that this is a bill that arises out of the very concern about the lack of corporate accountability in the instance of employers that knowingly endanger the life or cost the lives of their employees. Would the member not agree that for it to be passed in its current form just so the government could finally say it has finally dealt with it 11 years later would be a travesty and a tragedy given that there are amendments needed in order to make this bill effective for its stated purposes and meet the objectives which the government has said are inherent in the bill?

Mr. Larry Bagnell: Mr. Speaker, I would like to thank the hon. member for her question and address a number of points. First, there should be great credit to the families and steelworkers which I stated in my opening remarks. I also pointed out that we should seriously consider the improvements to the bill that have been suggested in the early parts of this debate. I am not disagreeing with her that the committee should look at all possible amendments to the bill.

I have met with the friends of Westray over the years and provided my support for their efforts. That is very important. One of the problems in this case was that one of the Crown's major witnesses changed his testimony. Regardless of what bill is in place, I am not sure how that particular problem would be solved.

The member is correct in suggesting that the bill arose out of Westray, but it has much more far-reaching ramifications than just the Westray case. Hopefully it would solve cases similar to that with any improvements that are put in and I am anxious to look at those improvements. But the bill is far wider reaching in that it would deal with every corporation in Canada and with anyone who works for any corporation at the operational level who is directing other people to do something that may be unsafe. There are far-reaching items in the bill and many things which are innovative and that will hold to task people who direct people to do unsafe things.

I would not suggest rushing the bill through just to say that someone has done it, but I would suggest getting it through quickly so that all these excellent provisions could be put in place to protect the safety of Canadian workers.

● (1705)

Mr. Jim Gouk (Kootenay—Boundary—Okanagan, Canadian Alliance): Mr. Speaker, I would like to advise that I will be splitting my time today with my colleague from the neighbouring riding of Kootenay—Columbia.

I am pleased to rise today to speak to Bill C-45 dealing with criminal liability for companies and organizations.

Over the years I have had several occasions to attend the annual day of mourning for workers who are injured or killed on the job. One of the sentiments that rings out at those meetings on those special days is that although numbers tend to be coming down for many companies, and many companies are very conscious of safety, even one death or injury is one too many. That is the premise which I believe the bill is approaching in terms of liability.

Many years ago, probably in the 19th century, companies were pretty horrendous places for anyone to have to work. The conditions were deplorable. The tactics they used were absolutely disgusting, and that was a large part of what caused workers' organizations and unions to form, because there was an incredible need for someone to stand up for workers against the very oppressive type of corporations that sometimes pervaded throughout our society.

Since that time, we have now what we refer to as the pendulum effect. Sometimes when the economy is going really strong, the unions have tremendous power to force things, maybe even beyond reason at times, on companies because there is such a need for the company to keep working, and so much profitability. At other times the pendulum swings the other way. Even now we can see the same thing returning back, where some corporations take advantage of that and use it as an opportunity to try to squeeze unions into conceding benefits for which they have fought.

One of the problems with the pendulum is we get no stability out of that. In my position as labour critic I saw a case where we have had strikes at the port of Vancouver. The government may have decided that it was appropriate to legislate people back to work because it could not take the disruption and because of what it would do to our economy. However a year ago one of the companies dealing with the grain workers had very little grain flowing into it so it was in labour negotiations with the union. The company actually locked the union out because it saved money by not bringing them in and having to cover benefits. It had alternatives. It was able to divert it to the different facilities that it had. The company did not have enough volume to keep its operation as well. Ironically, those same workers who would have complained with a different swing of the pendulum on being ordered back to work asked why the government was not doing it now. These are the kinds of shifts that we need to try to avoid.

We have the same thing in Bill C-45 in terms of liability on the part of companies. We need to address the problem of criminal liability on the part of persons within the corporation. By the same token, the bill needs to be written in such a way to ensure that we do not go to a point where there is no proper consideration for the criminal liability of people within a company, like the Westray example that has been quoted so much here today in this debate. We also need to ensure that the bill does not swing the pendulum too far and go from a point where people were not being held properly to account to a point where it is done in an oppressive manner.

There has to be an example of balance to put it in a common sort of term for the average person who is watching these proceedings today. The previous Liberal speaker quoted sections and subsections of the bill and some of the more arcane provisions in it, which is necessary. I am sure lawyers, judges and others who are watching need to know those types of details, although they have undoubtedly read the bill. However it is the general public whom we are largely here to represent, including the workers on whom this bill will have such a profound effect. We need to show them exactly what this means and why we feel we need to make these changes.

For example, I lend a car to someone. After the person borrows it, he or she goes out, gets impaired, gets into an accident that perhaps kills someone and very serious charges are pending against that person. It would be inappropriate if I were charged with the criminal responsibility for that accident as well if I had no knowledge whatsoever of what this person was going to do.

● (1710)

On the other hand, if the person were impaired when he borrowed my car and I knew that, then I should be held accountable for allowing him to take my car when he was in that condition.

That is the basic premise of how the bill needs to work. By all means we need to put in some kind of legislation that allows the courts to take criminal action against people who knowingly allow workers to work in conditions that are unsafe and that result in injuries or in the case of the Westray Mine many deaths. These are the types of things that need to be put in the legislation.

We believe the bill has conceptually a lot of merit. We agreed certainly in principle with the private member's bill that actually caused this bill to be written by the government. However the bill needs changes and improvements to make it truly a bill that works for all people. A bill that is imbalanced is not a good bill at all.

When it went from a private member's bill to government legislation, I think it might have lost something in the translation. That is not uncommon. That is why we have debate in the House to disclose what the issues are and to bring them forward. More important, that is why we send a bill to committee. A committee is supposedly master of its own destiny. It can examine the bill based on the debates held in the House by the various parties and from witness, many of whom have brought their opinions forward already. The committee can then decide to make changes that will make the bill, which has a lot of merit, into a bill that has more than just conceptual merit but indeed answers the concerns of workers throughout the country while at the same time ensures that it does not become oppressive against the other side.

We have to keep that pendulum in the middle. In fact we have to eliminate the pendulum and do something that is balanced and right, taking into consideration the needs and rights of both side, instead of something that takes a liability that was never addressed and takes it to a greater degree.

I am sure that members who spoke before me outlined the intricacies of the proposed legislation. I am sure my hon. colleague, who will be speaking next and who has put a great deal of time and background work into the bill, will bring forward the specifics on the kinds of things we need to fix to ensure this is a balanced bill.

Mr. Jim Abbott (Kootenay—Columbia, Canadian Alliance): Mr. Speaker, I appreciate the opportunity to speak to Bill C-45, but I am sad that we have to have this kind of legislation under consideration by the House. I take a great deal of comfort for the Canadian Alliance and for that matter for the bill and for the House as a whole from the fact that our justice critic, the member for Provencher, as a former attorney general of Manitoba, will be able to bring a lot of light to the process.

The process is a complex one simply because one cannot hold a corporation accountable at the end of the day. The people who have to be held accountable are people as opposed to just a numbered corporation. Getting the balance between those two things and ensuring that the bill is operative and is workable is going to be exceptionally important.

One of the things that I have been particularly encouraged by has been the tone of the debate in the House on this issue. There has been a very low level of partisanship and there has been a strong desire expressed on the part of everyone that the bill be a proper working document, an agreement on the part of parliamentarians here that we bring forward legislation that can be useful.

We have to remember that the most probable cause, the foundation of Bill C-45 is the Westray disaster. There was tremendous political interference in the process around Westray, both at the federal and provincial levels. In the spirit of non-partisanship I will not offer party designations to that political interference. The reality was that there were very high levels of interference in both the Nova Scotia government and in the federal government of the day. The interference was such that I believe that some of the very irresponsible people who were involved at the corporate level and who were responsible for many of the decisions, or lack of decisions, and many of the people who were involved in the process of looking at the regulations surrounding the conditions within the mine, the bureaucrats of the day, had the assumption that there was a free track. There had been so much political interference, whether it was from people involved at the corporate level or people involved at the bureaucratic level who felt they had all sorts of latitude and elbow room, that many corners were cut.

The workplace practices that were in effect at that time were the most dangerous that could ever possibly be imagined. Unfortunately, following the disaster the hearings themselves bordered on being a farce simply because there were witnesses who should have testified but were not available because they were concerned about possible criminal sanctions being brought against them. As a result, those witnesses who were absolutely key and germane to the Westray inquiry, who should have been at the hearings and who should have been able to speak up under oath were not there.

After the inquiry closed, the decision was made that there would be no criminal charges. Of course by then, because the inquiry was concluded and we had the report, there was no way in realistic terms that those people could then testify. The decisions had already been made.

There also was a situation regarding the destruction of evidence in the mine itself. Decisions were made by people, and to this point I am really not clear, to flood the particular portions of the mine thereby removing the actual evidence of what had contributed directly to this disaster.

I had the opportunity, on behalf of my political party, to travel to Nova Scotia to take a look at this when I was formerly the solicitor general critic. I met with some very wonderful people, members of the families who were bereaved by these terrible events and by this avoidable accident.

● (1715)

I am sure the frustration of these families to this day is larger than we could ever possibly imagine, their frustration at the process they have been through and the very obvious fact that, most charitably, mismanagement cost the lives of their loved ones and, less charitably, to say that there was actual criminal negligence on the part of corporate officers that led to that.

Their frustration boiled over into bitterness and cynicism. I can recall one meeting in particular with the families. It was a quiet meeting. I think about 15 people were at the meeting. It was not a big town hall meeting. I was not there for any grandiose political reason. These people just wanted someone in Ottawa to listen, so I went and listened. The bitterness and the cynicism on the part of these families against the whole process was absolutely immense.

Having tried to stay non-partisan, I want to offer a criticism in the most non-partisan way that I can of the Liberal government that has been in Ottawa for 10 years. The families deserve better. This accident, as was noted by my friend from Halifax, took place 11 years ago. The events that followed were very transparent to anybody who turned on the nightly news.

We all know there was a deficiency and yet in the 10 year period that has transpired for the Liberals to be on the governing side of the House this is the very first time that we have been able to debate any action proposed by the government to overcome this problem.

That is grossly inadequate. It leads to the bitterness and the cynicism that is so easily understood on the part of these families. It leads to a cynicism of Canadians toward the entire political process.

How many times have we seen bills come before the House, be presented to the House and then die on the Order Paper when the Prime Minister calls an election and then be re-introduced and re-introduced. People want action. They do not just want words.

I give my friends in Nova Scotia this caution. What I suspect could very well happen as a result of the political opportunism that will be exhibited by the next Prime Minister of Canada, there will undoubtedly be an election called by April 4. If an election is called Parliament will be dissolved which is, by the way, totally unnecessary since there is another year and a half more that the House could be sitting without the political gyrations of the other side. As a result of the calling of that election, which I predict will be April 4, there is a high possibility that this legislation will die. I just want to give the people who are bitter and cynical about the political process a little forewarning that the legislation could very well die.

This is not good enough. Having given that criticism, and it is a very direct criticism, let me reiterate what my colleague, our justice critic, has said. We are prepared to work with the committee, to help the committee and to be part of the process so that at the end of the day we have good, logical, concise, practical, workable legislation so that the workers in the workforce of Canada will have the protection that they deserve.

● (1720)

Ms. Alexa McDonough (Halifax, NDP): Mr. Speaker, I appreciate the spirit of the comments made by the previous speaker. As I have already indicated, I and my colleagues share the concern about the possibility that we will yet again see the kind of legislation that is needed to establish criminal accountability for workplace deaths and avoidable injuries simply go down the tubes.

This is the third time this type of legislation has come forward. It is true that it was previously in the form of a private members' bills by myself and by the hardworking member for Churchill who has considerable knowledge of workplace health and safety issues. We finally have an initiative from the government. It is of great concern that this could actually expire.

Would the member comment further on the possibility that we finally saw a government initiative around establishing criminal responsibility for workplace health and safety after the former finance minister, the member for LaSalle—Émard, left the cabinet and whether he shares the concern that we may actually see this legislation deep-sixed when he is once again in a central position of decision making with respect to this very important matter?

● (1725)

Mr. Jim Abbott: Mr. Speaker, that is very interesting. I had not really thought about that prior to the member's question.

When I returned from the meetings with the people around Antigonish I returned with a deep sense that something had to happen on this.

The member may recall that my constituency produces 25% of the entire capacity of the world's metallurgical coal. Although it is an open pit operation, nonetheless I am very familiar with the unionized workforces and the kinds of conditions they are up against.

What was interesting was that I was approached by some people in businesses identical to Westray who were expressing a deep concern about this. In fact, I am very much aware of the pressure that there is from corporate Canada.

The fact that the member for LaSalle—Émard, a board member of many corporations, a millionaire tycoon in his own right and with many connections—

Ms. Alexa McDonough: Many hopeful leadership connections.

Mr. Jim Abbott: Yes. I mean a $9 million bankroll from corporate Canada. Actually, that is really an interesting perspective. It is a concern to me. I thank the member for drawing it to my attention.

Ms. Sarmite Bulte (Parkdale—High Park, Lib.): Mr. Speaker, Bill C-45 is the culmination of many years of attempts to reform the general law of attributing criminal liability to corporations. In fact, Bill C-45 would give Canada rules that are appropriate for the complex, modern corporate world where often a company has many places of business, various subsidiaries, parts of the business contracted out to specialists, decentralized control over some parts of the business and a great deal of discretion vested in its managers.

Now, in these circumstances, it is difficult to decide whether a corporation has committed a crime both by doing something the law prohibits and by intending to break a law or having mens rea, as the criminal lawyers say.

It is not surprising that rules that were originally developed beginning in the horse-and-buggy age are often in need of updating as conditions change. It is part of the genius of the common law system that adjustments can be made by the courts as new cases come before them. The common law may not always have the logical consistency that academics want but it does get the job done.

Historically, at first the courts held that a corporation could not break the law but gradually the courts made exceptions.

The first criminal offence for which a British company was found liable was for nuisance. Something simply had to be done about locomotives setting fire to crops by their sparks. The real problem was not with a strict liability offence but with those offences where the crown had to show some form of intent.

It was not until 1915 that the House of Lords developed a so-called directing mind test for offences of intent but the test was quite narrow, concentrating on a corporation's board of directors.

Of course Canada also followed British judgments until 1949 when appeals to the judicial committee of the Privy Council were finally abolished and our Supreme Court of Canada was created.

The Alberta Court of Appeal struggled with this issue as late as 1941 in a case called Rex v. Fane Robinson Ltd. The two directing officers of a garage company, pursuant to an agreement with an insurance adjuster, added a certain sum to a repair bill on an insured automobile. On the receipt of the moneys from the insurer, part of the additional sum was given to the adjuster and the balance was retained by the garage company. There was no problem finding the individuals involved guilty but the garage company was also charged with conspiracy to defraud and obtaining money by false pretences.

The trial judge, following the narrow test developed by the Privy Council, acquitted the company. In the judgment he wrote as follows:

> The accused is a corporate body incorporated under the laws of the Province of Alberta. A corporation acts through its directors. There is no evidence whatever disclosed in the minutes of the meetings of the directors or the shareholders which are in evidence, that any authority by resolution was ever given to the directors acting in their official capacity to enter into the conspiracy alleged in the first count, or to procure by false pretences the money alleged in the second count...

The Court of Appeal in a two to one decision convicted the company. Justice Ford wrote:

> —I have, not without considerable hesitation, formed the opinion that the gradual process of placing those artificial entities known as corporations in the same position as a natural person as regards amenability to the criminal law has... reached that stage where it can be said that, if the act complained of can be treated as that of the company, the corporation is criminally responsible for all such acts as it is capable of committing and for which the prescribed punishment is one which it can be made to endure.

Interestingly enough the dissenting judge wrote “I am of the opinion that mens rea must be established in a case of this nature. A number of changes in regard to liability of corporations have been made from time to time by Parliament and, as has been suggested, the changes and extension of liability of corporations will probably be extended, but in my opinion the extension, if there is such to be, must come from Parliament”.

It is important to note that what was said in the dissenting opinion was that it must come from Parliament.

● (1730)

It has been more than 60 years since that was written and I would respectfully submit it is high time that Parliament did set the rules. The legal background, the many attempts to reform the law and the situation in other countries were thoroughly canvassed in the discussion paper the Department of Justice provided the standing committee and in the government's response to the standing committee's one page report. Clearly we are not starting from scratch and no one should be taken by surprise by the provisions of Bill C-45.

The fundamental question that we as parliamentarians must answer is whether the proposals in Bill C-45 with respect to offences requiring proof of knowledge or intent by the corporations are appropriate in today's conditions.

As members know, in the absence of action by Parliament, the Supreme Court expanded the so-called directing minds test in the Canadian Dredge and Dock case in 1985. The government in its response found the Canadian Dredge and Dock case rules too restrictive. Also the committee rejected the American vicarious liability model as contrary to fundamental principles that underlie Canadian criminal law. It also rejected the Australian corporate cultural model as being vague and also untested.

Instead, Bill C-45 proposes to broaden the persons who can be considered directing minds through the definition of “senior officer”. It sets out three ways that a senior officer can make the corporation criminally liable, but in all cases the senior officer must have the intent at least in part to benefit the corporation.

The first question we must ask ourselves is whether the definition of “senior officer” is broad enough to catch the right officers without being so broad that it unfairly stigmatizes the corporations. Members should not underestimate the consequences of the criminal conviction on the reputation of the corporation but also on the individuals employed by that corporation.

The proposed definition of “senior officer” includes everyone who has an important role in setting policy or managing an important aspect of the corporation's activities. It is significant that that person does not have to have the final say in setting policy but must have an important role. Moreover, a person who has no role in making policy can be a senior officer if he or she is entrusted with important management duties.

In the Rhône case referred to in the government's response, the Supreme Court stated the following: “The key factor which distinguishes directing minds from normal employees is a capacity to exercise decision making authority on matters of corporate policy, rather than merely to give effect to such policy on an operational basis”. Clearly, the proposal in the bill is broader.

The new definition makes it clear that the directors, the chief executive officer and the chief financial officer of a corporation are, by the virtue of the position that they hold, automatically senior officers. A corporation charged with an offence cannot argue that the individuals occupying these positions actually had no real role in setting policy or managing the corporation and so were not senior officers.

However, there is an endless list of titles: senior vice-president finance; general manager western division; corporate counsel. The same title can mean quite different things in different corporate structures. For example, the executive assistant to the president could have a great deal of authority and effectively speak for the president in one corporation and so be a senior officer, but in another corporation would have only minor administrative functions, perhaps such as scheduling the president's meetings.

Necessarily, the Criminal Code has to use general language so that the courts will have to decide in each case whether a person who is not the CEO, CFO or a director is indeed a senior officer. By requiring that person play an important role in developing policy or managing an important aspect of the business, we are indeed providing the courts with indications of the position the person must actually play in that organization.

The first two ways that a senior officer could make the organization liable set out in section 22.3 are fairly straightforward. The most obvious way for the organization to be liable is the first way set out in 22.3, which is that the senior officer actually committed the crime for the direct benefit of the corporation. For example, if the CEO cooks the books and thereby induces others to provide funds to the corporation, both the corporation and the CEO may be guilty of fraud. However, senior officers usually direct others to do such work.

● (1735)

The second way set out in section 22.3 makes it clear that the corporation is guilty if the senior officer has the necessary guilty intent and indeed wants to benefit the corporation, but subordinates carry out the actual physical act. An example would be where a senior officer could be benefiting the corporation by having it deal in stolen goods. The senior officer could instruct employees to buy from the supplier offering the lowest price, knowing that the person who offers to sell the goods at the lowest price can only make such an offer because the goods are stolen. Here the employees themselves have no criminal intent, but the senior officer and the corporation could be found guilty.

The bill proposes a third way of holding the corporation liable and this is something new. A corporation could be guilty of a crime if a senior officer knows employees are going to commit an offence but that senior officer does not stop them. Using the stolen goods example, a senior officer might become aware that an employee will get a kickback from the thieves for getting the corporation to buy the stolen goods. The senior officer may have done nothing to set up the transaction, but if he or she does nothing to stop it with the intent that the corporation again will obtain a benefit from the lower price, the corporation would be responsible.

Members should note that indeed in this third case, unlike the first two, the senior officer does not have to be active within the scope of her authority. In other words, if a manager of security knows that there is criminal activity going on in the sales division, for example bribing municipal officials to get a contract, she cannot decide to let it slide so that the company will benefit, even if that area of the corporation's business is not her responsibility. She must take all reasonable steps to stop the commission of the crime.

The supreme court has held in the Sansregret case, which involved a sexual assault that “Where the accused is deliberately ignorant as a result of blinding himself to reality, the law presumes knowledge”. No doubt the court will apply the same test to an organization, which will be liable if a senior officer is wilfully blind to information in order to avoid confirming what he or she suspects.

The government in its response to the standing committee report concluded that Canadian criminal law as it applies to corporations is in need of modernization. The directing mind model does not reflect the reality of corporate decision making in the delegation of operational responsibility in complex organizations.

Cumulatively, the changes to the law which are set out in Bill C-45, particularly as they affect those crimes that require knowledge or intent, represent a significant broadening of the rules for holding a corporation liable. The proposed changes should be supported by the House and I urge members to vote in favour of the bill.

● (1740)

[*Translation*]

Mr. Paul Crête (Kamouraska—Rivière-du-Loup—Témiscouata—Les Basques, BQ): Mr. Speaker, I congratulate the hon. member on her speech. She truly covered all the issues addressed in the bill.

The Bloc Quebecois supports this bill, but one particular point caught my attention. I am talking about the offences known as *mens rea* in Latin.

I get the impression, in reading the bill in its current form, that it will be extremely difficult to make the application of the bill truly effective in real situations.

I want to ask the hon. member a question. Would it not have been better to use the New Democratic Party's hypothesis relating to Bill C-284, which was introduced during the first session of the 37th Legislature? The suggestion then was that, rather than using *mens rea*, which is the requirement to prove intent above and beyond that required for criminal negligence, there could be a mechanism allowing for the burden of proof to be reversed.

In other words, once it is established that the employees of an organization have committed an act or made an omission leading to the commission of a crime, that organization would have to prove that it neither authorized nor tolerated such behaviour. Would this not be more effective and ensure that the desired results of the bill would be obtained? Given the bill's current wording, it is possible that the House will be called upon to amend the proposed legislation once it has been put to the test a few times.

[*English*]

Ms. Sarmite Bulte: Mr. Speaker, I did practise law for 18 years, and my understanding is that criminal law does require mens rea, that the intent is necessary for many of the offences under the criminal code. As I explained earlier, we proposed three ways to broaden the directing minds, which was part of the old corporate liability, by applying mens rea or intent to senior officers. We have gone through those things.

I understand that what in fact had been proposed earlier was not the criminal intent, which is really the norm for criminal acts.

There is another thing which I think it is important to say, and I said it earlier in my speech as well. We must remember that to be convicted of a criminal offence both for a corporation and an individual is a very grave offence. We have to balance the intent that it is a criminal act to ensure that in fact we are not convicting a senior officer who may just be there as a senior officer. We have to look at these things.

I also urge the member opposite to bring these issues to committee. We will have the opportunity to look at the various ways and if it is deemed more appropriate to use the method that is being proposed, that is something the committee can consider. However, it is important to remember that we are talking about the criminal law here and what threshold is required for offences.

That is my understanding of mens rea and criminal intent.

● (1745)

Ms. Alexa McDonough (Halifax, NDP): Mr. Speaker, I thank the member for her comments in support of the legislation.

She provided an interesting historical overview. It was a bit shocking but useful to hear that recommendations for changes to the criminal law to capture this kind of situation go back as far as 60 years. It would be completely unfair for me to try to hold the current Liberal government accountable for all 60 of those years of inaction, but I have to say that it concerns me somewhat that there is a lack of urgency. There is a casualness that maybe this is something we should do something about.

If we consider that in the 10 years the government has been in office, close to 10,000 workplace deaths have taken place and there have been somewhere between six and seven million workplace accidents and injuries. It would be madness to suggest that corporate negligence or corporate irresponsibility accounted for all of those. I am not suggesting that for a moment, but it does add a sense of urgency to what we are talking about to have that historical perspective as well as the current figures.

What assurance does the member feel there is from her party, the governing party, that this bill will not die on the order paper again, as has already happened?

Also, I would ask the member to comment on the concern that has been raised again and again about a future prime minister who has seen fit to operate his ships under a company that he owned, that would evade the labour standards and evade taxation by flying flags of convenience rather than the Canadian flag. What possibility is there that this issue would be given the kind of attention and serious treatment that it requires? If the member shares any of those concerns, what commitment is she prepared to make to be sure that this is dealt with as part of the—

The Acting Speaker (Mr. Bélair): The hon. member for Parkdale—High Park.

Ms. Sarmite Bulte: Mr. Speaker, I would like to thank the hon. member for her question and also for all the work she has done in this area. What her party has done to bring this issue forward is very important.

With respect to having this legislation die on the Order Paper, certainly the hon. member knows that that is up to the opposition as well. We need to work together on this. We are at second reading. We will go to committee and take a look at what can still be done to improve this bill. It will be brought back in the House and voted on. Let us work on it as soon as possible. Let us make it a priority from all parties. If we can cooperate and work together quickly and effectively on this bill, get our witnesses in front of the committee, bring it back, and have third reading, we can have this bill passed and have it go to the Senate. It is a matter of cooperation. What I have been hearing in the debate this afternoon is a general consensus that this is a good bill.

However, I did want to comment on one other thing. The hon. member brought back the issue, which I did raise in my discourse today, that it has been 60 years since it was first brought up by the courts that Parliament really needed to act here and that it was the role of Parliament to decide how to make corporations culpable and liable. The important thing is that many countries have been struggling with this concept of how to pass legislation which is proper criminal law, which includes *mens rea* and criminal intent, how to get something that is enforceable, and how to get something that is workable.

There is no model, as the hon. member knows, anywhere in the world that is appropriate or that we could bring in and look at. Australia just recently has struggled with legislation of this type. It too tried to implement something but found it was not workable.

We are trying to find the best way not just to make legislation for the sake of making legislation, but to make legislation that will be effective for all.

● (1750)

Mr. Brian Masse (Windsor West, NDP): Mr. Speaker, I would also like to follow up with the concern that this bill will die a third death, will not get passed, and we will have thousands of Canadians who will not get due process in a very just way.

One of the concerns was that the incoming Prime Minister, the member for LaSalle—Émard, has set an example where he has decided to fly his ships and operate his business with different flags that have different labour practices and employment wages. It sets an example and I would ask for a comment on that, whether or not that is something that will be part of this mix, and will it ensure the proper political support?

We hear a lot of discussion about other issues but nothing about this one and that gives me great concern.

Ms. Sarmite Bulte: Mr. Speaker, today is the first day of the fall session and Bill C-45 is on the Order Paper. That speaks to the very fact of how important this legislation is and how important it is to move forward on this matter.

Today is our first day back. We have had debate all afternoon. We will continue to have debate and as soon as we finish that debate we will send it to committee. Again, I urge the hon. member to speak to his House leader, and other opposition members to speak to their House leaders so we can indeed have this legislation brought forward as quickly, effectively and efficiently as possible. Perhaps it could be done before our recess week in October.

[*Translation*]

Mr. Paul Crête (Kamouraska—Rivière-du-Loup—Témiscouata—Les Basques, BQ): Mr. Speaker, I rise today to speak on Bill C-45 concerning the criminal liability of corporations. Before getting into the pith and substance of the legislation, I would like to say that I examined this bill as my party's industry critic to see what impact it would have on the industry sector, while recognizing the fundamental merit of plugging a loophole in the Criminal Code that absolutely had to be plugged.

Unfortunately, a terrible situation existed where it was later realized that liability could not be correctly assigned and that measures had to be taken accordingly.

I am also speaking as a former director of personnel. In a previous life, before I was elected to this place, I was the director of personnel and secretary general of the CEGEP in La Pocatière. I have lived though various labour relations situations. Organizations obviously have a major moral responsibility to take. The absence of any clear indication of how to deal with these things in the future created a loophole that absolutely had to be plugged.

The last aspect I wanted to raise was the process for improving the legislation. People often wonder whether the efforts made by lawmakers, that is the hon. members, ever pay off. In this case, the result has been a government bill, which was introduced on June 12 by the Minister of Justice and Attorney General of Canada.

The purpose of the bill is to review the principles of law concerning the criminal liability of corporations and other organizations. But to get there required sustained efforts. I want to acknowledge in particular the efforts of the members of the NDP.

If we look briefly at the history of this bill, it was based on Bill C-468 and Bill C-259, put forward by the NDP in the thirty-sixth Parliament, and on Bill C-284, put forward by the same party in the first session of the thirty-seventh Parliament.

This goes to show that the NDP kept up the pressure following the public inquiry into the causes of the explosion at the Westray mine in Nova Scotia. We all remember this tragic accident. Without going into the evidence of the case, it was realized that, basically, this accident was caused by neglect. Efforts were made to clearly identify who was responsible. Under the current code, it was impossible to really hold responsible those who ought to have been held responsible.

From that point, steps were taken to establish, under certain circumstances, the criminal liability of companies for omissions or criminal acts by their directors or employees and to add a new offence to the Criminal Code for companies that fail to ensure a safe workplace.

In the mining industry, this was more evident than ever. It is an industry where all problems absolutely have to be eliminated from the outset. Negligence has very significant direct consequences. This aspect needed to be corrected and broadened to incorporate all employers and organizations that, until then, could slip through the cracks. This aspect of liability needed to be defined.

This has to do with the criminal liability of companies for omissions or criminal acts perpetrated by their managers or employees. We are trying to have a new offence added to the Criminal Code for companies that fail to ensure a safe workplace.

In addition, there is everything that is not criminal in nature, but results in accidents. However, in this case, we are truly talking about situations where an act can be recognized as being criminal.

Initially, the bill that was introduced by the NDP was designed to facilitate establishing the criminal liability of company administrators and directors. The bill died on the Order Paper at the end of the first session of the 36th Parliament, in September 1999.

The NDP raised the issue once again. In June 1999, a motion was moved to review the Criminal Code and other federal legislation so that company executives and administrators could be held responsible for workplace safety.

At that time, the Bloc Quebecois, which was in favour of such a review, supported the motion. This motion was moved in 2000 and the Bloc Quebecois voted in favour of it. There were also motions brought forward in 2001 and 2002 on the same subject.

● (1755)

In October 1999, the NDP reintroduced its bill, which also died on the Order Paper.

There has therefore been continuity in the desire to regularize this situation, not only because of the difficulties identified in the Criminal Code in connection with past situations, but also and particularly for future situations, in order to ensure that a dissuasive effect is created and that employers and organizations are well aware of the potential consequences if they do not fulfill their responsibilities properly.

In the same vein, the fact that these past actions are today culminating in Bill C-45 is very good news indeed.

Obviously, the bill needs to be examined carefully. Perhaps some corrections will have to be made in committee, as my colleague suggested earlier. Basically, however, this is a positive bill.

On November 11, 2001, the member for Hochelaga—Maisonneuve indicated his support for a similar bill. He felt that it was important to pass such a bill in order to improve the legislation and particularly in order to tighten up the Criminal Code to prevent any workers from losing their lives. As I was saying, through prevention and increasing employers' awareness of their responsibilities, there is more likelihood that the approaches adopted will be what they need to be.

Most employers, like most members of the public, are honest. Unfortunately, the Criminal Code is there for those who are not. That is the purpose pf this bill.

The member for Laurentides also spoke out in favour of this bill. In expressing her support, she indicated that Quebec already has in place a body, the CSST, or Commission de la santé et de la sécurité au travail, to ensure worker safety.

We wanted to ensure that the bill did not interfere with the responsibilities of the CSST. In this case, this being an amendment to the Criminal Code, it can be considered that this is really a federal responsibility. As a result, we feel it is appropriate to move ahead with this bill.

What is also significant is that bill C-284, the previous version tabled, was withdrawn before Bill C-45 was arrived at. There had been an agreement to examine the matter in the Standing Committee on Justice and Human RIghts in February 2002.

The committee held hearings and presented a report. It asked, and I quote:

> that the Government table in the House legislation to deal with the criminal liability of corporations, directors, and officers.

Bill C-45 is the result of all these actions. I think there is still room to make improvements as we study the bill, so that we end up with legislation that is exactly what is requested to eliminate the shortcomings in the Criminal Code.

Quickly looking at the main issues addressed by Bill C-45, we first notice the use of the term “organization” instead of “corporate body.” This is a way to truly include all possibilities. For example, the definition of “organization” is:

> (*a*) a public body, body corporate, society, company, firm, partnership, trade union or municipality, or (*b*) an association of persons that (i) is created for a common purpose, (ii) has an operational structure, and (iii) holds itself out to the public as an association of persons;

This very broad definition, will cover all situations that might arise. Of course, when the bill is passed, all associations and organizations must be informed about the implications of the law, in order to ensure they are aware of it.

A company can also, according to the bill, be criminally liable for acts carried out by employees who are not necessarily highly placed in the company. Previously, it was absolutely necessary to have a manager who was in an untenable situation. That concept is now being extended to ensure that no one can slip through the safety net. The organization could consider that these people were not really under its control. The safety net will be tightened up, so that organizations will feel more responsible for all of their employees and so that employees will act with propriety.

The bill also mentions the categories of persons whose actions may actually constitute a criminal act for which a corporate body or any other organization is liable. This has been broadened to include all employees, representatives or contractors.

● (1800)

When it comes to criminal negligence, the moral aspect of the offence could be attributed to the organization insofar as it can be attributed to one of the organization's senior officers.

Therefore, this section ensures that, in the case of criminal negligence, someone is responsible and that liability is tied to one of the organization's senior officers.

With regard to *mens rea*, the organization could be held responsible for the actions of its senior officers if a senior officer is party to the offence or directs other employees to commit an offence or if a senior officer, knowing that an employee is about to be party to an offence, does nothing to stop them.

Obviously, it must be noted that the actions of this senior officer must seek to benefit the organization.

The bill explicitly imposes a duty on those with the authority to direct the work of other employees to take steps to prevent bodily harm to those individuals.

The bill also adopts sentencing principles and probation conditions for organizations, because, in fact, persons cannot be sentenced, when an organization is sentenced, in the same way as if it were a person.

Currently in Canada, it is essentially jurisprudence that determines the conditions under which a company can be held responsible for a criminal offence.

In the case of criminal offences that require *mens rea* or the intent to commit a crime, companies are only responsible for acts or omissions by persons who may be said to constitute the directing mind of the company. In fact, according to the identification theory, persons who constitute the directing mind of a company personify its intentions.

The bill also amends, in different sections, the types of institutions, and establishes an organization's criminal liability. It integrates the notion of who can be a “representative”. Earlier, it was mentioned that liability was being extended not only to senior officers, but in many cases to other employees. For example, a “representative” essentially includes any person working for or affiliated with the company. This could be a director, an employee or a member, agent or contractor. A “senior officer” is any representative who plays an important role in the establishmentof the organization’s policies or is responsiblefor managing an important aspect of theorganization’s activities.

This bill, specifically clauses 22.1 to 22.3, contributes to changing the current state of the law by introducing new elements to the identification theory. In terms of what are essentially acts of criminal negligence, we could, under clause 22.2, hold an organization criminally liable in cases where the physical offence—the act of committing a crime—is perpetrated by a representative in the scope of tht person's authority, and fault lies in the hands of a senior executive.

To prove that a senior executive acted at least partially to benefit an organization, it would have to be confirmed that they participated in an offence in the scope of their authority by having someone else knowingly commit an offence or by knowing that someone else was committing or was about to participate in an offence and the executive failed to take the necessary actions to prevent it.

There is nonetheless a framework that would prevent peculiar situations from being subject to the prosecution under the Criminal Code based on new sections resulting from Bill C-45.

In terms of sentencing an organization, the bill suggests adding new sections and completing existing sections to take into account, during sentencing, factors that are characteristic of organizations. Therefore, a specific section was added for organizations to regulate the probation conditions applicable to organizations, which are not of the same nature as those for individuals.

The bill increases the maximum fine for an organization when a guilty plea is entered by summary conviction or for a less serious offence, increasing it from $25,000 to $100,000. This provides a very clear incentive not to repeat a situation whereby the organization's liability could be determined and the organization could be convicted.

Currently there are no limits for fines for criminal acts or more serious offences, and this is not being changed by the proposed legislation. If there is a very serious situation, the sum could be determined based on the seriousness. This will continue to be the practice.

This bill is the result of a series of steps taken by several parliamentarians in this House. The Bloc Quebecois is in favour of the principle of this bill.

● (1805)

Given the current state of the law, it is important that a criminal liability regime be established for businesses that is effective and takes into account the differences between an individual and an organization.

We will see in committee if the bill could not be improved where it deals with offences, and it is said that an intent must exist which goes beyond criminal negligence. The suggestion was made to reverse the burden of proof, that is to say that when it has been established that an act or omission was committed by the personnel of an organization, resulting in a criminal act taking place, the onus will be on the organization to prove that it did not authorize or condone such behaviour. When we hear witnesses in committee, we will be able to see if this would not be a better approach than the one put forward in the bill as it now stands.

Note also that this bill does not allow directors, executives or a corporation to be held liable if they did not physically and personally commit a criminal act. This may tie in with the constitutional issue, but it deserves nonetheless to be examined further to ensure there are no loopholes which, we will find out in a few months or years, ought to have been plugged when Bill C-45 was passed.

I should point out also that the penalties that may be imposed would have no effect on a business that has declared bankruptcy. This touches on the whole issue of a big organization taking some action which results in its going bankrupt because it has lost its business name and can no longer sell its product. In this case, when penalties are paid, it will be too late, and the fact of the matter will be such that the business will not be able to assume the costs.

While particular attention must be paid to a number of things in Bill C-45, as this was explained, for the system to be effective, the fact remains that the purpose of this bill is valid and necessary to ensure that organizations are held accountable for what they do.

I believe we are making an addition here that does not fix what happened at the Westray mine, but at least for the families of those who died in the mine, for the entire community that was affected and for the future also, I think that we are taking an appropriate, responsible step, as parliamentarians, in proposing that this bill introduced by the government be passed.

[*English*]

Mr. Brian Masse (Windsor West, NDP): Mr. Speaker, I would like to congratulate my colleague from the industry committee on a very good speech. He is often very articulate, passionate and well researched. In fact, this is the most relaxed I have seen him, so he must have had a good holiday.

I have two questions. I understand that this is a good bill for workers and their families, but other employers in Ontario have come to me asking for the same type of standards or practices that could be enforced when they want to do the right thing for workers by investing in health and safety. They see their competitors who undermine that by taking shortcuts and not having any enforcement, and are able to get a competitive advantage.

I wonder whether members are hearing the same type of comments in Quebec because it is something I hear. It is not just about the workers. It is about employers who want to do the right thing and their business plans are undermined by those who want to take shortcuts.

My second question is in relation to fines. Currently, the government has a practice of fines on environmental matters which are allowed as a business expense and companies are able to recover a good portion of those fines through tax deductions.

Does the member think that is a good situation or a bad situation? Personally, I do not think that is right. I think there are ethical issues and the practice must be changed. I would hate to see this type of situation develop where a fine can be tax deductible. Does the hon. member agree or disagree with that?

● (1810)

[*Translation*]

Mr. Paul Crête: Mr. Speaker, in fact, it is interesting to speak on this bill. Perhaps our interest is due to the fact that we can make constructive contributions to improving significant legislation such as the Criminal Code and correcting past problems, so such enthusiasm is understandable.

With regard in particular to the issue concerning other employers, Quebec's practice has developed from legislation on occupational health and safety. At first, employers reacted quite strongly. But with time and given that a parity committee has been made responsible for overseeing this issue, it was realized that, often, the best way to discipline an industry was to ensure adequate management and, with regard to non-criminal workplace accidents, to rectify problems and make it an ultimately positive experience for companies.

Often, the same industry is also responsible for internal discipline, such as disciplining members who do not respect practices as much as they should. Penalties in particular, or dues paid by the employers, are representative of the entire industry. This has helped the industry to mature.

I think it is the same for the Criminal Code. I am sure that the entire mining industry has no desire to see more accidents like the one at the Westray mine. That is very bad for the employers' corporate image. Even if it were only an issue of corporate vision, employers would certainly have an interest in not allowing such situations to occur.

We shall see what they have to say to the committee, but I think they ought to applaud the proposal in front of us, which is the result of many past efforts. If ever there are more points to be considered, amendments can be proposed in committee.

To me, it seems very relevant that both employers and employees have an interest in this matter. When the bill has become law and turns into a fact of life, with cases being argued, then we will see if we have really settled the issue. Practically, if there are fewer accidents and crisis situations, an important part of the problem will have already been solved, because we will have contributed to ensuring that the people are disciplined and act responsibly. In that sense, we will have acted as good lawmakers.

Ms. Alexa McDonough (Halifax, NDP): Mr. Speaker, I want to congratulate the hon. member of the Bloc Quebecois on his remarks and on his support for this bill.

● (1815)

[*English*]

I am sure the member is aware that with respect to the Westray inquiry the focal point of the recommendations from that inquiry was the behaviour of senior management. Yet, it is the studied view of the steelworkers who were front and centre in pushing for that inquiry in the first place, and then as witnesses in that inquiry, that the bill as it is currently worded only addresses those with direct authority over work being done in a workplace and completely fails to address what was the greatest concern of all which was that officers and directors of corporations should be held criminally responsible for the overall operation of any unsafe workplace.

I wonder if the member is aware of that studied opinion of the steelworkers who have been so instrumental in the drive for this legislation as a result of the Westray disaster and whether he shares that view, a view that he would be prepared to support in a fairly major amendment that would address these inadequacies?

[*Translation*]

Mr. Paul Crête: Mr. Speaker, indeed, I think this bill can be improved. It is not unlike a stairway where we have several steps to climb. We have climbed a few already. We have reached a level where we can see what still needs to be done to improve the situation.

I would be interested in listening to witnesses and hearing their examples. If the issue is well defined, we could possibly see what amendments are likely to stem from this.

I already mentioned in my speech that currently, for crimes with intent, an organization can be held liable for acts committed by its senior executive if the latter participated in an offence or incited other employees to commit an offence, or a senior executive, knowing that an offence was about to be committed by employees, had done nothing to prevent it.

The fact remains that perhaps more thought could be given to the matter, to ensure that there is no way to avoid liability if all these conditions are not met.

The examination in committee ought to enable us to cover all potential situations. The objective of the bill is to ensure that an organization cannot avoid prosecution if it has in fact committed a reprehensible act. We certainly do not wish to draft a bill that would omit any important aspect of assigning responsibility to the organization.

If there are any amendments that need to be proposed and are worth keeping, then the Bloc Quebecois will certainly be prepared to support them. We will need to see exactly what amendments are in order.

I have a great deal of confidence in those who will be appearing as witnesses, whether representing labour or management. There may also be expert witnesses, people with meaningful experience and backgrounds, especially in the area of occupational health and safety. All of their contributions will be useful.

There may also be laws in place in countries where social legislation is further advanced than Canada's. We are well aware that, as far as occupational health and safety is concerned, and labour law as well, we still have a lot to learn from other countries. The Nordic countries, for instance, have passed some very advanced legislation.

Once all these possible proposals have been forthcoming from the various witnesses who come before the committee to share their views, if there is any amendment worth retaining, the Bloc Quebecois will certainly be there to ensure that the bill is the best it can be.

[*English*]

Mr. Joe Peschisolido (Parliamentary Secretary to the President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs, Lib.): Mr. Speaker, let me begin by saying that Bill C-45 should be supported as it will make a great contribution to promoting safety in the workplace. As was stated earlier on, the hearings of the standing committee had their origins ultimately in the Westray tragedy, and I believe all members wish to do what they can as legislators at the federal level to eliminate as much as we possibly can, deaths and injuries on the job.

The Criminal Code is not the primary way of promoting safety. Strong laws governing the workplace, like those which this government introduced into the Canada Labour Code, vigorous inspection of farm factories, mines and other high risk work sites and training workers and supervisors in the best safety practices are the first line of defence. However the Criminal Code does represent the judgment of Parliament as to what conduct is so harmful that it must be treated with the utmost severity.

Within the code there are distinctions in the severity of the sentence possible, ranging from the most minor offences punishable only on summary conviction to the most serious punishable by life imprisonment. Causing death by criminal negligence is among those offences that are punishable by life and causing bodily harm is punishable by 10 years of imprisonment. Despite the fact that these provisions have been in the code for many years, prosecutions of corporations for death and injury in the workplace have been rare. These changes in Bill C-45 should lead to more accountability for the most serious cases of endangering workers.

Members of the House may be interested to know that outside experts in the field have come to the same conclusion. Cheryl A. Edwards, a lawyer in private practice in Toronto, wrote an article in the August 22 edition of the *Lawyers Weekly*. The opening paragraph of the article states:

> On June 12, 2003, the prospect of both regulatory and Criminal Code prosecutions emanating from a serious workplace accident became much more real. The federal government introduced anticipated amendments to the Criminal Code in Bill C-45, which, if passed, will create positive occupational health and safety-related duties for corporations, individuals, and other parties defined as "organizations". Bill C-45 will make it easier to convict those parties of criminal negligence for workplace safety violations.

Let us then deal with Bill C-45 as others have, but I would like to also elaborate on this point. What are the elements of Bill C-45 that will enhance the effectiveness of the Criminal Code in holding corporations accountable for safety?

First, there will be the positive duty imposed on those who undertake or have the authority to direct how another person does work to take reasonable steps to prevent bodily harm to any person arising from that work. Application of existing criminal negligence provisions would mean that those parties that fail in this duty and show wanton and reckless disregard for safety in doing so could be found criminally negligent.

Similar duties already exist in statutes and regulations governing the conduct of various businesses and even in the common law. Placing the duty, however, in the Criminal Code is an important signal that Parliament intends that everyone take their responsibility for worker safety very seriously.

The criminal negligence sections of the code already impose a legal duty on parents and spouses to provide the necessities of life and on anyone who undertakes to administer surgical or medical treatment to another to use reasonable knowledge, skill and care. It is right that the duty to protect workers and the public from foreseeable harm be placed in the Criminal Code and so treated in the same way as these other duties.

The mere fact that the legal duty is in the code may also serve to simplify some prosecutions. It can also serve as a wake-up call to those who direct work. Reckless disregard of the duty of care can lead to imprisonment for a very long time.

With respect to corporations that are charged with criminal negligence, the rules for attribution of liability set out in the proposed new section 22.2 of the Criminal Code will make it somewhat easier to establish liability of the corporation than is the case under existing common law rules.

Those rules establish a two step procedure. First, the crown would have to show that the actions of a single corporate representative or group of representatives demonstrated a lack of care that constituted a breach of the new legal duty to take reasonable steps to prevent bodily harm. Then the crown would have to show that a senior officer either acted or failed to act in a way which was in a marked departure from that which could be expected of a senior officer in the circumstances.

● (1820)

Both representative and senior officer are defined. Corporations will be liable for the physical acts and the omissions of the director, partner, employee, member, agent or contractor of the corporation. An important innovation of the proposed reform is that the courts will not have to seek a single person who both committed the negligent act or omission and was a directing mind of the corporation. Bill C-45 provides that conduct by two or more representatives can be added together to constitute the negligent conduct.

For instance, if we consider a death or injury in a mine, there may have been a series of errors by employees and supervisors that all contributed to the accident. If a single employee turned off three separate safety systems and miners were killed as a result of an accident that the safety systems would have prevented, the employee would probably be prosecuted for causing death by criminal negligence but the mine operator might not depending on the particular facts. Did the employee act in defiance of direct orders or did the employee act in accordance with company policy and practices?

On the other hand, if three employees each turned off one of the safety systems, none of the employees would likely be subject to criminal prosecution because each one thought there would still be two systems in place to protect the workers. Under existing rules for attributing liability, the mine operator could very well also escape prosecution because no single person was negligent. However under the proposed rules, the fact that the individual employees might escape prosecution would not be a bar to the prosecution of the corporation. After all, the corporation through its three employees turned off the three systems.

Not only is proving the act of negligence going to be easier under the reforms but finding the wanton and reckless disregard for safety that is necessary for a conviction of the corporation is also going to be easier. The fault of the corporation is found through the actions and omissions of a senior officer, which is defined to include persons who play an important role in establishing the organization's policies, and persons responsible for important aspects of an organization's activities, and in the case of a corporation includes directors, the CEO and CFO.

The existing test developed by the courts is, as people have alluded to, quite restrictive. In the leading case, the Supreme Court referred to the person having so much authority in the corporation that the person could be considered the directing mind, alter ego or soul of the corporation. While the Supreme Court recognized that a corporation could delegate enough authority to managers that the corporation would have more than one directing mind, it is clear that the court is looking for persons on the very highest rungs of the corporate ladder.

Again, in the words of Ms. Edwards in the *Lawyers Weekly*:

> The proposals do not eliminate the "directing mind" doctrine, as it would still be necessary to prove culpability of a senior official. However, the doctrine would be altered to eliminate the requirement to show [their] direct involvement, and it would be altered to allow the actions of lesser corporate representatives to make the organization party to the offence of criminal negligence.
>
> This clearly signals an expectation that senior management take a proactive role in health and safety matters. The conduct of senior management could very well come under unprecedented scrutiny from investigators.

It is not only Ms. Edwards who expects Bill C-45 to have a major impact. In an article in Worksite News, Norman Keith, another lawyer from Toronto specializing in occupational health and safety issues wrote:

> Bill C-45 extends legal duties to a new level that will likely include foremen, lead hands, and even co-workers. The requirement "to prevent bodily harm to that person, or any other person, arising from that work or task" goes farther than any current OHS legislation in Canada. Nova Scotia requires employers to be responsible for members of the public at or near the workplace, however, Bill C-45 casts the net farther to include all persons that may be affected by the work or task.

● (1825)

It is certainly my hope and expectation that Ms. Edwards' prediction of "unprecedented scrutiny" and Mr. Keith's prediction of "a higher level of accountability" will come true.

In passing Bill C-35, Parliament will be responding positively to the Westray tragedy. The new rules and the positive duty combined should ensure that the Criminal Code serves to attribute liability in a way that is fair to workers and their employers when there has been death or injury at work.

The Acting Speaker (Mr. Bélair): I am sorry to inform you that there was only one minute left on the clock during your speech. I inform you that you still have nine minutes to go when debate resumes on Bill C-45.

It being 6:30 p.m., the House stands adjourned until tomorrow at 10 a.m. pursuant to Standing Order 24(1).

(The House adjourned at 6.30 p.m.)

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