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**Official Report  
of Debates  
(Hansard)**

**Journal  
des débats  
(Hansard)**

**Wednesday 27 October 1999**

**Mercredi 27 octobre 1999**

Speaker  
Honourable Gary Carr

Président  
L'honorable Gary Carr

Clerk  
Claude L. DesRosiers

Greffier  
Claude L. DesRosiers

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LEGISLATIVE ASSEMBLY  
OF ONTARIO

Wednesday 27 October 1999

ASSEMBLÉE LÉGISLATIVE  
DE L'ONTARIO

Mercredi 27 octobre 1999

*The House met at 1830.*

**ORDERS OF THE DAY**

AMENDMENTS BECAUSE OF THE  
SUPREME COURT OF CANADA DECISION  
IN M. v. H. ACT, 1999

LOI DE 1999 MODIFIANT DES LOIS  
EN RAISON DE LA DÉCISION  
DE LA COUR SUPRÊME DU CANADA  
DANS L'ARRÊT M. c. H.

Mr Flaherty moved second reading of the following bill:

Bill 5, An Act to amend certain statutes because of the Supreme Court of Canada decision in M. v. H. / Projet de loi 5, Loi modifiant certaines lois en raison de la décision de la Cour suprême du Canada dans l'arrêt M. c. H.

**Hon Jim Flaherty (Attorney General, minister responsible for native affairs):** This bill responds to the Supreme Court of Canada decision while preserving the traditional values of the family by protecting the definition of "spouse" in Ontario law. This legislation is not part of our Blueprint agenda. We are introducing this bill because of the Supreme Court of Canada decision.

By way of context, in May of this year the Supreme Court of Canada rendered its decision in a case called M. and H. The Supreme Court found section 29 of Ontario's Family Law Act to be unconstitutional. The Supreme Court of Canada also noted that numerous Ontario provincial statutes include similar provisions to the provision which the court held to be unconstitutional in the M. and H. case.

The court suspended its declaration for six months from May of this year to allow the province of Ontario to address these issues in a comprehensive fashion. A comprehensive response is necessary to protect the constitutionality of many of the public statutes of Ontario. This bill amends 67 public statutes of this province.

The Supreme Court of Canada ruling means that under the Constitution, same-sex partners are entitled to the same rights and responsibilities as common-law couples.

There are three indications from the Supreme Court of Canada that are taken into consideration pursuant to the M. and H. case.

First of all there is, if I may call it so, the equivalency directive, where the court indicated that the law ought to

provide an equivalent set of rights and responsibilities for same-sex partners as for common-law spouses in this province.

Second, there was the timing issue. The court indicated that the matter should be dealt with within six months, which is by November 20, 1999.

Third, the indication was that the approach that could be taken or perhaps ought to be taken by the province was a comprehensive one; and indeed the province has done so. There has been a review of the numerous public statutes of this province in an attempt to be responsive to that indication from the Supreme Court of Canada.

Marriage is not affected by this bill. There are certain unique rights and responsibilities that relate to marriage that are not affected by this bill; for example, the property rights in parts I and II of the Family Law Act, the right to inherit on intestacy in the Succession Law Act, and other rights and responsibilities. It is important for members to be aware of that fundamental in this debate, that marriage is not affected by this bill. Marriage, as members know, involves a man and a woman in Ontario.

We have preserved in the bill the traditional definition of "spouse" and "marital status." Both "spouse" in part III of the Family Law Act and "marital status" in the Ontario Human Rights Code, as defined now, refer to a man and a woman, and that remains.

Conceptually, the bill creates throughout the Ontario public statutes the rights and responsibilities for same-sex partners. As members have gone through the bill, I'm sure they've noticed that that is repeated throughout the amendments. It is certainly important and I think helpful for members to understand that that concept and theme are repeated throughout the bill.

The bill itself can appear somewhat intimidating at first blush because it is rather long, but as I'm attempting to indicate to members, the length of the bill is not indicative of the complexity of the principles involved. In fact, the principles involved are few in number and quite direct. One of those principles is the creation of same-sex partner rights throughout the various items of statute law that are referred to in the bill.

Another important point is, pursuant to the ruling of the Supreme Court of Canada, the attempt in Bill 5 to create that equivalency of rights and responsibilities between same-sex partners and common-law spouses in Ontario indeed was, as we understand it, the essence of the ruling made by the Supreme Court of Canada in May of this year.

The other principle I've mentioned is the comprehensiveness of the approach. An attempt has been made to use the best skills available to do a thorough analysis of the public statutes of the province of Ontario and to respond appropriately to the ruling of the Supreme Court of Canada with respect to all of those many statutes.

This is not just about rights. This is also about responsibilities. One of the most fundamental rights and responsibilities that the Supreme Court of Canada dealt with in *M. v. H.* was the right of support, which on the other hand is the responsibility of paying support. That is dealt with in part III of the Family Law Act. It is a right that accrues to common-law spouses in Ontario and therefore, pursuant to the decision of the Supreme Court of Canada, if this bill is passed in the wisdom of this Legislative Assembly, then those rights and responsibilities with respect to support, which are significant rights, would also accrue to same-sex partners in Ontario.

If the bill is passed, same-sex partners would have an obligation to provide financial support when a relationship breaks down just as common-law spouses do now. The courts would hear law proceedings involving same-sex partners.

Same-sex partners would be eligible to receive pension, employment and insurance benefits provided for in several statutes.

As I mentioned a moment ago, the Human Rights Code would prohibit discrimination on the basis of same-sex partner status in employment, accommodation and other areas, as set out in the Ontario Human Rights Code.

Some of the responsibilities that go with the amendments proposed in the bill relate to the corporations and being at arm's length. These provisions have applied to common-law spouses and therefore they are proposed to be extended, if the bill is passed, to same-sex partners. For example, a person's same-sex partner would be considered an associate, restricted party or have a deemed interest for the purposes of conflict-of-interest provisions. These rules apply in such areas as insider trading, appointments to positions and disclosure of financial interests by public officials.

Some tax benefits and liabilities would cover same-sex partners. A person would be responsible for maintenance of his or her same-sex partner in the care of a mental health institution. Same-sex partners of convicted or accused persons would not be permitted to receive payment for interviews, appearances or recollections regarding the crime. A person could be appointed the administrator of the estate of his or her same-sex partner.

These are just some of the examples of rights and responsibilities that this bill would affect, and they are just examples. The bill itself amends 67 statutes of the province.

**1840**

Developing such a comprehensive bill has been a complex and painstaking task. I would like to take this opportunity to recognize the staff of my ministry, the Ministry of the Attorney General, who have worked on

this complex and difficult project. They deserve our thanks, in my view, and congratulations for a job well done. They have certainly demonstrated a high degree of professionalism in their work with respect to Bill 5.

I stress that this bill reserves the definition of "spouse" and "marital status" for a man and a woman, the traditional definition of "family" in Ontario. The bill introduces into the law a new term called "same-sex partner," while at the same time protecting the traditional definitions of "spouse" and "marital status."

The rights and obligations that are unique to married couples and are not being extended to same-sex partners in particular are property rights, the rights that relate to the matrimonial home, and the right to inherit on intestacy, for example. The decision of the Supreme Court of Canada and this bill are not about redefining the traditional understanding of family. This bill responds to the Supreme Court ruling while preserving the traditional values of the family in Ontario. This government respects the Constitution. That is why we are introducing this legislation. I remind all members on both sides of the House of the need to meet the November 20 deadline set by the Supreme Court of Canada.

May I also say, by way of concluding remarks, that I've been involved in a substantial number of consultations as Attorney General, with respect to this bill, with many individuals and groups. I've also had many discussions with members of this assembly on both sides of this House with respect to this bill. The consultations have been very helpful in formulating the contents of the bill. In my discussions with the members of this place, I must say that regardless of political party and without exception, those discussions have made it clear that all members have given this bill their thoughtful consideration.

**Mr David Christopherson (Hamilton West):** On a point of order, Mr Speaker: Just to advise you, there has been agreement between the three House leaders that the remaining time will be split evenly between the Liberal caucus and the NDP caucus.

**The Speaker (Hon Gary Carr):** Is there unanimous consent? Agreed.

The member for Toronto Centre-Rosedale.

*Applause.*

**Mr George Smitherman (Toronto Centre-Rosedale):** The real test will be whether they clap at the end.

It's a great honour for me as a newly elected member of the Legislature to have an opportunity during my maiden speech to talk about an issue that will be perhaps as important to me as any that I speak to in my time as a legislator—however brief, my staff reminded me.

I would like to make mention of the attendance today of some people in the gallery: my mother and stepfather, my sister, my nephew, and many people who have lent their support to me over the course of my brief political career. As well, my staff have been of some great assistance in preparing me for tonight. I'm hard enough to work with at the best of times, so I certainly very much appreciate the efforts that they have made.

I'm a very fortunate person. I stand before you as a privileged person, not just for having the opportunity to serve in this place but because I have many different families. I have the family that I was born into and that I gained by marriage and by birth and I have the family that I have gained as a gay man; people who have joined in so many different ways and from so many different circumstances to lend so much to my life.

I also stand before you as a lucky man because I represent a riding, Toronto Centre-Rosedale, where we find ourselves today, that has had some extraordinarily powerful figures in the history of this place. I would like to make specific mention of one, a gentleman who many members will know, Ian Scott. As the member for St George-St David, he represented this place.

I wanted to start to discuss the bill that is before us tonight with a reference to the debate in this place on November 25, 1986, when legislators stood and debated Bill 7. I read from Hansard:

"It is not a question of giving privileges, extra rights or special status, and it never was. It was always a question of inviting those who provide services to examine whether, on an individual basis, the applicant should be entitled to that service.

"In this country, one can reject a man for a job if he is incompetent but not if he is black. One can reject people for housing if they are noisy or do not pay their bills, but not because they are Jews."

What we say today is that it is now time to take the next step. That is what we are here tonight to do.

I'm lucky as well, indeed privileged, because I represent Toronto Centre-Rosedale. Each of us makes claim to the special nature of our riding, and I know that each of us feels that we represent the most special place in Ontario. I'm here tonight to make a case for Toronto Centre-Rosedale. I'm honoured to represent a place that is so reflective of Ontario, the best characteristics of Ontario, a place that is so diverse, that has some of the richest and some of the poorest, and has people who come from all places in the world and call Ontario and Canada home.

What I am as excited about as anything is that in this first item of business I have an opportunity as a member to participate in and debate, I will be able to move my energy forward and work on other things in my riding, other conditions and concerns which are very important.

We've already started to do the work of driving crack houses from neighbourhoods, to preserve heritage buildings, to help tenants to organize, and through your help, Mr Speaker, I hope to help develop a hockey league to help kids at risk. There are some people here tonight I play hockey with and I was going to comment that I'm a lucky servant of a community, and now of 115,000 people or so who call Toronto Centre-Rosedale home.

On this legislation, where I have an opportunity to stand before you and make remarks, I really need to be very careful, to pay dues to all of those who have done the hard work here. I'm feeling a little bit like the hockey player who gets the setup shot in the slot and has very

little difficulty putting it in the net, although perhaps not when you were a goaltender, Mr Speaker.

The hard work has been done by many people who join us in the galleries today. They were the ones who were in the corner digging out the puck. For anyone who has seen me play hockey, that's a role perhaps I'm better suited to than being able to put the puck in the net. I would like to make sure I pay appropriate tribute to the people who have come before us, the people who have forged new ground. We need to be very clear about this.

Over the course of time, our governments have forced communities to raise money, to put themselves at some great personal expense, not just in terms of finances but in terms of the kind of expense that it takes to challenge a government, to challenge a constitution.

#### 1850

I won't do this often, but we need to pay tribute to the lawyers who work on a pro bono basis, so often giving freely of their time and their energy to move the issue of equality rights forward. Tonight, I am here in part to pay tribute to them.

There is a wide variety of organizations that have done this over time and they are well represented here tonight. I know it's risky to make mention any time and to start to name people and organizations, but groups like CLGRO, the Coalition for Lesbian and Gay Rights in Ontario, and the Campaign for Equal Families; community leaders like the Reverend Brent Hawkes, who is here tonight; Jamie Watt, who is more familiar to some on your side, who has been a leader in the community through the human rights campaign; and my colleague in government, Kyle Rae, who sits on city council; these are people who have done the hard work that has helped to move the ball of equality forward and, I believe, contributed greatly to making Ontario a better and more equal place.

As gays and lesbians, we carry on often with a slightly larger burden than others, but this bill, Bill 5, signals to the world that Ontario is a place where gays and lesbians have equal rights. Today, we are setting a new place at the table.

I've been in this place before, although recently elected, and the galleries have been important steps along the path in my own evolution as a gay man. In 1986, when the government of the day was debating Bill 7, I sat in that gallery on the east side—I must say, I much preferred the view—and watched the government deal at the end of a very very difficult debate. But at the end of the day, Ontario legislators from all parties—not equally distributed perhaps, but from all parties—supported what was then entrenchment of sexual orientation in the prohibited grounds for discrimination of the Ontario Human Rights Code. I was proud of my government that day.

On June 9, 1994, I stood or sat in that gallery, and I will not go on at length but I must say I don't think that was the proudest day in the history of this place. Today, we have a chance to put that behind us.

I want to turn a little bit to the debate. What is this about? Well, these are not about special rights, these are about equal rights, and having gained them our commu-

nity must now live up to them. I'm so convinced that we will because the indefatigable spirit of gays and lesbians has brought us this far. We're going to need to work very hard in the next little while to communicate the impact of these, because the bill that is before us is comprehensive in nature. The minister was very effective in highlighting just some of the rights and obligations that are involved.

I'm excited as well that our community, having made this progress, can turn some of its attention and energy towards other issues which are so present for us: peer and mentor support for young gays and lesbians who come out in increasing numbers with too little support; care for the ill and disadvantaged who are among us; and to participate in developing housing for those who have come before us and blazed new trails.

Bill 5 propels gays and lesbians towards the promised land that is equality. This bill places a new standard, a higher standard, upon gays and lesbians in their relationships with their same-sex partners.

What enabled it? The minister mentioned the Supreme Court at least once. I would like to pay a bit of tribute to the Canadian Constitution, to Bill Davis and Pierre Trudeau. Let us be very clear: This bill has been made possible because politicians reflecting the values of Canadians patriated the Constitution and provided Canadians with a Charter of Rights and Freedoms. I would like to read just a couple of paragraphs that Bill Davis spoke at that historic time:

"Mr Prime Minister, it is a day that Canadians will remember; it is a day on which I think we can all rejoice. It is not the product of any one person. It is not the product of any group of people. It is the product of men who have a feeling about this nation, who recognize the sensitivities, the delicacies, the diversities, but who in the final analysis have done something that others have not been able to do, to agree at long last that this country will patriate its Constitution. We will have a charter, and we know now how to amend that Constitution. Mr Prime Minister, I thank you."

I would like to pay tribute to the minister opposite. This is not something I hope to have to do too often in this place and, by my nature, probably won't. I must say, earlier in the week I sent the minister a note across the aisle and I thanked him on behalf of a community, at least because the bill is comprehensive in its nature. Most certainly I regret the lengths that you have had to go to to make a difference around nomenclature and to lay responsibility for this legislation at the foot of the Supreme Court. But nevertheless, Mr Minister, I applaud you and the staff in your ministry and those other ministries that have statutes in this bill for the work they have done, given the complexity and the comprehensive nature of this legislation.

Bill 5, the details: What is the impact? I've been asked so often in the days since this bill was introduced, what is the impact? I said, "For me, regrettably, too little." This is my commercial message. I'm regrettably single. Where's that card with the phone number?

This act is An Act to amend certain statutes because of the Supreme Court of Canada decision in *M. v. H.*, or what we've come to refer to on this side as "The devil made me do it" act. On the issue of consultation, Mr Minister, which you mentioned, next time you have a bill this significant coming forward, we'd be very happy to strike a committee, a round table, a task force, an action group, to come up with language which might better capture the significance of this legislation.

I think we've seen a historic evolution in the life of this place and of the politicians who come here. Earlier I mentioned, and I don't plan to go on at length, Bill 167. I mentioned that I don't think it's the finest day in the history of this place. But what we have seen is that people, given more time, more information, can change their minds. As one who seeks to work with people to gain legislative recognition on a variety of initiatives, I say we should be wise to consider the lessons that are learned here today. Sure, I would always prefer it if people get it right the first time, but through the community and the spirit around the issue of equality, we have seen that if you don't give up, you can carry the day.

On that point, I am so proud of my party and of my leader, the member for Ottawa South, who will later join this debate. I came to this place and joined the caucus only recently, but the Liberal Party has been an important part of my evolution. I love politics. This week, and in the time since I've come here, with lots of good humour in mind, my colleagues have welcomed me. I've begun to make a contribution and the Liberal caucus is one more element of family for me. So to my members who are present here today and to others who may be watching from home on television, I thank them.

Too often debates like this are centred on the notion of special rights, this language about special rights. But what we have before us is much more a bill about new responsibilities and new obligations. Much has been said in the last few days about the issue of the integrity act here at the Legislature and about the Municipal Conflict of Interest Act, about what the impacts are on people who have to date operated in a more closeted way. This is just one example. People will be forced as a result of this legislation to very carefully consider the way that they go about their lives.

The amendments to the Family Law Reform Act in the *M. and H.* case clearly speak to responsibilities and to the kind of obligations that same-sex partners are now expected to fulfill to their partners. This is a higher standard, but it is one that we accept and will live up to.

#### 1900

I am going to come to a conclusion shortly, but before I do I'd like to talk about a little bit of unfinished business on the issue of equality rights. This legislation creates some inequities between the Ontario statutes and those in Ottawa. I'm a Liberal—I'm a federal Liberal and a provincial Liberal—and I send the message to those who are here in the galleries, to those who are watching on TV, to those who are in Parliament in Ottawa that the time to act is now. With all of our vigour as a community

we will work hard on this issue, but no better evidence of the possibilities, the capabilities to do it right exists than here in the Ontario Legislature.

In closing, I would like to read just a little more from the Hansard that took place in the debate around Bill 7, December 2, 1986. This is from a constituent of mine, David Peterson:

"However, it is my view that we are extending the most important part of our religious tradition in respecting and loving everyone regardless of sexual orientation, handicap, colour or creed. This is an extension of the traditions that most of us have come from, and I think that, when analyzed in this most basic sense, it says we are doing the finest act we could do to uphold the loving, caring kind of world that we all believe in and that we want to legislate for. Thus, to those members who have difficulty—and I know a number of them do—I say that in supporting this amendment today, we are behaving in the finest and highest traditions of the system of morality we have all grown up in and come to believe in."

In conclusion to his speech, and in conclusion to mine, I offer these words: "I think we can all walk out of this House tonight—I hope this resolution will pass—saying, 'We have done the right thing for Ontario and we are proud all to support it.'"

**The Speaker:** Before there is further debate, I wanted to point out that Marion Boyd, the former member for London Centre, is in the west gallery.

Further debate.

**Mr Peter Kormos (Niagara Centre):** First, I'm proud to be able to lead off our party's contribution to this debate, to this discussion, as our justice critic and in my own right.

I'm a little nervous, Speaker, because this is the first time I've had occasion to participate in debate in front of you as the Speaker. You've been around here long enough to know that earlier Speakers have been very mean to me from time to time and less than fair on more than one occasion. If we can start anew, Speaker, you and I, it can be a very productive four years.

So pleased, Speaker, that you acknowledged Marion Boyd here in the members' gallery. As you know, she was Attorney General during the latter half of the NDP government of 1990-95. As you also know, with incredible courage and an incredibly strong and fundamental sense of what's just and what's fair, and what's right and proper, Marion Boyd presented Bill 167 to this Legislature. She has earned a place among our Attorneys General as being among the finest, and as an individual member she was as hard-working, as committed and as passionate about representing her community and building a better province as any member ever could be. The results of the last election were a loss not only for this caucus and the people of London but also for this whole Parliament.

I tell you as well that we support this bill without hesitation. Mr Smitherman made a couple of comments, and well made they were, because this bill isn't about creating new law. This isn't new law; this is giving effect to

the law, because we do have a Constitution, and that Constitution does contain a Charter of Rights and Freedoms. There are millions of people throughout the world who struggle daily and die for the privilege of having a Charter of Rights and Freedoms built into their own national legal structures.

I've got to speak to this little undercurrent here of court-bashing that's been inherent in some of this, that's been going on around the M. and H. decision and similar issues, the court-bashing that goes on when the charter is applied. I'm not sucking up to them, but I quite frankly think we have good judges in this country. We have some bad judges, no two ways about it. But our appellate court in this province and our Supreme Court nationally have led the way internationally in terms of effective and meaningful jurisprudence. Again, that is an indisputable comment. Mr Justice Lamer felt the freedom to comment on this relatively recently. The suggestion that somehow judges are making law is a particularly unfair and incorrect and dishonest one. Judges are applying the law. In M. and H., Justice Epstein at the trial level and the Ontario Court of Appeal and the Supreme Court of Canada, all nine members, applied the law of Canada, the Constitution, the Charter of Rights and Freedoms.

This government isn't making new law; this government is simply being directed to abide by the law. Even if the government hadn't incorporated the decision, the litigation, between M. and H. into the title of its bill, one would have to refer back to M. and H. in terms of the history of the application of section 15 of the charter to section 29 of the Family Law Reform Act.

What bothers me a little bit is that I suspect that a whole lot of people—you've heard it on radio talk shows, you read it from journalists from time to time. I can't speak for any of them, but I suspect that a whole lot of these people who have pontificated about the decision of M. and H. have probably never, ever read the judgment, read the decision. Dollars to doughnuts, the vast majority of people who have offered gratuitous comment about M. and H. have never read the judgment, and that's unfortunate. They've never read the original motions court judgment by Justice Epstein; they didn't read the Ontario Court of Appeal judgment; they didn't read the Supreme Court of Canada judgment. It is a very careful, quite frankly cautious, very learned application of precedent and Canadian jurisprudence to the determination of the survivability of section 29 of the Family Law Reform Act in the face of section 15.

There are some interesting things, but of course the government of Ontario, the Ministry of the Attorney General, became an intervener when this matter went to the appellate courts here in the province of Ontario. They acquired intervener status by virtue of it being, among other things, a determination of a constitutional issue. I know so far I'm telling it correctly; Ms Boyd's head is going to start shaking the other way if I foul this up.

**1910**

The parties at the Ontario Court of Appeal, including the government of Ontario and the Ministry of the Attor-

ney General, were in agreement that section 29 couldn't stand in the face of section 15 of the charter. There was no question about the unconstitutionality of section 15. The Ministry of the Attorney General conceded that. As well, in the first round of filings, the Ministry of the Attorney General—because this decision was made first in motions court back in February 1996. The Ontario Court of Appeal decision was released on May 20, 1999, and then, just six months ago, in the Supreme Court.

But when there was a change in government, there was also dramatically a change in perspective. It was an unfortunate one, because it was an effort, in my view, to politicize, to partisanize what should have been a non-partisan—we've had a whole lot of discussion in the last couple of days about government officials, to wit cabinet ministers, getting into areas where they have no business being, meddling into areas where there are judicial or quasi-judicial proceedings going on.

Please, let's remember what happened by virtue of this government when it did some very specific, in my view, meddling into the appellate court filings. You see, this government decided all of a sudden that while it was forced to acknowledge that section 29 of the Family Law Act couldn't stand in the face of section 15, it then wanted to persuade the courts to utilize section 1 to redeem section 29, basically the section which permits courts to say that there are times, from time to time, when a violation of any number of charter rights can be acceptable if it's deemed appropriate for the safeguarding of, let's say, basic democratic values, or where the goals overcome the violation.

This government not only shifted gears and changed the argument to try to invoke section 1—and it was a very feeble argument, especially after decisions like Egan had been decided already in the Supreme Court of Canada—but it went one further. To think that the Attorney General of this province under this regime actually appears to have, quite frankly, engaged in something akin to obstruction of justice in the course of that. I read from the judgment of the Ontario Court of Appeal, and I read the notation on September 1, 1994: "The Attorney General"—and that was during the NDP government—"intervened, but conceded that section 29 was unconstitutional." Again, that was the proper interpretation of the law. On November 1 that same year, the government filed a factum in support of its position. "On August 16, 1995," after a change of government, "the Attorney General advised it would now be arguing that section 29 was constitutional in that the admitted infringement could be saved under section 1." Listen to this: "The AG removed its first factum"—this is incredible—from the court file without seeking leave to do so and filed a new factum in support of its changed position.

Do you understand what that involves? There are some people here who have been involved in this sort of thing. You go to a court and the courts put all of the various factums, briefs and submissions in one big file and you order that file up, and members of the public are entitled to it as well. But somebody from the ministry of

the AG literally went to Osgoode Hall and as much as pilfered an Ontario Court of Appeal file so that that factum, that brief, would no longer be available to the judges hearing the appeal. That, I submit to you, is a repugnant legacy that this government will have to carry in the whole context of the issue, of the defence and advocacy on behalf of people's rights, people of all sorts and especially, in this case, of gays, lesbians and bisexuals.

I raise that, and maybe others may not find the significance in that. It turns out quite clearly that if anybody should have been busted, it should have been the Attorney General, who would pilfer a court docket like that, a court file—

*Interjection.*

**Mr Kormos:** Well, think about it, friends—and remove an essential document that had been filed.

Two women, M. and H., both described as being in their forties, both businesspeople, both professional people, commenced a relationship which involved them living together. It was discussed, in various legal terms, what constitutes conjugal and so on, but that relationship, like many do, fell apart. One party sought relief under the Family Law Act from the other, arguing that she was as entitled to relief under section 29 of the Family Law Act as would be the common-law spouse of any partner. Don't forget, this doesn't change the earlier parts of the Family Law Act that deal with married people. That's a different argument and I'm sure it will be played out at some point. This deals with what we colloquially have called common-law relationships: people who live together in an intimate relationship without being married.

The Ontario Court of Appeal found—and quite frankly, at the trial level the motions judge, Judge Epstein, as well as the Ontario Court of Appeal and, dramatically so, the Supreme Court of Canada—first of all, that section 29 was somewhat extraordinary in its own right.

Some of you are old enough—and I am—to remember the 1978 bill, the Family Law Reform Act. The Attorney General was Roy McMurtry. There was hue and cry across the province. There was. The world is going to hell in a handbasket because, by God, we were going to give people who weren't legally married rights vis-à-vis each other. Roy McMurtry, quite frankly, had to stick-handle his way through that sort of criticism. The Hansard debate and his contribution to it are referred to in the motions court judgment.

One of the explanations that was given for extending spousal rights vis-à-vis support, among other things, to an unmarried spouse was a recognition that unmarried people can have as intense, meaningful, interdependent and conjoined a relationship as married people can have. End of story. One of the rationales was that a common-law spouse upon whom the other is financially dependant should bear some of the cost of restoring the dependant person to self-sufficiency rather than forcing him or her to resort to welfare.



That was considered pretty radical at the time. Indeed, there was a whole lot of stuff written about it in a whole lot of quarters that somehow the government was attacking traditional marriage by condoning common-law relationships, non-married people in spousal relationships.

The date of that bill was 1978, and here we are 21 years later. I don't know what the data is on married or non-married people of the same sex, opposite sex, what have you, in terms of percentages, but we've survived quite well, notwithstanding section 29 and those amendments to the Family Law Act by virtue of the Family Law Reform Act.

The courts made it very clear. They did it in language that should be obvious and clear to any of us. You have a Charter of Rights and Freedoms. In this particular case you're talking about equality before the law. It's not a profound proposition. It's not a particularly complex proposition: equality before the law. Most of us probably thought we lived in a country that enforced the philosophy of equality before the law. It's only as a result of litigation—and George Smitherman spoke of the courage of leadership which has fought this struggle, and I too will mention the Coalition for Lesbian and Gay Rights in Ontario, which has been at the forefront for many, many years now.

You know the sad thing, though? That Constitution has been around for a little while now. That Constitution was around in 1994 when Ms Boyd presented Bill 167. Bill 167 was a bill designed to make sure that people in Ontario have their constitutional rights.

#### 1920

Nothing has changed between 1994 and 1999 in terms of that Constitution. Nothing has changed in terms of the type of precedence and standards that would be applied to evaluate what constitutes section 1 relief from a charter violation.

What's unfortunate is, yes, that in the province of Ontario a government—and I'll not be partisan. That's part of the beef about these judges who go around meddling in laws that legislators make. As Mr Justice Lamer said so clearly, if you guys—to wit, legislators—don't want us to be doing these sorts of things, then enact the laws properly in the first place and don't leave these big holes where the courts have to step in to protect people's charter and constitutional rights.

In the context of this Parliament, I think that's particularly meaningful. This should be a cautionary note to all of us. When we're confronted with legislation, more often than not presented by the government, we, as legislators, had better make darn sure that it passes fundamental tests of constitutionality and gives effect to those fundamental principles of rights and freedoms, or else, once again, the courts will be stepping in, as they should. If people can't rely upon their elected officials to do what's right, thank God we've got an independent judiciary who will.

I suspect there's a big community out there of gays, lesbians and bisexuals who have felt that their legislators

haven't been able to get it right for a good chunk of time now. Thank God for an independent judiciary that won't be constrained or directed by political considerations, but rather will do what they're entrusted to do and that's to enforce the law and to make sure that parliaments follow the law.

That's what this is about as much as anything else. This is about the Supreme Court of Canada telling the province of Ontario and its government that it has to abide by the law too. Let's understand, the Ontario Court of Appeal decision, in its own right, stood strongly, was unassailable. When you read the judgment of the Supreme Court of Canada and consider the feeble, fragile arguments that were put forward by the Attorney General, it was a bloody embarrassment. I hope those lawyers were well paid because, by God, they weren't given much to work with by the province of Ontario and the arguments were given short shrift by the Supreme Court of Canada.

But it cost the people of this province hundreds of thousands, if not millions, of dollars because M. and H., the two initial litigants, had resolved their differences before this went to the Supreme Court of Canada. They had settled. There was concession. The prevailing argument, the one about the unconstitutionality of section 29, which permits two women who have a conjugal relationship to enter into that realm covered by section 29, that concession was made and it was clear. There was no more argument.

The government forced them to the Supreme Court of Canada and exploited its status as intervener to force an appeal—as I say, a patently fragile, feeble and, quite frankly, groundless appeal—to the Supreme Court of Canada. We raised that as a question in the very early part of 1999, this year, just before the last Parliament was dissolved for the purpose of the election.

There was great concern over the fact that two litigants who had settled their differences and had no further need for litigation were forced into ongoing litigation at great expense on what was an extremely feckless attack on the rationale of the Ontario Court of Appeal.

We also should take a look at where we stand here today with this bill vis-à-vis not just the rest of the country but the rest of the world. Some folks gave me a little bit of history of what's been happening internationally.

In October 1989, Denmark passes a registered partnership law which grants same-sex couples the rights of married couples vis-à-vis one another.

In January 1994, the European Parliament, a democratically elected body of the European Union, declares that homosexual couples, as their language was, be allowed to marry.

In 1994, Greenland's Parliament votes to make the 1989 Danish law of registered partnerships for same-sex couples valid in Greenland.

In June 1994, the Swedish Parliament votes for a registered partnership law, once again creating same-sex partnerships, same-sex spousal status.

In May 1996, the Hungarian Parliament, the Parliament of a free and democratic Hungary—let me tell you this: The reality is that the most oppressive regimes when it comes to same-sex relationships and to gay, lesbian and bisexual people are also the most totalitarian regimes. It would have been unthinkable for a communist totalitarian Hungary to have passed the legislation that the Hungarian Parliament passed in May 1996 giving same-sex common-law couples similar status to heterosexual common-law couples.

In July 1996, Iceland registers domestic partnership options for same-sex couples.

In 1996, Belgium makes common-law same-sex couples eligible for the same UI benefits.

In May 1997, in Argentina, in a court ruling, a judge rules that same-sex couples can claim cohabitation certificates on the same basis as opposite-sex couples.

In December 1997, the African National Congress at its national conference tasks its representatives in all levels of government to establish equality for lesbian and gay people in the following areas in particular—and let's understand the context of this. You're talking about a country, South Africa, that has been the victim of a cruel apartheid over the course of decades and decades. You're talking about people who have struggled against that type of bigotry and discrimination. It's within that context that the ANC realizes that the struggle for liberation is a broad-based one and they call upon all of their representatives to establish equality for lesbian and gay people in the areas of family rights, maintenance and immigration, among other things; equal right for people of the same sex to marry.

In July 1998, the Austrian Parliament votes to include same-sex partners in the penal code definition of next of kin in terms of who is excluded from testifying against you in court.

In March 1999, the Czech cabinet—and once again, let's understand the history. Czechoslovakia, as it was before the Czech and Slovak republics' respective independence, was a communist country where the suggestion of equality for gays, lesbians and bisexuals would have been simply not even dreamt of or not even dared to be considered. It's only after the Czech Republic acquires its freedom from communist control that the Czech cabinet approves domestic partnership registration that includes same-sex relationships.

In April 1999, New Zealand, same-sex couples.

In May 1999, Denmark increases rights under the registered partnership law, effectively where you can identify you and your partner, you and your spouse, you and your conjugal relationship as being partners. You can register that so that there's public acknowledgement of it and respective rights and obligations vis-à-vis one another.

In Finland in mid-1999, a government committee recommends a registered partnership law with all the rights of heterosexuals.

It's not as if we're exactly leading edge here. Sorry, Mr Attorney General, this isn't a revolutionary bill. In

fact a whole lot of places in the world have led the way. I submit to you that we are but following now and, if anything, should have a sense of regret, should have a desire to tell our families, family members, friends, neighbours, relatives and co-workers who are gays, lesbians and bisexuals, should have some sort of obligation to extend some modest apology for having been so late in the game.

### 1930

Here in Canada two jurisdictions—British Columbia in July of this year passed their Definition of Spouse Amendment Act. They didn't weasel out of it by creating yet another category, "same-sex partner"; they used the rather generic legal term "spouse," which has no connotations of religious conformity or any of those things. "Spouse" is a very generic and very legal term. As I say, BC didn't weasel out of it. They called it the Definition of Spouse Amendment Act, which adds to the definition of "spouse" in compliance with the Charter of Rights and Freedoms, which is key.

When I hear the court-bashing, I'm concerned. Have we got people in this country, in this province and in this city who don't believe in the Charter of Rights and Freedoms? Do we really have people who don't want everybody to have the same access to the same freedoms, who somehow think we should be living in a society or in a culture where some have rights and freedoms and others don't? You can't do it that way.

If people want to raise that debate, then let's hear them clearly talk about how they don't want to have a Charter of Rights and Freedoms, how they don't believe in those sorts of things. Let's hear from them, but let's hear it clear and straight. If they don't believe in the Charter of Rights and Freedoms, let them say so, instead of weaving and bobbing and using all kinds of code language and looking at targets and trying to beat up on people who they think may be less capable of defending themselves.

A month earlier, in Quebec, it was Bill 32. It passed third reading, and it was very similar to this bill. It amended 28 provincial laws. It understood the importance and effect and meaning of what the Charter of Rights and Freedoms has to say.

It's already been commented upon that this creates not only rights but responsibilities. Again, one would think that in our communities we should be eager to see people accept and be responsible for their responsibilities vis-à-vis other people with whom they've created a relationship of interdependency and dependency.

I want you to know, Speaker, that every member of this caucus—I suppose that's relatively easy for me to say; there aren't that many of us now—is supportive of this legislation.

Tony Martin from Sault Ste Marie spoke with me today, with great regret, because he had to be there for some events that were firmly committed to before the scheduling for this, because this has all happened very quickly. Tony Martin from Sault Ste Marie asked me to very clearly indicate on the record that he gives this bill

his full support and regrets being unable to be here today to vote as the other members of caucus are.

Shelley Martel is trying her best to get here but she is negotiating with a babysitters' union or something, trying to get some overtime out of some daycare or child care people. She's going to try to get here in time for a vote, but she also wanted it to be quite clear—she's got a little girl and little guy, Jonathan—that if she can't be here it's because she was unable to get somebody to care for the two kids. She similarly wanted me to indicate that in the event that she can't get here, this bill has her full support.

We have a team here in the NDP caucus, so I promised my colleagues on the team that I would be a team player tonight and that I would not monopolize—

**Mr Christopherson:** We wouldn't hold you beyond—

**Mr Kormos:** Look, I'm still the lowest-paid member of the caucus. I want you to understand that.

I do want to indicate that I'm going to leave some time for my colleagues to address this. I hope that the matters I've spoken to have perhaps been of some help to folks who are watching or listening in terms of understanding how we got to this point and what this legislation is really all about.

Please just let me state again: We are blessed in terms of where in the world we live and how we live. Those blessings include the right to be protected by a Charter of Rights and Freedoms, and we should take those blessings oh so seriously and this shouldn't be a grudging act on anybody's part. We should be proud to be in compliance with a court direction that will ensure that we as legislators ensure that all Ontarians are truly equal before the law.

**The Speaker:** Further debate?

**Mr Michael Bryant (St Paul's):** Mr Speaker, I haven't yet had the opportunity to congratulate you. I join all those voices who promise to honour your rulings, or at least endeavour to honour your rulings, and proceed in accordance with the rules of the House.

I rise today in my capacity as the critic for the Attorney General for the official opposition. Let me say at the beginning, I join in the words of the member for Toronto Centre-Rosedale in congratulating and thanking the great lawyers at the Ministry of the Attorney General, who were very professional, so professional that they wouldn't let us leave with any notes after the briefing—loyal to a fault, perhaps, but we appreciate that. I thank the Attorney General also for consulting with us and letting us know the timing of what was happening and also the substance of the act. Thank you for that.

This bill, as has been said, is about both rights and responsibilities. It takes important steps to enhance the support and maintenance rights of children and dependent partners in broken relationships. It takes some very important steps towards equality in imposing the same support and maintenance obligations upon same-sex couples as now exist for opposite-sex common-law spouses.

This bill is named after the decision of *M. v. H.*, but that is not the only one that guides us in our deliberations in this House today.

In 1995, in the decision of *Egan*, the Supreme Court of Canada unanimously affirmed that sexual orientation is protected under the charter as an equality right. Sexual orientation was said by the court to be “a deeply personal characteristic,” in the words of the court, “that is either unchangeable or changeable only at unacceptable personal costs.” The majority of the court went on to explicitly recognize gays, lesbians and bisexuals as individuals or couples forming “an identifiable minority who have suffered and continue to suffer serious social, political and economic disadvantage.”

This was a historic affirmation by the court. There is nothing in the text of the Charter of Rights and Freedoms speaking to sexual orientation. It was said to be an analogous ground, like marriage and citizenship and place of residence—those areas where the court has said that there will be equality guarantees even though it's not written into the charter.

How does a court decide that a minority on which the Constitution is silent ought to receive protection? To a large extent, that's the issue that is before this House. Put another way, when is it appropriate for the courts to get ahead of the Legislature in recognition of rights and responsibilities?

#### 1940

This week the honourable intergovernmental affairs minister attempted to scapegoat the Supreme Court of Canada by decrying so-called judicial activism. During question period the minister would not name a case or a judge which this government disagreed with. So we asked the question: When is it appropriate for the courts to intervene? Well, we're not getting an answer from the government. In fact, where the legislatures fail to align their laws with the Constitution, citizens will fight back in the courts and the courts will nudge lawmakers back into line. It's easy to scapegoat the Supreme Court of Canada and it's easy to scapegoat those who cannot fight back. It's easy to forget that the courts do not speak in a vacuum, but rather respond to cases brought before them by people, people who often cannot get an audience with their elected legislators.

Does that mean that every case requires that the courts nudge us back into line? Of course not. So when? Bruce Ackerman, a constitutional scholar, has observed that one person's prejudice against gays and lesbians is another's principle. We have heard, outside of this House, not in this House, those who claim it to be a principle. I call it a prejudice.

If the court is not to have a judicial oligarchy, then we cannot have a situation where they're substituting their morality over that of the Legislature. Let's be clear. That's not what happened in this case. The Supreme Court of Canada did not substitute their morality for that of the Legislature, but the courts can and do require that the Legislature consider whether the prejudice is princi-

ple. They can ensure that the process gives everyone a fair shake.

So it has been in Canada, with the Supreme Court of Canada's decisions in *Egan*; in *Vriend*, an Alberta case; and in *M. v. H.* In those cases, where the rights to equality were said to be violated due to discrimination based on sexual orientation, the court was not substituting their morality in place of the majority of a provincial Legislature; rather they were engaging in the ongoing dialogue that takes place between the great branches of our federalist state.

In *Vriend*, Mr Justice Iacobucci wrote the judgement and let's be clear here. Mr Justice Iacobucci was appointed by Brian Mulroney. He's the former Deputy Attorney General who was present at the Meech Lake Accord negotiations that the honourable Minister of Intergovernmental Affairs referred to before. He is above reproach. I'm not suggesting he's partisan, but nobody is going to confuse him with a Liberal. Here's how Mr Justice Iacobucci described this dialogue. He said:

"In carrying out their duties, courts are not to second-guess legislatures and the executives; they are not to make value judgments on what they regard as the proper policy choice; this is for the elected branches"—that's for us to do. "But respect by the courts for the Legislature and executive role is as important as ensuring that the other branches respect each other's role and the role of the courts."

That respect requires a dialogue. Here's what Justice Iacobucci had to say about that:

"In fashioning a remedy with regard to a charter violation, a court must be mindful of the role of the Legislature. Moreover, s. 33, the notwithstanding clause, establishes that the final word in our constitutional structure is in fact left to the Legislature and not the courts.

"The charter has given rise to a more dynamic interaction among the branches of governance."

That's the dialogue. The great value of judicial review, said Justice Iacobucci, is that this dialogue among the branches ensures accountability between the branches. The work of the Legislature is reviewed by the courts and the work of the court in its decisions is reviewed by the Legislature. That's what we are seeing here today. The Legislature is responding to the court's defence of a minority discriminated against by the family support laws of Ontario.

But let's be clear here. The dialogue can work in different ways. The Supreme Court of Canada did not mandate under *M. v. H.* that a comprehensive bill take place. It was discretionary. The Legislature "may" do this. Nor is any decision of the court inviolable. Section 33 always remains an option, that democratic instrument, however offensive to some.

But neither of those alternatives, a narrow reading of the legislation, the use of section 33, would have done justice to the laws of this province. "Discrimination anywhere is a threat to justice everywhere," Dr King's words remind us always. There are no compromises when it comes to discrimination. Either the laws of

Ontario will continue to discriminate against same-sex couples or they will not. Either we in this House will stand up for equality and justice for all or we'll neglect our constitutional responsibility to ensure that the laws comply with the charter.

There are no angels in this House, not on this issue, but tonight we are doing the right thing. The best we can do is lean towards the lights of equality and justice, and not towards the shadow of discrimination. Tonight we're leaning the right way. We agree with this bill. I support it and our party supports it.

**Ms Frances Lankin (Beaches-East York):** I am feeling so proud and so privileged to be here tonight and to be able to take part in this historic debate and this historic moment with the passage of this legislation.

I look in the galleries and I see friends, and friends and their families, and acquaintances, and constituents, and some friends and constituents combined up there. My heart is just overjoyed in a sense of shared celebration with those of you from the gay and lesbian community and supporters of rights for gays and lesbians who are joined here tonight. This is a time for us to be proud—a rocky road, a long road. The fight that you have undergone, the struggle that you have withstood—and maintained fortitude—and the oppressive nature of living in a society that has refused to recognize you and your families, and your love for each other and for your children, and all of what goes along with that, that has been recognized for others in laws and statutes, this is quite incredible.

One of the proudest moments I have ever had as an elected politician—I was elected in 1990 and right into the Rae government cabinet. I'd have to check the record, but I think the very first official act as a minister in the Legislature was when I stood as Chair of Management Board and announced extension of benefits to same-sex partners, employees of the Ontario public service. I got a letter shortly after that from Jesse. I knew Jesse. Jesse is the daughter of friends of mine, Cathy and Sue. Jesse sent me a letter with a picture, and the picture was a huge smile with braces on the teeth, because for the first time Jesse had been able to go to the dentist to get the dental work that she needed, that she wanted. It was important to her. She was a young girl who was going through that stage, and this was important for her self-esteem. It was an incredible gift from her. It was an incredible gift of recognition of just what that one thing meant to her in her life and her family's life.

One of the saddest and darkest moments that I have ever experienced as a member of the Legislature, an elected politician, was the day of the defeat of Bill 167, when members of all three political parties joined in enough numbers to defeat that government legislation. I agree with the member from Toronto Centre-Rosedale and the comment he made. I pay tribute to him in his remarks and comments here, but as he said, people listen and people learn. There will be people here tonight who will join their voices together on all sides of the House,

some of whom were here for Bill 167 and who voted against that piece of legislation.

I'm delighted that they have listened and they have learned and they have accepted the change that needs to be done. I'm delighted that tonight we will join our voices together with those in the gallery and out in the community who have struggled for so long. I'm delighted to be part of what I think is truly for a Legislature and a legislator one of the most important moments when you can be part of passing progressive legislation that affects people's lives in such a positive way, that brings an end to oppression and to discrimination and brings about a sense of equality and justice.

Mr Speaker, it's a proud moment. I thank you for the opportunity to participate in the debate.

1950

**Mr Richard Patten (Ottawa Centre):** Mr Speaker, let me first of all join the others in congratulating you on your election to the chair.

This is a truly momentous occasion, a long time in coming, many hills and many valleys. I join my colleagues—as you know, our caucus supports this bill. You will hear from additional members of our caucus this evening.

One thing that I think is fairly significant is that the very day after Dalton McGuinty was elected as leader of our party, he was on CBC's noonday magazine and was asked the question by a caller, "Could I just get an idea of your stand on same-sex spousal benefits?" Dalton went on unequivocally to express his particular support.

I was rereading that this evening, and because there are so many members of my caucus who want to share this information, I won't take the full time to point this out, but he goes on to say:

"It's important that people can find some kind of a place where they can go. You can call it home, you can call it a refuge, you can call it whatever you like, but where there's someone else—and I don't care who the other person is, whether it's a gay relationship or a lesbian relationship, or whether it's an elderly father who's being cared for by someone else—wherever there's a nurturing, caring relationship, people loving each other, looking after each other, they must be supported. I tell you, no one can do it better than two individuals who have that kind of a relationship because government cannot do it."

The spirit of that speaks volumes for me.

As human rights critic for the Ontario Liberal Party, I must tell you that on many occasions in that role, and even prior to that particular role, I can recall writing to the Honourable Allan Rock, who was then the federal Minister of Justice, in April 1996 to express my strong support of the inclusion of sexual orientation as prohibited grounds for discrimination in the Canadian Human Rights Act. I have a letter here and I recall reading that.

In my role as human rights critic for our party, I have heard personally from many same-sex couples who were distraught about the fact that they were not entitled to the same rights enjoyed by opposite-sex common-law cou-

ples and that they would gladly accept the responsibilities if the rights were extended.

As I have said, this bill is long overdue. I would like to quote from a press release going as far back as two and a half years ago from our human rights commissioner who asked and called upon the Ontario government to revise, at that time, 16 laws which violate the rights of gays and lesbians. We're going beyond that this evening, which I think is a wise thing to do and an important thing to do.

It seems to me that—it's been referred to twice already—the courts should not be in a position necessarily to make policy. However, some may say they do in the absence of guts by politicians. I think tonight is an example where, while it is overdue, it is a benchmark, landmark time in our history, as evidenced by some of our friends who are in the galleries this evening. There were many, many evenings I spent here till 9:30, 12 o'clock at night and there's nobody here, believe me, everyone has gone home. There's obviously something of significance and something of import.

As the minister said when he introduced this bill, by the way, it will not change the definition of "marriage," "family" or "spouse"; it will simply guarantee the rights of individuals. It is sad that the motive, it seems to me, is only because of the Supreme Court directive and not a response to many, many people in our society. I am told by a survey done in our local newspaper, the Ottawa Citizen, that in my riding of Ottawa Centre—at least in the old riding; it's now expanded and it's perhaps a little less—we have about 18% members from the gay-lesbian-bisexual community. That's a fairly large percentage of a particular population. You can imagine the discussions and meetings I have in my particular riding and the appreciation I have learned about what people face on a day-to-day basis.

It's to the credit, though, of the government that it has gone further than what the Supreme Court has ordered. Bill 5 is going to change 67 provincial statutes. That is particularly important.

The bill will finally give people living in common-law same-sex relationships the same rights, obligations and responsibilities of people living in common-law opposite-sex relationships, which is in essence creating an entitlement that has been reserved heretofore for the opposite-sex couples.

This legislation takes the prohibition against discrimination based on sexual orientation obviously to its logical conclusion.

As children's critic for my party, I'd like to comment on the fact that many same-sex couples are already in families that include children. I say this for those people that I bump into who don't think in terms of many same-sex couples who are already parents and who are operating as a family. This is particularly important. I recall a survey that was shared with us at one of our hearings we had here in this place about a couple of years ago.

I'm being notified by my colleagues that my time is running out, because too many people want to speak on this issue.

So in summary, I want to say that as Liberals we are proud to support fairness and equity and equality for gays and lesbians in Ontario. Bill 5 is very significant, a step forward for equality, because discrimination is no longer tolerable. The issue is not about, as some people would say, "special rights"; it really is about equal rights and it's about recognizing the humanity of our community in that we all have a heart, we all have blood, we all want to be happy, we all want to give, we all want to make a contribution to our community, and we want to receive respect. I will be supporting this particular bill, as my caucus will, because I believe this will be one of those cornerstones on which we move along the road to providing some respect for some important members of our community.

**Mr Rosario Marchese (Trinity-Spadina):** I want to thank my buddy from Niagara Centre for having left me four or five minutes to participate in this debate. I appreciated that and I loved his remarks, of course, notwithstanding.

I want to say that I have from time to time excoriated this minister and this government. I want to try tonight not to do that, because I really believe that they have done the right thing. I congratulate them for what they have done and for having done more than what was required by the law. Indeed, the court required Ontario to amend only one law, the Family Law Act, and he and his government went further and changed 67 other acts. That's a good thing. I want to be able, from time to time, to declare that they have done some good things and not constantly vilify them for everything they have done badly. They do do bad things most of the time, but in this regard they've done the right thing. It does take courage.

I'm sure, from that caucus, there have been many members who didn't want to do what this minister, this cabinet, and eventually the caucus have done. I want to thank them, and thank them on behalf of the many people who have had the courage to openly be who they are, and thank them on behalf of those who still do not have the strength to admit their sexuality with their parents, with their family and with their friends.

Particularly, I want to thank you for a good friend of mine, another good friend whom I've known for about 20 years, who has never had the courage to come out except in the last four or five years. I imagine the pain that he has and had for literally a third of his lifetime, not to be able to tell his family and friends, including me, that he was gay. I thank you on his behalf—his name is Andres; I want to say it for the record in case he ever sees this—because I know that in the last four or five years it has been liberating for him to be able to tell me, my partner, Evelyn, and his family and his friends that he's gay.

**2000**

I want to say, Minister, that our problem is that as governments we do not lead on issues of equity. In fact, you were forced to do what you did, and you admitted as much. In the bill, you say quite clearly, An Act to amend certain statutes because of the Supreme Court of Canada decision in *M. v. H.* It is a bloody shame that we as par-

liamentarians and as governments have to follow the courts in order to do the right thing. The right thing is to give equality rights to everyone. They're not demanding special rights, as the member from Toronto Centre-Rosedale said, but equality rights, human rights that are their due as human beings.

To the minister and his government, there are two things that I find shameful. I want to be able to say them. While those who are gay, lesbian and bisexual will take any right, however it's conferred upon them, it is rather shameful that you, with the courage of changing 67 other statutes, had to have the fecklessness to say, "We did it because—" It makes you weak rather than strong, I want to tell you. With that same courage with which you've been able to change 67 other acts, you then, with the Alberta Premier, jointly sent a message to the Prime Minister and to the federal parliamentarians that you want to have a say in terms of the appointments that are made to the Supreme Court. That's a way of saying that you don't agree with what you've done. I think that's shameful, to have had the courage to do what you've done, for which I thank you, but to find so many other ways to justify it in a way that makes you graceless and weak as a government.

I hope you don't pursue those courses you have outlined and, rather, take credit for having done something that makes your government look good and gives rights to people who have sought redress for so long.

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

**Mr David Caplan (Don Valley East):** Thank you, Speaker, and congratulations from all the residents of Don Valley East on your elevation to the chair.

I'm pleased to be speaking to this bill this evening and I'm pleased to be supporting this bill. The Supreme Court decision was the right thing to do. Supporting this bill is definitely the right thing to do. That's why I would like to address the House, the members of the House and the people of Ontario here this evening: why it was the right decision, and more importantly, why the way in which the government has approached this is quite disappointing to me.

I want to share with this House part of my history as a member of a local school board. I was a member of the North York Board of Education; in fact, a member of the government, the member from Willowdale, was my colleague on that board. We passed policies that recognized same-sex relationships. I was then and I remain today extremely proud of those actions. You see, we didn't wait for the Supreme Court to make a ruling. We didn't wait for lawsuits to be filed against us. We did it because it was the right thing to do, plain and simple.

We knew it was the right thing to recognize relationships that our employees at the board of education were involved in. We knew our policies should not treat one common-law relationship any differently from another common-law relationship. We changed the way we drafted our policies, in fact we changed our policies, because it simply was the right thing to do.

I'm especially proud that I'm a member of a political party that had promised to make these changes because they were the right things to do, not because we felt forced into making these kinds of decisions. Same-sex couples deserve the same rights and responsibilities that other common-law couples enjoy. It is the right thing and that's why we did commit to making those changes. I'm very proud of our leader, Dalton McGuinty, for taking a very principled stand.

This government should be introducing this legislation because we are being principled. They should show some leadership on a significant human rights issue. Instead, I was saddened when I heard the Attorney General stand in his place and introduce a bill entitled An Act to amend certain statutes because of the Supreme Court decision in *M. v. H.* He might very well have called the bill, "The devil made me do it and I don't truly believe in what I'm doing." Perhaps that is the case.

To have the government use this historic opportunity to attack the Supreme Court was truly shocking to me, as I know it is to most Ontarians. I was left wondering what the government would have said if they were involved in introducing a bill, say many years ago, that would have given women the right to vote after a Supreme Court ruling. Would the Attorney General have stood in his place and said, as he introduced a bill, "We're introducing An Act to extend voting rights to women because the Supreme Court of Canada has made us do it, not because we believe that men and women should be equal under the law"? What if the ruling was to end discrimination based on race? Would the Premier and the Attorney General have stood in their place to introduce An Act to end discrimination based upon race because the Supreme Court of Canada made us do it, and not because all people in this country are equal under the law?

I do doubt that even this government would have the gall to do either of those two things, which is why it is curious that they have chosen this particular issue and this particular bill and this particular time to make this kind of stand.

This House should be showing leadership. I am truly proud of our caucus, our leader and our members for having the principle to stand in our place to do the right thing and to truly mean it.

**Ms Marilyn Churley (Broadview-Greenwood):** We're going to have one hell of a Gay Pride Day celebration next year, then, Kyle and everybody. But I have to say—

*Interjection.*

**Ms Churley:** I know. Let's get ready.

I have to say that there's something a little bit unreal—surreal, I suppose—about tonight because, as many of you know, I suffered through the shame, under an NDP government, of Bill 167 being defeated. I, to this day—I'm sure not as much as you from the community—feel ashamed and quite apologetic for our failure at that time. I'm not going to shy away from it tonight; I'm going to acknowledge it. We failed you. I have to tell you that it's surreal, because here we sit tonight, quietly and

patiently waiting for the end of the debate, because we know in full confidence that, under a Tory government yet, this is going to pass at the end of the night, albeit by a voice vote. OK, I'm not going to get partisan tonight. I'm not going to play games tonight. I am happy with this government tonight. I love you guys tonight.

**Mr Marchese:** Don't go so far.

**Ms Churley:** I'm going too far.

Seriously, it doesn't matter to me why you are doing it; you are in fact doing it.

*Interjections.*

**Ms Churley:** If you want me to not go over my four minutes, you'd better be quiet here.

In all seriousness, I don't care why you're doing it. I don't care about the title of the bill and that it says we're doing it because we have to. These people in these galleries tonight and who are watching on TV are the real heroes of tonight. We wouldn't have had the court case succeed and we wouldn't have had the movement over the years in the community—and our polls show that the support is there, and I think the government knows that. That helped them with their decision.

The support is there, and it is because of these people, not us politicians. It's because of you that we are here tonight—it doesn't matter under which government—doing this tonight. You're the heroes and we want to thank you for all the work you've done on equal rights, because this is about family and about love and about connection and people taking care of each other.

I want to say one last word to members of the Tory caucus, because I did suffer through with members from our caucus who couldn't support this because they thought they might be defeated, it wouldn't be acceptable in their communities and all that stuff.

I want to say to those in either caucus, if there are any in the Liberal caucus or in the Tory caucus, don't be afraid to support this bill and don't be ashamed that your government is doing this. You are going to go down in history. This is historic, which is the other reason this is so surreal tonight. We're having such an historic debate. Look around. It's incredible. But the main thing is that we are doing this tonight, and I don't want the Tories to ever quote me on saying "I love you" tonight. I take it back right now.

Anyway, congratulations to all. We have more work to do. As our critic Peter Kormos pointed out, it didn't go as far as it should have in terms of the spouse and in BC, but boy, we've come a long way tonight and thanks to everybody.

**Mr Gerard Kennedy (Parkdale-High Park):** I'm very pleased to be able to say a few words tonight, but in the context that everyone has adopted, which is appropriate humility for people in this House. This bill is making its way into existence tonight. We only have a certain kind of role in putting it there, and I think it's wise that everyone has acknowledged that.

But there is a job for us here today and in subsequent days. The bill by itself doesn't deal with the root causes of what the Supreme Court ruled on. It doesn't deal with

the fear that too many people in society still feel. It behooves us as legislators to pass this bill with some fair emphasis, which many people have made tonight, to reflect that it really is time for society to deal with this in as clear and as comprehensive a fashion as possible.

There is no basis to make judgments against members of society based on sexual orientation. There is no basis to deny access to benefits, access to the basics of enjoyment of life for anyone in this society based on sexual orientation. There is a role for us in this House to affirm that, not just through this legislation but through our subsequent actions and the way that we conduct ourselves.

In terms of the public interest, this House walks behind the public interest. I disagree with people who say that the Supreme Court has forced us to do this, because I believe society has been long ready to do this, to provide the kind of provisions that this bill does.

The reality tonight is that we're doing nothing more than confirming the civil rights that people already should have had. The resistance has been on the part of legislators across the country. I say to the people out there who have other bases to disagree with this legislation, this is about people's civil rights. This is about the public values of this country. This is not about people's individual rights, whether they're theological or otherwise, in terms of the way that they want to reflect how society should live. The civil rights that are conferred upon people are inviolable. That's what the law today extends to same-sex couples, quite a time after it was due.

I don't think there's any glory to be divided up for the bill that we have tonight, but I do reflect a small amount of gratitude to be able to be here at a time when the Legislature is able to act with an appropriate amount of civility, an appropriate amount of determination, because there are other ways that this could have gone in terms of this bill being brought forward in the way it has been, and with an appropriate amount of awakening on the part of the people in this House that this is more than due. We have been prompted to this spot, but we have embraced the opportunity to do not just the right thing but to do the thing we were elected for in the first place, to protect the rights of people who need protecting. I hope, indeed, that this bill isn't the end of that as it comes to the gay and lesbian community but simply the beginning.

**M. Gilles Bisson (Timmins-Baie James) :** Je veux dire ici ce soir à l'Assemblée législative de l'Ontario ce que j'ai dit en juin 1994 : oui à une loi qui donne le droit, l'habileté directement aux personnes de cette province, d'aller rechercher leurs droits dedans. Autour de ce projet de loi 167 dans le temps, je me rappelle bien qu'il y avait un certain débat public qui se passait. Il y avait certains commentaires qui ont été faits par de différentes personnes de cette Assemblée. On a vu du monde s'organiser contre le projet de loi 167 dans le temps.

À la fin de la journée j'étais l'un des députés, pareil comme le restant des députés du Nouveau Parti démocratique d'aujourd'hui, qui avons voté en faveur, mais on

n'en a pas été assez pour être capables de passer cette loi dans le temps.

Je suis fier d'être ici aujourd'hui pour avoir la chance encore une fois, avoir une deuxième chance en politique. C'est quelque chose qui n'est pas souvent accordé aux politiciens et politiciennes de n'importe quelle juridiction, d'être capable de voter « oui » en faveur des droits qu'on donne à toutes les personnes de cette province, tels qu'ils existent, directement aux personnes gaies et lesbiennes.

I want to say that it's somewhat ironic that we find ourselves in this year, in this time, seeing this law being passed by a Conservative government. Nonetheless I have to believe that there has been a change of heart or there's been a change in politics. I won't go there, because this is supposed to be non-partisan. But if we finally find ourselves at this point tonight, I think it's by and large because of the work that has been done within the community by people before us to finally change to a certain extent the public mood, but more important, to be able to affirm in court what should have been given to people a long time ago, way back in 1994.

So I will do as I did in 1994: I will stand in my place as the member for Timmins-James Bay—and I would vote yes if there were a recorded vote—in support of this law, because I think it is a law that is important and long past due to give people the rights they justly deserve. It's unfortunate it will be a voice vote, but I want to put on the record that I will vote yes, as I did in 1994.

**Mr Michael Gravelle (Thunder Bay-Superior North):** Mr Speaker, I am very proud as well to be here on this historic night and to be part of an evening which is really quite remarkable in the Ontario Legislature, one where we have an opportunity to be part of ending discrimination, one where we have an opportunity to do something in a very positive vein in the way of human rights.

Certainly I can tell you as a legislator who has now been re-elected, and I'm very proud to have been, that when I began the process of entering this business it was one of my goals and my dreams to make a difference, to be able to be part of something that would deal with equality, that would fight back against discrimination.

It's been a long process to get here. We all understand that. I am very proud to be able to stand here tonight and be a small part of making a huge difference, in this particular case to the gay and lesbian community in this province. It is something that perhaps has been a long time coming, it is something that is not always understood by everyone, but we are moving forward. It is heartening to be part of a discussion tonight where there does seem to truly be a joining of the minds and the hearts and the souls of the people in this chamber. It is an honour for me to stand here and say I will be supporting Bill 5. I am very proud of our leader and our caucus for the part we've played, and I am happy to be able to put my feelings on the record.

**Mr Christopherson:** Like all those who have spoken before me, I am very proud of the fact that I have the



honour of being elected at a time when I can stand in this place at this moment and give my voice and my vote to supporting what really should be a major celebration.

I appreciate that everybody wants to be non-partisan and wonderful and feel good but, you know, down the road, in 10, 20, 30, 50 years, they're going to look back and somebody is going to be studying for one reason or another the things that are said, and I sure wouldn't want to leave the wrong impression here. The fact of the matter is that this is being done because this government is being forced to do it.

It's a shame that the politics being played go so far as to name the bill the way they have. It ought to be something we're very proud of. The bill ought to be called "An Act to guarantee Ontarians all the rights they're entitled to" or "An Act to give effect to the rights that Ontarians have been waiting for." Why isn't there something positive here? But to come out and say "An Act to amend certain statutes because of the Supreme Court of Canada decision in *M. v. H.*" is a shame. It somewhat taints what's happening.

**2020**

I want to tell everybody something else that's going on that you don't know right now: There's not going to be a recorded vote. That doesn't change anything, a voice vote still gives effect to the law the same as a recorded vote, but there won't be a recorded vote, because there's fear that that vote might be deferred until tomorrow, which any party can do, and by doing that, the political message that goes out of here is: Whatever party did that is trying to block this. The reality is that it's in part to flush out those who are standing in the bushes, who are going to go along with this but aren't going to put their names forward. Quite frankly, I really regret the fact that I'm not going to get a chance to stand in my place and put my vote on the record so it's there forever, because I'm proud of it.

I remember the hate phone calls that I and many of us got when Bill 167 was in this place. You could feel that emotion, the hate seething throughout Ontario. This place was a powder keg. Yet there was something that felt good—before the vote—about saying, "I'm going to be there because it's the right thing to do." If you started to weaken at any point because you were attacked—and I am sure I'm not the only one to be verbally attacked in the doughnut store on the corner, or to open up mail and find the most hate kind of literature you could ever see—there was still something inside, when you reached in and said to yourself: "I don't care what's going on. This is a human rights issue, and if I violate on this principle, then I deny everything that I ever said about why I want to be here."

I agree with my colleague Marilyn Churley, who says it's somewhat surreal. With great respect, Speaker, it almost seems like Rod Serling ought to be in the chair, because this is a different universe from where we were just five years ago.

Having said all of that, because I had to get it off my chest—it bugs me that they're getting away with this,

but, yeah, I do feel better. I can't love them, but I can at least say that I am glad we're at the point that, for whatever reason—and sometimes as Canadians we think we've already reached supersaturation or critical mass around rights and freedoms that you can give people and, "Gee, you know, if there's anything more given, it's either over the top or somebody is getting some rights and I'm losing some rights." But that's not the case. Rights and freedoms have never in the history of humanity come without a struggle, and Canada and Ontario are no exception to that. As quiet and as civilized as it is here this evening, this is the culmination of hundreds of years of discrimination, and I agree with members earlier who have said, "The job is not yet done." But I will join in celebrating that, for whatever reason, under whatever circumstances, under whatever government, we're at least going to take a huge step forward today, and for that I am indeed very proud to be here this evening.

**Mr Dwight Duncan (Windsor-St Clair):** I don't intend to speak long, and I can't speak with the eloquence and lifetime commitment that my colleague from Toronto Centre-Rosedale does, nor with the legal precision that my colleague from St Paul's did, but I do want to get up in my place tonight and say to the people that sent me here, the people in Windsor-St Clair, that I'm voting in favour of this bill; I'm standing in my place in support of it.

I had the honour to be here in December 1986 when the government of the day passed the amendments to the Human Rights Code that prevented discrimination based on sexual orientation, and I was proud to be here the day another government passed the French Language Services Act, and I'm truly proud to be here today to tell the people who sent me here that I'm voting for this because it's right and it's long overdue. In doing so, I want to acknowledge to those people that this is another step and that it is incumbent upon all of us, now that we have the law, to enforce the law and to respect our brothers and sisters; and they truly are our brothers and sisters. They are our brothers-in-law, they are our daughters, they are our sons. I say to them that I stand here today proud to cast my vote in favour of this bill.

I'm thinking of, and I know activists in the gay community too will think of, my federal colleague the late Shaughnessy Cohen, who was the chair of the justice committee in Ottawa and truly championed this issue until her untimely passing just under a year ago. I say to my federal brethren that she set the tone and all of you have pledged to live up to her reputation. I say to my federal colleagues, "Do the right thing and move quickly," as my colleague from St George said, and we will join you in that pride.

I'm disappointed that government members won't stand in their place and lend the kind of generosity of spirit and tone that I've witnessed here in other debates at other times, but I do hope that all of us have learned the lessons of the mistakes we all made in the past and that we all agree to go forward now, saying to our brothers and our sisters and our sons and our daughters that you

are equal, that we will live that code and that we will honour you in our society as we honour everyone else.

This is truly an historic evening. I'm proud to be able to cast my vote for this legislation, and I'm proud of all members of the House who are here tonight and who are taking this next very fundamental and important step.

**Mr Dominic Agostino (Hamilton East):** I am certainly proud and pleased to join in the debate tonight along with my colleagues on all three sides of the House. This is truly an historic and proud evening for this Legislature and for the province of Ontario. Tonight is an opportunity for this Legislature to erase a black mark that has hung over this place for the last few years, an opportunity to do the right thing and an opportunity to ensure that all Ontarians are treated fairly and equally in all aspects of life in this province of ours.

I want to thank Premier Harris. This is probably the only time I will say that in the four years in this Legislature, because I fundamentally disagree with almost everything he stands for. However, in my view, on this issue the Premier has shown leadership and courage. He has shown that he can do the right thing and his caucus can do the right thing. We owe gratitude to Premier Harris for the steps he has taken in bringing this bill forward quickly and through this House tonight.

I want to thank my leader, Dalton McGuinty, who has shown leadership on this issue, who has committed to this issue and who was committed fully, even before the court decision, to bring this issue forward in the Legislature had he become Premier of Ontario.

Tonight is an opportunity as well to thank, and some have been, past members and current members of the Legislature who played a significant role in bringing this to the stage today. The Honourable Ian Scott, the Honourable Marion Boyd and George Smitherman are among others who have fought over the years in this House to get us to the stage we're at tonight.

This debate and the tone of this debate tonight have shown that this province has come a long way and that the province is and has been more than ready to accept the bill we're ready to pass here this evening. As has been said earlier, the passage of this bill tonight is not a credit or a tribute to any of us in this Legislature but really is a tribute to the courageous men and women who, over the years, have risked everything—personal safety, jobs and family—to fight for where we are tonight. Those are the real heroes, and those are the individuals who should be thanked tonight for getting us to this stage. If it weren't for those efforts, we wouldn't be here tonight talking about the bill. If it weren't for those efforts, we'd still be a province that had two classes of citizens. That will change tonight.

There's been a lot of debate on this type of legislation in the last few years in this province and across this country. One of the things that for me was the most moving in all this was a letter I received a couple of days ago from two constituents of mine, two gentlemen; one was 87 years old, one was 84. They have lived in a same-sex

relationship for 52 years, a caring, loving, committed relationship.

They owned a small business in their working life, they paid their taxes, they obeyed the law, they contributed to their community, they care and have cared deeply about each other and they share absolutely everything in their lives. They express in the letter how it has felt over the last 52 years not to be able to fully participate in all of Ontario, to understand and to know that they could not do certain things in their lives that their neighbours and friends and family members could do, because of lack of legislation, because of discrimination—things like inheritance rights, to be able to ensure that there was a survivor benefit if they needed it, to have full rights and the full ability to make decisions if one of them is ill and can't make them on their own—the simple things that most people take for granted.

**2030**

Who can argue with a 52-year, committed, loving relationship of two individuals in their late 80s? In the type of life they've led and the example they set for our community, they truly are role models for everyone in this province. They're the type of individuals that we can pay honour and tribute to tonight by passing this legislation in front of us.

This issue is not one of rights only; it is one of rights and responsibilities. The community clearly understands that those two come equally. People across this province have to understand that it simply is not asking and asking and not giving anything back. In this legislation there clearly will be the responsibility for gay and lesbian couples to support each other, to care for each other and to ensure that all aspects of Ontario life are shared equally across this province for every single individual.

This bill is truly doing what is right. It is not a question of partisan politics here tonight. It is not a question of doing charity or doing anybody any favours. These are fundamental rights that we owe to every single Ontarian and tonight we can address this.

I would say the majority of Ontarians support what we're doing here tonight, but I understand that there are those across this province who may have difficulty with this bill. What I say to those folks is, ask yourself tonight or tomorrow, if you had a son or daughter who was gay or lesbian, would you want this Legislature to pass this bill? Would you want us to treat your son or daughter equally? Would you want us to treat that individual with the same dignity and respect that every Ontarian deserves and needs to be treated with? I believe the answer is yes.

Although this is bringing us a long way, as I said earlier, there is still a long way to go. One must only look to the United States and to the recent murder of Matthew Shepard to understand that there's still a long way to go in ensuring that legislation and laws and attitudes fully protect every single Ontarian. But tonight is a step in the right direction.

I'm proud to stand here and support this bill along with Dalton McGuinty, my leader, and my caucus. I'm proud of the actions of the Legislature. In my view,

tonight will be one of the proudest moments in the history of this Legislature and one we can build on and work on, and ensure that every single Ontarian is treated with dignity and respect.

Once again, thank you to those heroes who have risked everything over the years to get us here tonight.

**Mr Howard Hampton (Kenora-Rainy River):** There are a number of members of the Legislature here tonight and I think that is only proper, because this is a historic occasion. This is something that in my view should have happened five years ago. Unfortunately, it didn't, but I guess you could say that we have a chance tonight to recognize a mistake was made and to repair the mistake that was made.

In saying that this should have become law five years ago, I want to recognize someone who is in the gallery tonight who may have already been recognized but deserves to be recognized again, Marion Boyd, who had the courage and the foresight and the dedication and devotion to move this agenda forward in a way which meant that it has occupied the stage, meant that more and more people across this province—and, I would argue, across this country—recognized that our laws had to change. I want to give credit to Marion Boyd for moving the pulse of public opinion, for having the courage and the dedication and the foresight to lead, to take a step forward and then have the public follow in behind. The public, as we know from political opinion research, has come in behind. As we know from the title of this legislation, the Supreme Court of Canada has recognized what Marion Boyd recognized five years ago, only now they recognize it in a legal sense rather than in a political sense. We are here tonight to do the politically right thing and to recognize the direction that has been given by the Supreme Court of Canada.

I hope this is the beginning of greater and further recognition of equality in this province. I hope this is one more piece in the puzzle where we recognize that in a society, in a community, we are not all the same, that we will never all be the same, but that we all need to be equal and we need to be recognized as being equal. I hope that later on in this session, for example, we will see legislation which will recognize equality for disabled people, because that is another step that needs to be taken.

I want to applaud all the members of the Legislature. I had a chance to watch some of the debate tonight and to listen to some of the debate. I want to applaud people for the non-partisan way in which this debate has been presented. I want to give recognition to the Attorney General for bringing this bill forward early in this government's timetable. I am aware that he is under some time restraints, some time limitations, as they might be. But he has come forward very early and he has come forward in a way which deals with a number of issues and doesn't create a situation where issues are dealt with piecemeal. I think he deserves credit for that.

Let me say that I think there should be a celebration following the passing of this legislation. There should be

a celebration recognizing yet one more piece in the puzzle of equality. This will say something better; this will be on the better side of the human spirit in Ontario. I hope, as I say, that this will open the doors for yet other and greater recognition of equality across this province.

As I understand it, we are to decide on this issue at 9 o'clock. There is a to be a vote held at 9 o'clock. Is that correct? Yes. So I want to contain my remarks somewhat.

Other jurisdictions in this country, British Columbia, for example, have passed this legislation earlier. I look forward to seeing in other provinces very soon this legislation presented to legislatures. I look forward to the public debate. I look forward to the change of the law across the country, because this sends a signal about the maturity of our society, about our sense of what equality truly means, our sense that we are unique individuals. We are not all the same, yet we need to recognize the inherent equality that all of us should share and must share as citizens of this province and as members of this society.

Let me say thank you again to Marion Boyd for leading public opinion, for leading legal opinion and for allowing the rest of society to fall in behind. We owe you a debt, Marion.

Let me say to the Attorney General, thank you for dealing with this issue and bringing this issue to the Legislature so that virtually all of the issues are dealt with and we don't have to go over these issues piecemeal, piece by piece. I think you have done the right thing. I imagine that you may have had a discussion or two with your cabinet colleagues about this. I congratulate you for having won, at least so it would appear, those discussions, or at least for now coming out on top of those discussions. My congratulations to the two of you. My congratulations to all who are here tonight for the excellent way this debate has been put forward.

**2040**

**Mr Dalton McGuinty (Leader of the Opposition):** I stand to speak in favour of this very important and historic bill, and I do so with a great deal of pride and perhaps just a hint of regret. The hint of regret stems from how this government is presenting this legislation to the greater Ontario public.

The government has gone out of its way to say that it is doing this because the Supreme Court of Canada has forced it to do so. In fact, the government has gone beyond what the Supreme Court has ordered and it should take pride in that fact. We should all be proud of this bill because quite simply it is the right thing to do.

Liberals support this bill because Liberals oppose discrimination. In particular, the members of my party believe that government-sponsored discrimination must come to an end. We believe that people living in common-law same-sex relationships should have the same rights and the same responsibilities as people living in common-law opposite-sex relationships. We stand for fairness.

I am proud that I took this stand as I sought the leadership of my party, I am proud that our caucus subsequently adopted this stand and I am enormously proud of

our candidates who ran for us across this province during the course of the recent election who also took this stand. I will be proud to stand and vote in favour of this bill, as will the members of my caucus.

To be perfectly frank, our own history on this issue has not always been a proud one. It's no secret that my own view has evolved, as society's view has evolved. Some have asked what influenced my thinking. I can tell you it was not the Supreme Court, it was not the polls and it was surely not the pundits. It was simply people. People have influenced my thinking, parents in particular, and families. I have had the opportunity to speak to many parents and many families and they have told me that they do not believe their sons and their daughters, their brothers and their sisters or their partners should be stigmatized or simply disadvantaged because of their sexual orientation.

Times have changed, and fortunately they are doing so for the better. We all have friends and relatives, peers and colleagues who are openly gay. Can any of us today in positions of leadership truly believe that Ontario's gays and lesbians are not entitled to the same protections and obligations afforded by law to the rest of us? After all, we here in this House are the lawmakers, and as lawmakers we have a special obligation to ensure the laws that we make apply equally to all Ontarians, not because the Supreme Court of Canada demands it but because our very first obligation to the people of this province surely requires us to do what is right.

This is more than a simple matter of legislative house-keeping. It's historic and in keeping with the finest traditions and the finest moments of this Legislature.

In 1944, the Racial Discrimination Act was passed in this very building. In 1962, this chamber witnessed passage of the Ontario Human Rights Code. In 1986, the code was amended to prohibit discrimination on the grounds of sexual orientation. At that time, the members of this House were subjected to all kinds of pressure; some of it was ugly and much of it was cowardly. There were unsigned letters sent to the media and whisper campaigns conducted in the hallways just outside this chamber. But in the end this Legislature did the right thing.

At that time, one of the most principled and gifted people to ever stand in this House stood to make a speech. I know that he has already been quoted this evening, but I think his words bear repetition.

This is what Ian Scott, a Liberal, and at that time the Attorney General of Ontario, said in this chamber on November 25, 1986, just a month shy of exactly 13 years ago:

"It is not a question of giving privileges, extra rights or special status, and it never was. It was always a question of inviting those who provide services to examine whether, on an individual basis, the applicant should be entitled to that service.

"In this country, one can reject a man for a job if he is incompetent but not if he is black. One can reject people

for housing if they are noisy or do not pay their bills but not because they are Jews. What we say today is that it is now time to take the next step."

That step was then taken. This evening, once again, it's time to take the next one, not to give anyone special privileges, not to give anyone special rights, not to accord to any individual Ontarian extraordinary status, but simply to give all Ontarians equality under our law. That is the right thing to do.

**The Deputy Speaker (Mr Bert Johnson):** Further debate?

Mr Flaherty has moved second reading of Bill 5. Is it the pleasure of the House that the motion carry? It is carried.

**Hon Norman W. Sterling (Minister of Intergovernmental Affairs, Government House Leader):** Mr Speaker, I seek unanimous consent to call this bill for third reading.

**The Deputy Speaker:** Consent for moving this bill to third reading. Is it agreed? It is agreed.

AMENDMENTS BECAUSE OF THE  
SUPREME COURT OF CANADA DECISION  
IN M. v. H. ACT, 1999

LOI DE 1999 MODIFIANT DES LOIS  
EN RAISON DE LA DÉCISION  
DE LA COUR SUPRÊME DU CANADA  
DANS L'ARRÊT M. c. H.

Mr Flaherty moved third reading of the following bill:

Bill 5, An Act to amend certain statutes because of the Supreme Court of Canada decision in M. v. H. / Projet de loi 5, Loi modifiant certaines lois en raison de la décision de la Cour suprême du Canada dans l'arrêt M. c. H.

**Hon Jim Flaherty (Attorney General, minister responsible for native affairs):** I thank all members for their kind comments this evening during the debate and for their thoughtful deliberations. For those who didn't make kind comments, that's OK. I'm not bitter. I do thank the leader of the third party, who is a former Attorney General, for his kind remarks, and it is good to see former Attorney General Marion Boyd in the gallery.

**The Deputy Speaker (Mr Bert Johnson):** Questions or comments? Further debate?

Mr Flaherty has moved third reading of Bill 5.

Is it the pleasure of the House that the motion carry? Carried.

Be it resolved that the bill do now pass and be entitled as in the motion.

**Hon Norman W. Sterling (Minister of Intergovernmental Affairs, Government House Leader):** Mr Speaker, I move adjournment of the House.

**The Deputy Speaker:** Is it the pleasure of the House that the motion carry? It is carried.

This House stands adjourned until 1:30 o'clock tomorrow.

*The House adjourned at 2051.*

**LEGISLATIVE ASSEMBLY OF ONTARIO**  
**ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO**

Lieutenant Governor / Lieutenante-gouverneure: Hon / L'hon Hilary M. Weston

Speaker / Président: Hon / L'hon Gary Carr

Clerk / Greffier: Claude L. DesRosiers

Clerk Assistant / Greffière adjointe: Deborah Deller

Clerks at the Table / Greffiers parlementaires: Todd Decker, Lisa Freedman

Sergeant-at-Arms / Sergent d'armes: Dennis Clark

Constituency Circonscription	Member/Party Député(e) / Parti	Constituency Circonscription	Member/Party Député(e) / Parti
Algoma-Manitoulin	Brown, Michael A. (L)	Halton	Chudleigh, Ted (PC)
Barrie-Simcoe-Bradford	Tascona, Joseph N. (PC)	Hamilton East / -Est	Agostino, Dominic (L)
Beaches-East York	Lankin, Frances (ND)	Hamilton Mountain	Bountrogianni, Marie (L)
Bramalea-Gore-Malton- Springdale	Gill, Raminder (PC)	Hamilton West / -Ouest	Christopherson, David (ND)
Brampton Centre / -Centre	Spina, Joseph (PC)	Hastings-Frontenac- Lennox and Addington	Dombrowsky, Leona (L)
Brampton West-Mississauga / Brampton-Ouest-Mississauga	<b>Clement, Hon / L'hon Tony</b> (PC) Minister of the Environment, Minister of Municipal Affairs and Housing / ministre de l'Environnement, ministre des Affaires municipales et du Logement	Huron-Bruce	<b>Johns, Hon / L'hon Helen</b> (PC) Minister of Citizenship, Culture and Recreation, minister responsible for seniors and women / ministre des Affaires civiles, de la Culture et des Loisirs, ministre déléguée aux Affaires des personnes âgées et à la Condition féminine
Brant	Levac, Dave (L)	Kenora-Rainy River	Hampton, Howard (ND) Leader of the New Democratic Party / chef du Nouveau Parti démocratique
Broadview-Greenwood	Churley, Marilyn (ND)	Kingston and the Islands / Kingston et les îles	Gerretsen, John (L)
Bruce-Grey	Murdoch, Bill (PC)	Kitchener Centre / -Centre	Wettlaufer, Wayne (PC)
Burlington	<b>Jackson, Hon / L'hon Cameron</b> (PC) Minister of Tourism / ministre du Tourisme	Kitchener-Waterloo	<b>Witmer, Hon / L'hon Elizabeth</b> (PC) Minister of Health and Long-Term Care / ministre de la Santé et des Soins de longue durée
Cambridge	Martiniuk, Gerry (PC)	Lambton-Kent-Middlesex	Beaubien, Marcel (PC)
Carleton-Gloucester	Coburn, Brian (PC)	Lanark-Carleton	<b>Sterling, Hon / L'hon Norman W.</b> (PC) Minister of Intergovernmental Affairs, government House leader / ministre des Affaires intergouvernementales, leader parlementaire du gouvernement
Chatham-Kent Essex	Hoy, Pat (L)	Leeds-Grenville	<b>Runciman, Hon / L'hon Robert W.</b> (PC) Minister of Consumer and Com- mercial Relations / ministre de la Consommation et du Commerce
Davenport	Ruprecht, Tony (L)	London North Centre / London-Centre-Nord	<b>Cunningham, Hon / L'hon Dianne</b> (PC) Minister of Training, Colleges and Universities / ministre de la Formation et des Collèges et Universités
Don Valley East / -Est	Caplan, David (L)	London West / -Ouest	Wood, Bob (PC)
Don Valley West / -Ouest	<b>Turnbull, Hon / L'hon David</b> (PC) Minister of Transportation / ministre des Transports	London-Fanshawe	Mazzilli, Frank (PC)
Dufferin-Peel- Wellington-Grey	Tilson, David (PC)	Markham	<b>Tsubouchi, Hon / L'hon David H.</b> (PC) Solicitor General / solliciteur général
Durham	O'Toole, John R. (PC)	Mississauga Centre / -Centre	<b>Sampson, Hon / L'hon Rob</b> (PC) Minister of Correctional Services / ministre des Services correctionnels
Eglinton-Lawrence	Colle, Mike (L)	Mississauga East / -Est	DeFaria, Carl (PC)
Elgin-Middlesex-London	Peters, Steve (L)	Mississauga South / -Sud	<b>Marland, Hon / L'hon Margaret</b> (PC) Minister without Portfolio (Children) / ministre sans portefeuille (Enfance)
Erie-Lincoln	<b>Hudak, Hon / L'hon Tim</b> (PC) Minister of Northern Development and Mines / ministre du Développement du Nord et des Mines		
Essex	Crozier, Bruce (L)		
Etobicoke Centre / -Centre	<b>Stockwell, Hon / L'hon Chris</b> (PC) Minister of Labour / ministre du Travail		
Etobicoke North / -Nord	Hastings, John (PC)		
Etobicoke-Lakeshore	Kells, Morley (PC)		
Glengarry-Prescott-Russell	Lalonde, Jean-Marc (L)		
Guelph-Wellington	Elliott, Brenda (PC)		
Haldimand-Norfolk-Brant	Barrett, Toby (PC)		
Haliburton-Victoria-Brock	<b>Hodgson, Hon / L'hon Chris</b> (PC) Chair of the Management Board of Cabinet / président du Conseil de gestion		

Constituency Circonscription	Member/Party Député(e) / Parti	Constituency Circonscription	Member/Party Député(e) / Parti
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Nepean-Carleton	<b>Baird, Hon / L'hon John R.</b> (PC) Minister of Community and Social Services, minister responsible for francophone affairs / ministre des Services sociaux et communautaires, ministre délégué aux Affaires francophones	Scarborough East / -Est	Gilchrist, Steve (PC)
Niagara Centre / -Centre	Kormos, Peter (ND)	Scarborough Southwest / -Sud-Ouest	Newman, Dan (PC)
Niagara Falls	Maves, Bart (PC)	Scarborough-Agincourt	Phillips, Gerry (L)
Nickel Belt	Martel, Shelley (ND)	Scarborough-Rouge River	Curling, Alvin (L)
Nipissing	<b>Harris, Hon / L'hon Michael D.</b> (PC) Premier and President of the Executive Council / premier ministre et président du Conseil exécutif	Simcoe North / -Nord	Dunlop, Garfield (PC)
Northumberland	Galt, Doug (PC)	Simcoe-Grey	<b>Wilson, Hon / L'hon Jim</b> (PC) Minister of Energy, Science and Technology / ministre de l'Énergie, des Sciences et de la Technologie
Oak Ridges	<b>Klees, Hon / L'hon Frank</b> (PC) Minister without Portfolio / ministre sans portefeuille	St Catharines	Bradley, James J. (L)
Oakville	<b>Carr, Hon / L'hon Gary</b> (PC) Speaker / Président	St Paul's	Bryant, Michael (L)
Oshawa	Ouellette, Jerry J. (PC)	Stoney Creek	Clark, Brad (PC)
Ottawa Centre / -Centre	Patten, Richard (L)	Stormont-Dundas- Charlottenburgh	Cleary, John C. (L)
Ottawa South / -Sud	McGuinty, Dalton (L) Leader of the Opposition / chef de l'opposition	Sudbury	Bartolucci, Rick (L)
Ottawa West-Nepean / Ottawa-Ouest-Nepean	Guzzo, Garry J. (PC)	Thornhill	Molinari, Tina R. (PC)
Ottawa-Vanier	Boyer, Claudette (L)	Thunder Bay-Atikokan	McLeod, Lyn (L)
Oxford	<b>Hardeman, Hon / L'hon Ernie</b> (PC) Minister of Agriculture, Food and Rural Affairs / ministre de l'Agriculture, de l'Alimentation et des Affaires rurales	Thunder Bay- Superior North / -Nord	Gravelle, Michael (L)
Parkdale-High Park	Kennedy, Gerard (L)	Timiskaming-Cochrane	Ramsay, David (L)
Parry Sound-Muskoka	<b>Eves, Hon / L'hon Ernie L.</b> (PC) Deputy Premier, Minister of Finance / vice-premier ministre, ministre des Finances	Timmins-James Bay / Timmins-Baie James	Bisson, Gilles (ND)
Perth-Middlesex	Johnson, Bert (PC)	Toronto Centre-Rosedale / Toronto-Centre-Rosedale	Smitherman, George (L)
Peterborough	Stewart, R. Gary (PC)	Trinity-Spadina	Marchese, Rosario (ND)
Pickering-Ajax-Uxbridge	<b>Ecker, Hon / L'hon Janet</b> (PC) Minister of Education / ministre de l'Éducation	Vaughan-King-Aurora	<b>Palladini, Hon / L'hon Al</b> (PC) Minister of Economic Development and Trade / ministre du Développement économique et du Commerce
Prince Edward-Hastings	Parsons, Ernie (L)	Waterloo-Wellington	Arnott, Ted (PC)
Renfrew-Nipissing- Pembroke	Conway, Sean G. (L)	Wentworth-Burlington	Skarica, Toni (PC)
Sarnia-Lambton	Di Cocco, Caroline (L)	Whitby-Ajax	<b>Flaherty, Hon / L'hon Jim</b> (PC) Attorney General, minister responsible for native affairs / procureur général, ministre délégué aux Affaires autochtones
Sault Ste Marie	Martin, Tony (ND)	Willowdale	Young, David (PC)
		Windsor West / -Ouest	Pupatello, Sandra (L)
		Windsor-St Clair	Duncan, Dwight (L)
		York Centre / -Centre	Kwinter, Monte (L)
		York North / -Nord	Munro, Julia (PC)
		York South-Weston / York-Sud-Weston	Cordiano, Joseph (L)
		York West / -Ouest	Sergio, Mario (L)

A list arranged by members' surnames and including all responsibilities of each member appears in the first and last issues of each session and on the first Monday of each month.

Une liste alphabétique des noms des députés, comprenant toutes les responsabilités de chaque député, figure dans les premier et dernier numéros de chaque session et le premier lundi de chaque mois.



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