final analysis, protecting the minister and paying any damages and court costs.

Even if this were an isolated instance we would have a very strong case for chastising the government for its actions. I would point out, however, that the same minister was involved in the infamous blacklist incident, circulating a list to the cabinet of people in the extra-parliamentary opposition—people who are enemies of the government. It is the same minister who, in effect, blamed his executive assistant in the "Habourgate" matter when a controller from Hamilton came to his office to tell him about the situation. In committee he said, "My executive assistant received the message and did not pass it on to me." He has a record of blaming other people.

This has to stop both in the interests of the public service of this country and in the interests of maintaining the concept and the fine tradition of ministerial responsibility.

Some hon. Members: Hear, hear!

Mr. Roger Young (Parliamentary Secretary to Minister of Justice): Mr. Speaker, I am rather surprised in the first instance that the hon. member persists in pushing a question which is entirely premature and hypothetical.

Second, I am rather surprised that one trained in the law, as he is, would expect a defendant in this issue to compromise his legal right to an appeal.

Third, I am somewhat surprised to hear the veiled suggestion that the Supreme Court of Ontario judgment, with all due respect to Mr. Justice Lieff, should bind this House, which has always been the final arbiter and has been looked upon as the final court. Such would conceivably lead to a blurring of the principle of separation of powers and the separation of the judicial and legislative functions in this country.

There are three points which must be understood. The first is that the question of payment of costs or damages is academic pending the decision on appeal. Second, any decision to pay damages cannot be made until the Treasury Board has first approved them. Third, the decision to appeal is one that is mutually arrived at, in this case between the defendant, his counsel and the Minister of Justice (Mr. Basford).

It is the generally accepted principle that ministers are servants of the Crown and that therefore any damages incurred by them would be paid by the Crown if the act in question arose during the course of their duties.

FINANCE—APPLICATION OF CAPITAL GAINS TAX

Mr. Jake Epp (Provencher): Mr. Speaker, on April 5 I asked the Minister of Finance (Mr. Chrétien) to spell out clearly the provisions of the capital gains turn over for farmers and small business. In 1971 this government imposed the capital gains tax and in two subsequent budgets, on March 31 last year and on April 10 this year, they started pulling back on capital gains. They told the Canadian people that they were reducing the tax load, but the fact remains that it was this government that imposed the capital gains tax in the first place.

The issue has been surrounded by confusion from the beginning. For example, valuation day was back in 1971. It still concerns Canadians as to how a valuation made in 1971 will relate to the amount of capital gains assessed when farms are disposed of. Someone has said that this capital gains tax is the greatest single assault on small pools of capital which were held formerly in the hands of farmers and owners of small businesses.

● (2212)

Many members of parliament lobbied that a change be made in the capital gains provisions whereby a farmer or owner of a small business would have the right to roll over his business or sell it and use that capital to buy another business or farm.

In the March 31 budget of last year we thought that we had won a major victory. The budget of that day states the following:

> Taxes are to be deferred on any capital gain that arises from voluntary sales in cases where a farmer or small businessman sells his farm for business, providing the funds received are re-invested in the same type of business.

Members on both sides of the House welcomed that change. They again welcomed the change when corporate farms were included in this last budget. But once more we have been misled by this government. It is not important that members of parliament have been misled, but that the wrong impression has been left with the Canadian taxpayer. What was thought to be the case, namely that a farmer could sell his or her farm and use the proceeds of that farm to roll over and buy a larger unit, in fact now is not the case. The regulation, now hidden in a department of Revenue Canada, is that a farmer, for example, who has a dairy farm and sells it, and who uses the total proceeds to buy a grain farm, is liable to capital gains tax. In other words, it is only if that gentleman sells his dairy farm and buys a larger dairy farm that in fact capital gains tax is deferred.

That was never the impression on March 31 last year. As we talked about this provision in the budget the government never indicated at any point that what was meant, for example, was that a farmer would have to sell his farm, specifically a dairy farm, and could only have a deferment of tax if he bought another dairy farm. If a farmer sold his farm and remained in farming—and I would think a grain farmer is as much a farmer as a dairy farmer—capital gains tax would be deferred. But, Mr. Speaker, that is not to be the case. It is important that farmers and owners of small businesses recognize that this government, having said one thing, is doing another thing through regulations that have not been passed by this House of Commons.

Incidentally I raised a case during my intervention in the budget debate last week concerning an example in my riding. In a letter sent to a gentleman in Alberta dated April 6, 1978 by the Director of Rulings Division of Revenue Canada it says: