

He said: Madam Speaker, the purpose of this amendment is to extend the scope of the proposed Clause 1 effectively to strike out the whole of Section 230 of the Criminal Code.

The reason for this is that four courts of appeal in Canada, the Ontario Court of Appeal, British Columbia, Alberta and Manitoba provincial Courts of Appeal, have all declared subsection 230(a) to be unconstitutional.

In the Vaillancourt decision of the Supreme Court of Canada, subsection 230(d) was struck down by the Supreme Court. It was held to be unconstitutional. However, during the course of that decision the Supreme Court of Canada also criticized the balance of Section 230. They did not strike it down, but certainly they were critical of the other provisions.

Briefly, Section 230 deals with so-called constructive murder. This means that the mere act of killing another person during the commission of the underlying offence, even if death or serious bodily harm are not intended, would subject the killer to a conviction for murder and a mandatory life sentence. This is the so-called felony murder rule.

The Law Reform Commission has criticized this provision very seriously. Indeed, the Law Reform Commission, during their appearance before the legislative committee that studied this bill, recommended the repeal of all of Section 230 of the Criminal Code. That is the effect of the amendment which is now before the House.

I would hope, in view of the fact that this provision and the remaining provisions of Section 230 have been struck down by four courts of appeal in Canada, and have been seriously questioned by the Supreme Court of Canada, that we could show some leadership in these circumstances and repeal the whole of Section 230 and not just Section 230(b) which has already been struck down by the Supreme Court of Canada in the Vaillancourt decision.

This will in no way weaken the criminal law and it will certainly reduce the risk of an injustice occurring.

**Mr. Benno Friesen (Parliamentary Secretary to Solicitor General of Canada):** Madam Speaker, the government opposes this motion at this time because it would have the effect of pre-empting the Supreme Court of

### *Government Orders*

Canada's consideration of the constitutionality of Section 230(a) in cases now before it.

We would prefer to proceed in this very technical area only after we have the full benefit of the Supreme Court's views in this matter. Should the Supreme Court of Canada rule that either Section 230(a) or Section 230 generally is unconstitutional, the government would move quickly at that time to repeal the subsection.

**Madam Deputy Speaker:** Is the House ready for the question?

**Some hon. members:** Question.

**Madam Deputy Speaker:** Is it the pleasure of the House to adopt the motion?

**Some hon. members:** No.

**Some hon. members:** On division.

Motion No. 1 (Mr. Robinson) negatived.

**Madam Deputy Speaker:** We will now proceed to Motion No. 2.

**Mr. Milliken (for Mr. Kaplan)** moved:

Motion No. 2

That Bill C-54 be amended in Clause 2 in the French version by striking out lines 13 and 14 at page 1 and substituting the following therefor:

"(a) le chef d'accusation visant l'acte criminel autre que le meurtre découle de la même affaire qu'un chef d'accusation de meurtre;"

He said: At the present time, Madam Speaker, under Sections 591 and 589 of the Criminal Code, a person can be tried at a single trial for any number of murders or for any number of non-murder offences, but murders and non-murder offences cannot be tried in the same trial.

As indicated in committee, the principal purpose of this bill, as set out in Clause 2, as expressed in the English version, is to amend Section 589 to provide that where a person is being tried for one or more murders, he may be tried at the same trial for any non-murder offence that arises out of the same transaction as the murders for which he is being tried.

Unfortunately, in our view, the French version of Clause 2, as reported from the committee, fails adequately to convey the full meaning expressed in the English version of this clause. Hence, my colleague, the hon. member for York Centre, has proposed this amendment. Unfortunately, he is unable to be here to move it