those funded by from the Court Challenges Program will probably not receive a definitive court ruling. In turn, it is highly likely that if a decision of a lower court is not pleasing to the government, the Department of Justice will appeal it. The private litigant, already functioning from a position of disadvantage, will be left with attempting to raise funds to defend the appeal. Canada may yet again prove the adage "You can't fight City Hall!"

Numerous experts who have no direct association with the Program have provided this Committee with glowing evaluations of the Program's worth in establishing jurisprudence. In a letter that was tabled with us, former Justice Bertha Wilson of the Supreme Court of Canada commented that "it is totally illusory to confer rights on people who do not have the means to enforce them and I assumed that the expansion of the Court Challenges Program following the advent of the *Charter of Rights and Freedoms* was an effort to address this problem. . . I saw for myself when I was a member of the Supreme Court how invaluable this Program has been to minority groups and to the disadvantaged. It has clearly been well and efficiently administered and has resulted in an excellent input into many very significant 'test' cases."[1] J.C. MacPherson, Dean of Osgoode Hall Law School, commented that "a good deal of the excellent Charter jurisprudence that now exists in Canada would not have developed without the Court Challenges Program."[2]

The jurisprudence that has been established with the assistance of funding from the Court Challenges Program is not always in opposition to government positions. With respect to the recent Supreme Court of Canada decision in *R. v. Butler*, for example, a case that interpreted the law of obscenity in a way that represents an important and acceptable balance of conflicting viewpoints, the Dean of Law at the University of Manitoba pointed out that the Program should "be seen by the Government of Canada as being of very great assistance to it in the resolution of complex and controversial issues."

During his appearance before our Committee, the Deputy Minister of Justice, Mr. John Tait, concurred that the Court Challenges Program has been "an excellent help" in establishing jurisprudence. On the other hand, he pointed out that "this program in the scheme of things against the other priorities of the government is not as necessary as it once was to play its role in building the jurisprudence" (Issue 16, p. 10).

As for the future, John Benesh, Chief Executive Officer of the Canadian Bar Association, put it another way. In terms of jurisprudence, he told us that:

> We have perhaps covered the first ten steps of a voyage lasting 100 kilometers. It is also through the miracle of legislation that in a democratic society new rights are constantly found. Twenty years ago, there were things that we didn't think were

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[1] Letter from Bertha Wilson to the Honourable Kim Campbell, minister of Justice and Attorney General of Canada, March 4, 1992 (*see Appendix C*).

[2] Letter from J.C. MacPherson to the Honourable Gerry Weiner, Minister of Multiculturalism and Citizenship, March 8, 1992 (*see Appendix C*).