

Supply

could challenge the British Columbia government concerning school management? What do they have left?

[*English*]

Mr. Bob Corbett (Fundy—Royal): Madam Speaker, I am pleased to be taking part in this debate on the hon. member's motion. It is an important motion and certainly deserves a lot of serious consideration.

Hon. members will be well aware of the tremendous gains made in equality in language rights since the Court Challenges Program began in 1978. This government has been and was an enthusiastic supporter of the program and there are numerous examples of court cases that attest to the program's successes.

I think my hon. friend will be quite interested in hearing about some of the programs and some of the very successful court cases the program has funded to advance the rights and freedoms we enjoy as citizens under the Canadian Charter of Rights and Freedoms.

Let us examine equality rights. In 1989 the first case to reach the Supreme Court of Canada was brought by a British born lawyer who was refused the right to practise law in British Columbia because he was not a Canadian citizen.

The Supreme Court struck down the requirement, citing section 15 of the charter. But the decision did more than permit non-citizens to practise law, it laid the foundation for the future interpretation of equality rights. The Supreme Court went on to make a series of decisions that have expanded the scope of human rights statutes.

All six judges who heard the case agreed that the citizenship requirement violated equality rights in section 15 of the charter. A four to two majority decision held that the law was not saved by section 1 of the charter, which allows reasonable limits on equality rights. As a result of the decision, we now have a clear understanding from the Supreme Court what equality rights mean.

Another example of an equality rights case funded by the program dealt with the denial of the right to vote. It challenged the section of the Canada Elections Act which denied the vote to persons unable to manage their property because of mental disability.

Just before the case was heard in Federal Court, this government agreed that the section violated the charter and should be struck down. One hour later the Federal Court agreed with the government and invalidated that section.

The result of this challenge by the Canadian Disability Rights Council is that many of our citizens with mental disabilities were able to vote in the 1988 federal election. As well, my hon. friend will be pleased to know that the case helped to challenge widespread assumptions that stigmatized persons with mental disabilities.

In another interesting case funded by the program, a man argued that as a natural father he should not be denied parental benefits under the Unemployment Insurance Act when those benefits are available to an adoptive father. The Federal Court agreed with him and ruled that the UI act violated section 15 of the charter.

The Court Challenges Program funded an Ontario children's rights organization representing a young offender who argued that the provincial government's failure to establish alternative measures programs for young offenders violated his equality rights under the charter.

In ruling in the young offender's favour, the trial judge said the Attorney General for Ontario had a duty to authorize alternative measures programs. The ruling was upheld by the Ontario Court of Appeal, but the Supreme Court of Canada ruled that his rights had not been violated and the court referred to the value of diversity in our federal system and the importance of federal-provincial co-operation.

The Court Challenges Program gave funding support to the Women's Legal Education and Action Fund so it could argue a case concerning the interpretation of the provisions of the Canada Pension Plan for credit splitting when a couple separates. The trial judge ruled that the husband was entitled to the full CPP benefits so his estranged wife appealed the decision to the Ontario Divisional Court. It ruled that the Canada Pension Plan cannot be interpreted in such a way that it waives credit splitting rights.

These are just a few of the many successful cases that received funding support through the Court Challenges Program.