many years. I would rank it along with gun control and certain other legislation.

I want to impress upon people who are watching and members in this House the significance of this. I want to give them some idea of what exactly is going on in this country. We have tremendous problems in Canada. We have constitutional problems and we have great financial problems but there is one thing that is going on that is very interesting and very exciting. It is the creation of law and the definition by the activity of our courts, politicians, society and interest groups of honing justice in this country.

As an example I want to use the recent decision of the Butler case. This was a case with our obscenity laws that was recently handed down by our Supreme Court. The decision was nine to nothing. What that decision really stated was that our obscenity laws are for the protection of our women and children and not to try to maintain the moral standard in Canada.

• (1550 )

That is a landmark finding, a landmark definition and a landmark decision world-wide. No other country I know of has reached that kind of decision or defined obscenity in that particular way. That is tremendously important because it takes away the stereotype that we have had and necessarily so. They must look at obscenity as a cancer in society. By looking at that and relating that to violence against women and violence against children we put obscenity in its proper perspective. The court did that. That is interesting and it has attracted world-wide attention.

In this case as well we have a tremendous amount of world-wide attention because violence against women and violence against the family and urban violence in general is of tremendous concern to every country in the world. I want to come back to that later. First of all I want to recount exactly how we got to where we are. I think it is important to look at it.

Prior to 1983 we had the situation where the complainant who was charged with sexual assault could be cross-examined on her prior sexual conduct in common law. She was really, in a lot of cases, the person who was on trial. She was not the accused. She was not the defendant. But in some cases the actual investigation into her past sexual conduct took over the whole theme of the case. This made it a tremendously trying experience for any woman who brought an action of sexual assault or rape. It was tremendously unfair to the extent that women did not want to bring these charges. They would actually suffer the injury and indignity rather than go to court to get the justice she deserved.

Depending on her answers, of course, sometimes the judge would take an adverse inference and instruct the jury that the woman was not creditable or that she consented to intercourse. That would sometimes be the result of the action brought by the woman.

In 1983, in order to limit the power of the judges, the government brought forward an amendment to section 276 of the Criminal Code. This stated that no evidence could be adduced by or on behalf of the accused concerning sexual activity of the complainant with any person other than the accused except in three circumstances.

One was if the Crown brought forward evidence as to the sexual activity of the complainant. Then, of course, the accused was able to bring forward evidence to counter that evidence brought forward by the Crown.

The second case was where it could be alleged that it was not the accused who committed the sexual assault but someone else. The accused was able to bring forward evidence to refute that it was he who in fact caused the sexual assault.

The third case was where it could be alleged by the accused that the complainant had indulged in sexual activity with someone else at the same time or in direct consequence or sequence to the time she alleges she had sexual intercourse or sexual activity with the accused. Those three areas were the ones that were the exceptions.

In December 1991, in the case of Seaboyer *v.* the Queen, the Supreme Court of Canada threw out this section 276 which came to be known as the rape shield provision and invalidated it saying it was contrary to the accused's rights under section 7 of the Charter of Rights and Freedoms. Section 7 under the heading of *Legal Rights* says:

> Everyone has the right to life, liberty and security of person, and the right not to be deprived thereof except in accordance with the principle of fundamental justice.

The court in the decision delivered by Madam Justice McLachlin said that the right of the accused to fundamental justice had been breached. She said that these rules were not satisfactory, that they breached fundamental justice. Representing not only herself but the majority of the Supreme Court decision, she brought in other criteria that would be applied in the courts. She