to devote a full review of the law based on modern principles.

In the meantime the scope of this particular bill is limited to certain amendments to the Canada Evidence Act which I think ought not to be delayed. The most significant of these I propose to outline very briefly without, I hope, trespassing on the rules of the house.

The bill is designed to remove a completely awkward, rigid and unnecessary limitation in relation to the calling of expert witnesses. The present section 7 of the Canada Evidence Act provides that a party to a legal proceeding may call up to five expert witnesses without obtaining leave of the court. The effect of subsection 2 of this section is that, no matter what the justice of the situation requires as the trial develops, a party is absolutely precluded from exceeding the limit of five expert witnesses if he has not taken the precaution of getting the leave of the court before he called the very first witness. This bill proposes that that limiting subsection 2 be repealed completely. The position will then be that a party will be able to call more than five expert witnesses if he appeals to the court's discretion at any time during the trial.

The bill is also designed to assist the courts in reaching the truth by removing an obvious impediment in the way of a proper assessment of the credibility of witnesses. At present a party who produces a witness is not permitted to prove that the witness had previously made a written or oral statement inconsistent with the testimony that he is giving the court unless that witness, in the opinion of the court, upon the application of the party who has introduced the witness' testimony, is adjudged adverse.

For the benefit of those who do not practice law as a profession, or did not do so before entering the house, I should mention that the word "adverse" here means that a witness has a hostile animus, or a hostile bearing or intent, toward the party who calls him and is not prepared to give his evidence fairly, or with the appropriate desire to tell the truth.

The defect in the present law is that the courts have generally held that in deciding whether or not the witness is adverse they are not entitled to consider any previous statements made by the witness. They have restricted themselves to considering such matters as the demeanour of the witness, the way he is testifying in the court, and so on. The indefensible result of all this is that the highly polished witness, the highly polished prevaricator, frequently dazzles the court into deciding that there is absolutely no justification for holding that he is adverse.

Mr. Baldwin: We see that sort of thing here in the house.

Mr. Turner (Ottawa-Carleton): The hon. member for Peace River is trying to divert me into a political rather than a legal context. He has been in court many times, as has the hon. member for Calgary North (Mr. Woolliams). Frequently a witness can convince the court with a razzle-dazzle performance that he is not adverse. The more glib the deception, the less likely the detection.

• (3:50 p.m.)

In these circumstances it is proposed to amend section 9 of the act to empower the court to permit a party to cross-examine his witness as to a previous inconsistent statement, but only if that statement is reduced to writing, so that the court can consider the results of the cross-examination and, on the basis of that previous inconsistent written statement, decide whether the witness in fact is adverse. Such cross-examination would, of course, be limited to that previous written statement. If the court decides the previous statement is not inconsistent with the present testimony, that is the end of the matter. But if there is an inconsistency, then the party who calls that witness may discredit the witness by contradicting him with the statement in question or any other previous oral or written statement, or may establish from the testimony of the witness under oath that all or part of the previous statement represents the truth.

I think hon. members should also observe that the bill extends to other financial institutions the provisions of section 29 of the act which is at present limited to banks. Section 29 derives from the English legislation of the 19th century which was designed to avoid disruption in business affairs from the search, seizure and production of original books and records of banks in legal proceedings. The section, for example, permits the use in court of copies of bank records and provides for proof by affidavit of records and certain other facts. The scope of the section will be extended to financial institutions as defined in the bill.

In addition, a new provision is also added to section 29 of the act. According to a recent decision, bank records and documents are not, except in very limited circumstances,