[*English*]

MEASURE TO AMEND

Mr. Steven W. Langdon (Essex—Windsor) moved:

Motion No. 1

That Bill C-51 be amended in Clause 1

(a) by striking out line 39 at page 2 and substituting the following therefor:

"November 6, 1989 by the Minister of"

(b) by striking out lines 46 to 48 at page 2 and lines 1 to 3 at page 3.

He said: Madam Speaker, this bill which is in front of us is of course a fairly straightforward bill which simply attempts to tighten up the wording of the Income Tax Act so as to make it clear that the federal government has the right to take action in the case of a bankrupt firm, or in other circumstances, to recover deductions made by that firm from its employees' wages for income tax, unemployment insurance, the Canada Pension Plan and so forth.

There is no question that we support the thrust of this bill. We voted for it at second reading. However there is a serious problem with the bill as it presently stands and that is the problem I am trying to correct with this amendment. The reason the bill was brought in by the government was a legal decision in the Alberta Court of Appeal which said that the original wording of the amendment put through in December 1987 was not sufficiently clear to establish the priority of the federal government to take action *vis-à-vis* other creditors of a bankrupt firm.

• (1600)

When that court ruling took place the federal government decided eventually to appeal it. It attempted to take its appeal to the Supreme Court of Canada and in December 1989 the Supreme Court of Canada said that the federal government did not have a case which could be taken to appeal. In other words, it upheld the decision of the Court of Appeal in Alberta.

This legislation attempts not just to correct the wording of the government's original mistake in 1987 with this piece of legislation which was put into effect with a Ways and Means motion in November 1989. It attempts to say that this improvement in the wording shall apply retroactively from December 1987 to November 1989, despite the fact that the Alberta Court of Appeal had decided that the original wording in force during that period was considered to be unsatisfactory.

On principle we find this kind of attempt to rewrite history, to apply a new piece of legislation backward to cover up a mistake which has been made, to be unacceptable and completely abhorrent in a democratic society.

Just as seriously, we had testimony before the legislative committee which looked at this bill from the Desjardins movement in Quebec. It indicated that this was not simply a philosophical issue about which we should be upset for reasons of principle, but that this was something which would cost various caisses populaires in the province of Quebec significant sums of money.

The committee heard testimony from the Desjardins movement which indicated, for example, that the Caisse Populaire St. Charles Borromée would experience a loss of at least $260,000 if this retroactive application of this change in wording were allowed to go through. In fact the person who was before our committee representing that particular caisse populaire indicated that when lawyer's fees and other payments were taken into account the loss might be as high as $400,000 for that particular caisse populaire.

[*Translation*]

Need I say, Madam Speaker, that credit unions are small financial institutions which, because of their size, cannot absorb such losses without considerable difficulty. I therefore believe that as members of Parliament we have a duty to listen to the representatives of these credit unions and to say that it is just not possible to implement this retroactive application. That is why we have proposed this amendment. It is very straightforward, like most amendments to money bills. This legislation should not be retroactive. If this principle is rejected, I think it does not abode well for the future.

[*English*]

If we look at the testimony of representatives of the Canadian Insolvency Association that deals with these questions of bankruptcy, they made precisely the same case in the legislative committee. They stressed that, as they put it, it did not seem fair somehow to deprive those claimants who waited for their day in court. At the very