

Government Orders

The loud voices have not been heard by civil libertarians. They have been heard by a very vocal gun lobby very much supported by the Reform Party, the members opposite.

I want to come back to a statement that concerned me in my hon. colleague's speech about constitutional law which is something that we should be very concerned about.

The charter of rights and freedoms is something of which we must be very cognizant in every piece of legislation. When a minister brings forward legislation he has to sign on that he has taken into consideration constitutional and charter arguments. The charter, I often hear, is something that gets in the way. Our protection in search and seizure provisions comes from the charter provisions. That is why Canadians should not be afraid of the gun control bill.

I also want to talk about constitutionality because my colleague opposite raised it. The Supreme Court of Canada has already ruled that gun control is a matter of criminal law. It does not matter that all the provisions of the Criminal Code offence be in the Criminal Code.

That the Criminal Code is for crime prevention has been very clearly ruled in the appellate court in Alberta and in the Supreme Court of Canada. It has been stated by Professor Hogg, who is the expert in Canada on constitutional law, that gun control law is a criminal control provision, a crime prevention provision, and is totally *intra vires* the Parliament of Canada.

What is the hon. member going to say to the Supreme Court justices?

Mr. Manning: Mr. Speaker, I appreciate the hon. member's learned legal opinion but she did not address the constitutional problems that I raised.

I did not argue that the federal Parliament does not have the constitutional right to pass gun control legislation. I did raise the point that it was aboriginal people who were the first to raise the constitutional question about the bill. Their argument was nowhere close to what the member was trying to defend.

They argued that the constitutional documents which constitute the arrangements between the James Bay Cree and the federal government and the Yukon First Nations and the federal government contained a clause that required a type of consultation which was not provided or honoured by the minister. This was raised by some citizens, a completely different lot.

The other arguments that have been raised with respect to constitutionality are with respect to specific provisions. As the member well knows, the provinces are concerned about the clauses that mention ending the right to remain silent, the requirement to co-operate with the police, the presumption of guilt until proven innocent, the assignment of guilt by association, allowing confiscation of property without compensation,

the provision of search and seizure without a warrant. The suspicion is they violate sections 7 and 8 of the Canadian Charter of Rights and Freedoms.

• (1655)

I suggest it is in these specific areas the bill gets on to shaky ground. The minister would have been well advised to accept amendments and changes in these areas if his interest was in getting a bill that would not be on shaky constitutional ground if enacted.

The Deputy Speaker: With the understanding the hon. leader was sharing his time with another member, the time for questions and comments has expired.

Mr. John Cummins (Delta, Ref.): Mr. Speaker, the bill before us today concerns gun control. When the debate is finished, members on both sides of the House will be asked to say yea or nay. Should I vote in favour of the bill as some polls have suggested, or if on examining the content of the bill I find that on balance it has serious shortcomings not addressed by the pollsters' questions, do I then cast my vote against the bill? If I do vote against the bill, am I then voting against the wishes of my constituents?

I do not need to tell the House one of the most fundamental principles of my party is that Reform members of Parliament vote according to the wishes of their constituents regardless of their personal convictions.

The question of how a member should vote is worth examining in the context of the bill. It is a question that is fundamental to the public's perception of our role as members of Parliament. It is a question whose time has come because with today's technology, members of this place and the public at large could vote on any matter before the House without having to leave home.

What do Canadians expect of their elected officials? Do they simply want us to look at the polls or look at the bill? Do they want us to vote according to the polls or according to the bill? Certainly many polls would suggest Canadians support gun registration. However this bill is about more than gun registration. It raises important questions about fundamental legal rights, about fairness and even handedness in sentencing, important questions about the spending of limited government resources and basic questions about whether the bill meets its stated objectives of making our streets and homes safer.

Asking Canadians if they support gun registration and asking them if they support Bill C-68 are two distinct questions. No poll has adequately addressed the difference between the two. That is why Canadians have sent us to this place: to examine bills and make the distinctions the pollsters cannot or will not, to challenge the self-serving press releases of the government and to advance the real concerns of our constituents.