

*Private Members' Business*

tion is recent in Canadian law. The changes to the Income Tax Act to reorganize common law spouses have just come about in the last year or two, after the majority of provincial family law statutes recognized the status. It is only recently that the majority of the Supreme Court of Canada stated in the Miron decision that in the circumstances of this case it was discriminatory to treat unmarried couples differently from married couples.

The only references in federal law to personal relationships either follow blood or marriage relationships, which are relatively easy to prove, or copy provincial family law definitions of common law relationships. At the federal level spouses are mostly included in legislation for the purposes of employment benefits, government pension plans, income tax and so on.

The concern is that if we were to extend these benefits to same sex partners at the federal level first, before the provincial family law extends any legal obligations, this could create a situation of unfairness. Spouses, both married and common law, are currently subject to a package of legal rights and responsibilities created by a combination of federal and provincial laws.

It is because spouses are subject to legal obligations, such as support obligations on the breakdown of the relationship, that they are also eligible for benefits, such as survivor benefits under pension plans. It is for the provinces to extend the obligations before we should extend benefits under federal jurisdiction.

How would we accomplish what the hon. member is asking for? How would we take the measures necessary for the legal recognition of same sex spouses, even were we to agree that this should be done? It is clear from the history of the recognition of common law relationships that this was not accomplished by passing a statute called the common law spouses act, nor was this legal recognition even accomplished by the government at any level.

The fact of social change was first acknowledged by the courts in looking at unfairness and unjust enrichment between two partners who had not married. The courts felt strongly that individuals who were living together as if married and so were getting all of the advantages of being married, such as working together to afford a better lifestyle than either would have been able to achieve living alone, should not be able to avoid taking on the obligations of married persons simply by choosing not to marry. Particularly in a situation such as that represented in the first few high profile cases, the common law wife needed the protection of the law.

However, this is a controversial enough subject with regard to opposite sex common law couples. Many common law couples continue to disagree and feel frustrated that the law deems their

relationship to be akin to marriage after a certain time has passed. Many still feel that their choice not to marry should be respected by the law.

How much more of a problem will this be with same sex couples who may not be public about their relationships? Conversely, is it fair to recognize those same sex couples who do wish to be open about their relationships?

For a numbers of reasons, the motion is premature and not feasible for the federal government to adopt without the full co-operation of the provincial legislatures.

• (1110)

[Translation]

**Mr. Gilbert Fillion (Chicoutimi, BQ):** Mr. Speaker, I am very pleased with this opportunity to rise in the House today, especially since I unconditionally support Motion M-264, which seeks the legal recognition of same sex spouses. Voting for this motion will give nearly 10 per cent of the population the recognition to which it is entitled.

Since the Quebec government launched its prerferendum campaign, the federal government has spent millions of dollars of taxpayers' money to convince us that Canada is one of the best countries in the world to live in, a country that is tolerant and, especially, a country that accepts diversity.

I therefore ask this government to act accordingly and support the motion standing in the name of my colleague, the hon. member for Hochelaga—Maisonneuve. In fact, the hon. member for Central Nova told us in her speech on the same topic that Canadians are tolerant and that they respect and appreciate diversity.

Will the government be as tolerant and show as much respect for diversity as the hon. member? In May 1994, the Minister of Justice also promised to redefine, in fairly broad terms, the ties between people who live together, are interdependent and should therefore have the same social benefits as traditional families, which does not mean—and I can understand that—changing the concept of the family. Let us be clear about this. The motion does not seek to redefine the family but to enhance the rights of certain people and ensure that discrimination against homosexuals is unacceptable in Canada.

Last June, the Reform Party member for Elk Island reminded us, and I quote: "As legislators, we have a responsibility, an obligation, a high calling to do what is right for our country and its citizens". He directed this message to all Canadians, without exception. It included all Canadians. Consequently, our role as legislators, in my opinion, is to set an example by being openminded, by our sense of justice and our sense of fairness.