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• (1700)

Mr. Deputy Speaker: I declare the motion carried.

Bill read second time and, by unanimous consent, referred to the Committee of the Whole.

[Translation]

Mr. Deputy Speaker: It being 5.12 p.m., the House will now proceed to the consideration of Private Members' Business as listed on today's Order Paper.

PRIVATE MEMBERS' BUSINESS--MOTIONS

[English]

CONSTITUTION ACT, 1982

SUGGESTED AMENDMENT TO INCLUDE PROPERTY RIGHTS

Mr. John Reimer (Kitchener) moved:

That in the opinion of this House, the Constitution Act, 1982, should be amended in order to include property rights and, that the Governor General issue a Proclamation under the Great Seal of Canada to amend Section 7 of the Canadian Charter of Rights and Freedoms so that it reads as follows:

"7. Everyone has the right to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

and this House urges that the Legislative Assemblies of all provinces and the Senate pass similar resolutions.

• (1710)

He said: Mr. Speaker, this is the second opportunity I have had to introduce and defend before this House a motion calling for the constitutional protection of property rights. The first time was on May 28, 1985, during the last session of Parliament.

The intent and rationale of this motion is very straightforward. I am asking the House of Commons to pass this motion, allow this question to go to the Senate and then to the provincial Governments through the amending process for our Constitution, seeking its consent to add the words "enjoyment of property" to Section 7 of the Canadian Charter of Rights.

This action would thereby provide the necessary and natural corollary to the words "life, liberty and security of person", rights already secured in Section 7 of the Charter.

It is true that the right to enjoy property is now included in the Canadian Bill of Rights. However, the Canadian Bill of Rights is but a statement of general principle and does not of itself confer or create real rights. When property rights were proposed for inclusion in our Charter in 1981, the matter was discussed, then explicitly rejected, a regrettable omission about which I will say more later.

Suffice it to say that once a decision was made in 1981 to list all the rights of Canadians in the Charter, then surely all such rights should have been included. However, the omission of property rights from the present text of the Charter is an obvious and very serious omission. It remains a constitutional imperative to ensure it is included.

In my earlier speech I spoke in some detail on the philosophical rationale for this motion and do not feel the need to repeat myself at length here today. Simply put, however, I would argue that to omit and deny the right to private property is to diminish, indeed to render meaningless, the existing rights to life, liberty and security of person. Surely, our existing freedom to purchase a car, home, farm or business is severely restricted if our basic right to make, buy, keep or sell is not also protected. Likewise, surely the principle of freedom "to pursue the gaining of a livelihood", in Section 6, Part 2(b) of the Charter, as a labourer, housewife, farmer or businessman, is severely diminished if one's freedom to simply keep, sell or buy is not secure. All this is simple common sense.

Permit me to give two concrete examples. Under the ill-conceived and ruinous National Energy Program, the previous Liberal administration confiscated from the oil companies 25 per cent of all land assets north of the 60th parallel, called the "frontier lands", and gave them to PetroCan without any compensation whatsoever, not a single penny.

Another obvious area of concern are the nationalization policies of the New Democratic Party which would allow the seizure of assets without necessarily providing full compensation. So the socialist New Democratic Party could nationalize a bank or a business and refuse to pay fair market value. By adding the words "enjoyment of property" to the Charter, such actions would be severely restricted.

Therefore, lest there be any doubt, let me reiterate the fundamental rationale of this motion. Logical consistency demands that those fundamental rights now guaranteed by the Canadian Charter of Rights and Freedoms, words such as, "life, liberty and security of the person", be given their

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natural, undeniable and essential correlate, namely, "enjoyment of property". I would suggest it is incumbent upon those who would disagree with the motion to state their position with respect to this rationale.

In addition to the self-evident inherent logic of this motion, there are several other compelling factors in its favour. First, the historical precedent is overwhelming. The basic human right to own what we make was included in such documents as the Magna Carta in 1215 and the English Bill of Rights in 1627. In 1948, Canada signed the United Nations Universal Declaration of Human Rights. Article 17 of that declaration reads:

- (1) Everyone has the right to own property as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

Additionally, property rights is also recognized in the 1960 Canadian Bill of Rights. Clearly, then, it is now time to bring our Constitution in line with these historic documents.

Second, the entrenchment of property rights is currently recognized by a wide range of modern democratic countries including Australia, the United States, West Germany, Italy, Finland and, for my socialist colleagues, even socialist Sweden. Third, various Canadian national organizations, such as the Canadian Chamber of Commerce, the Canadian Bar Association and the Canadian Real Estate Association, have been constant in their efforts to have Parliament act on this issue.

Fourth, this is a matter which applies to all Canadians and it is a right which each of them wants and deserves. This fact has received undeniable support in a recent Gallup poll which shows that 81 per cent of Canadians say that it is either "very" or "fairly" important to them that the Constitution be amended to include property rights.

The ordinary person's vested interest in the protection of property rights is recognized by all responsible public leaders. Britain's Prime Minister Margaret Thatcher has said: "We need a property owning democracy". Why? Because, to quote Barbara Amiel, a well-known Canadian journalist, Mrs. Thatcher understands:

That for ordinary working people, who might not be blessed with the intellectual property of the intelligentsia or the abstract property of the bureaucracy, the most important thing is the house they own or the few shares they can get. That bit of real property means that they can arrange their lives independently of the state.

Permit me now, Mr. Speaker, briefly to anticipate and respond to some of the concerns which have often been voiced with respect to this issue. These concerns are invariably related to two basic questions; first, what exactly is meant by "property", and, second, what would be the impact of the inclusion and subsequent interpretation of "enjoyment of property" upon various bodies such as the provinces, natives, environmentalists, womens' groups, business and labour, and so on. While these are important questions and, as such, cannot be exhausted here, it is crucial that they be held in proper perspective.

First, it is true that the concept of property has evolved from a rather basic interest in land and personal property to a more complex concern with intellectual property, that is, patents, trade marks and copyrights. There is also passive property such as stocks and shares, and now there is even the so-called "new property", such as social security systems and public employment. Admittedly, therefore, defining "property" is now a necessary and sometimes complicated exercise.

Second, the legitimate reservations of certain groups must be taken very seriously whether it be Prince Edward Island which is concerned about foreign land ownership, womens' groups wanting to safeguard gains in family law legislation, or environmentalists justifiably interested in protection from pollution. But these concerns should not be overstated. For example, some have argued that large corporations stand to benefit most from property rights and, therefore, protection of property rights is in itself not a good thing. Such an argument is logically absurd.

Are we, therefore, to deny and revoke our constitutional right to free speech simply because certain people or parties, for example, the *Toronto Star*, are large enough to exercise that right with the potential for greater influence than smaller newspapers or individual citizens? Of course not. Yet some persist in arguing that the constitutional protection of property rights will only benefit big business. Does that mean freedom of speech or freedom of the press is only of value to the *Toronto Star*? That is absurd.

• (1720)

Furthermore, it must be recognized that all aspects of the Charter are subject to Section 1 of the Charter which reads as follows:

The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

I maintain that this qualifier safeguards against the kinds of extreme scenarios envisioned by opponents of property rights.

Consequently, while the "enjoyment of property" may require both careful definition and legal interpretation, this is in no way sufficient to negate the rationale and the value of this motion. Just because it may be difficult to define and interpret what is meant by words such as "life", "liberty" or "security of person", that does not mean that we therefore refrain from enshrining these fundamental rights. Likewise, just because it may be difficult to define and interpret the words "enjoyment of property", it does not necessarily follow that it must be excluded from the Charter. To so argue is, at best, to allow necessary caution to negate a valid and fundamental principle; or, at worst, it is absurd logic used to distort completely the issue at hand.

If this rationale is sound, and I believe it is, and if there are compelling reasons in its favour, and I believe that there are, and if the major objections can be met, and I believe that they can be, then the way is clear for this Government and this

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House to take the necessary and decisive action. Not to do so would be intellectually and morally dishonest. It would be an abdication of our responsibility as Members of Parliament.

So I must emphasize the need for decisive action. We cannot perpetuate the negligence of the previous administration whose performance during the 1981 constitutional debates on this topic was nothing short of scandalous.

On Tuesday, January 20, 1981, the Conservative Party in opposition introduced an amendment seeking the inclusion of property rights in the Charter. On Friday, January 23, the then Solicitor General, in his capacity as acting Minister of Justice for the Government, accepted this amendment on behalf of the Liberal Government. However, that Sunday evening, the Leader of the New Democratic Party (Mr. Broadbent), having conferred with his provincial socialist counterparts in Saskatchewan, informed Canadians on national television that the NDP would be withdrawing its support for the Constitution if property rights were to be included.

The following Tuesday, Prime Minister Trudeau told Parliament that the property rights amendment had to be dropped. True to form, the Liberal Government had sacrificed a fundamental principle on the altar of political expediency. Its philosophy should have told it that it should have been in favour of it, but it gave up for political expediency.

Since this motion will be coming to a vote, it will be interesting to see whether the Liberal Party will again try to sit on both sides of this issue. It will also be interesting to see whether the NDP will continue to tell the constituents in my riding, and people right across Canada, that they cannot have the constitutionally protected right to make, sell, keep, buy, or own. They have that right; they must.

To cite the compelling logic of the 1972 decision, as just one example, of the Supreme Court of the United States:

Property does not have rights. People have rights... [However] A fundamental inter-dependence exists between the personal right to liberty and the personal right to property. Neither could have meaning without the other. That rights in property are basic civil rights has long been recognized.

The Conservative Party is in favour of the constitutional recognition of property rights. Consistent with this, the present Government has taken very specific initiatives toward this end.

When I introduced and defended this motion during the last session of Parliament, a number of impediments stood in its way. First, there was the fact that the Province of Quebec was not yet a signatory to the Constitution. However, the recent historic Meech Lake Accord has gone a long way to resolving this deficiency. As the Prime Minister (Mr. Mulroney) speaking on Law Day, April 15, 1987, noted:

The successful resolution of the Quebec issue will unlock the constitutional reform process and allow us to turn our attention to other issues—such as... property rights—in a second round of constitutional discussions.

This next round is already under way. A second impediment to my former motion was the need to address various concerns

at the provincial level. Since then, following federal Government impetus, the provincial Attorneys General have established a working group to examine the property rights question.

As an example of recent action at the provincial level, at the initiative of my provincial colleague from Waterloo, Mr. Herb Epp, the Ontario Government on November 27, 1986, passed a resolution that Section 7 of the Charter be amended to include the "enjoyment of property".

A third impediment is related to the format of Private Members' Business. It was felt that one hour on a non-votable debate in the House was not an adequate format in which to debate such a significant subject as this. However, following the recent parliamentary reforms introduced by the Prime Minister, this new motion has been selected for extended debate with a mandatory vote to follow. This provides ample opportunity for all Members of the House to express their positions and to vote accordingly.

Permit me to summarize, Mr. Speaker. The premise of this motion is philosophically sound. The right of ownership flows naturally and logically from the uniqueness of every free individual to make, to invent, to keep, to buy, or to sell. The reasons in favour of the constitutional protection of property rights are compelling, both historically and constitutionally. The reservations with respect to definition and legal interpretation can all be met. The impediments to legislative action are now being removed.

We all know that the overwhelming majority of Canadians want the federal Government to act on this issue. Therefore, in conclusion, I call upon the House to accept and approve this motion.

Some Hon. Members: Hear, hear!

Mr. Russell MacLellan (Cape Breton—The Sydneys): Mr. Speaker, I am pleased to have this opportunity to speak on this Private Member's motion put forward this evening. It is a question which will evidently come up quite often in the House. I think it is one that really needs a great deal of debate. I feel it is unfortunate that this evening we are limited to one hour, even though, of course, the Hon. Member proposing the motion has stated that there are other ways of having extended debate.

However, I think that this question goes much deeper than a great many Members are prepared to admit. This issue goes back to the time when we were repatriating the Constitution in the early 1980s. It was not only a question, as the Hon. Member stated, of political expediency; it was a question of provincial disagreement on the question of including the clause on property rights in the Constitution. He is correct in stating that Prince Edward Island was opposed, largely because of its restriction on foreign ownership of land in the province. But other provinces such as Saskatchewan were opposed as well.

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I think that they had reasons. Whether it can be said that the reasons were reasons with which one would agree or not, I think one would have to say that their reasons were sound reasons as far as they were concerned. Although we may not agree with them, it will not be simple to bring this dialogue to a point where we can talk about putting this clause in the Constitution. If the Government is serious about doing this, then the dialogue with the provinces will have to be brought along much further than it has been to the present time.

• (1730)

The Hon. Member stated that we do not have a definition of property. That is true. That is a concern to me. The Hon. Member mentioned that this may not be necessary. He mentioned that there is support for this from the Canadian Bar Association. If we do not have a definition of property, I can understand why the Canadian Bar Association would be in favour of it, because it will make millionaires out of many of them.

The Hon. Member is correct in stating that the term "property" has evolved. One can look at history, back in the 1780s, the time of the drafters of the Declaration of Independence in the United States, and read about the disagreement between two such prominent men as Thomas Edison and James Madison and their definition of property and whether it should be included in the Constitution. At that particular time, they could not agree. It was a very dicey point even at that time, although subsequently through amendment it has been included in the Bill of Rights in the United States. We have had this evolution of what is property. Initially it was narrowly termed as real property, the ownership of land. Now it means other things such as personal property and intellectual property. There are also rights in personal property and intellectual property.

For instance, people who are entitled to an Old Age Security pension, Canada Pension, or unemployment insurance have the receipt of those cheques and that is their personal property. That is not only personal property but it is a right that they have to receive that personal property. So there are rights not only in real property but in personal property.

The Hon. Member for Kitchener (Mr. Reimer) also correctly stated that we are now talking about property in relation to intellectual property such as patents and copyrights. That is very true. Of course, if a person has a patent or a copyright, they have every reason and every right to be able to depend on the fact that that will stand up and that the law will enforce that right. So there has been an evolution, and the definition continues to evolve. It is very important that we define property, and know from the outset exactly what property we wish to include.

There also are other aspects of property. As government becomes more involved in the lives of people, with incorporations, licences, and the list goes on, the definition of property continues to expand.

As the Hon. Member states, there is a very strong segment of people in Canada who believe that property should be included. There is also a strong segment of people who believe that property should not be included. A lot of people go by the old axiom, "If it ain't broke, don't fix it". We do have property rights in this country, and those property rights to be rights do not have to be included in the Charter of Rights and Freedoms.

The courts have passed judgment on this. I wish to refer to a case in 1975, *Harrison v. Carswell*, where it states:

Anglo-Canadian jurisprudence has traditionally recognized, as a fundamental freedom, the right of the individual to the enjoyment of property and the right not to be deprived thereof, of any interest therein, save by due process of law

That is a Supreme Court decision. The Supreme Court has come out firmly on the side of property rights. While property rights are not enshrined in the Constitution, they are definitely rights in this country.

We must also look to Section 26 of the Charter of Rights and Freedoms which states, "The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights and freedoms that exist in Canada".

In the Charter of Rights and Freedoms specifically set out is the statement that because the rights of property are not included in the Charter of Rights and Freedoms, that does not mean that they do not exist. Nor is there anything in the Charter of Rights and Freedoms that would say that these rights do not exist. That is very important.

We must also look at the history in Canada. The Hon. Member may talk about other countries, but in Canada we have had a unique situation in that we patriated our Constitution when we were fairly well advanced in our history, after we had been a country for over 100 years. We had this Charter of Rights and Freedoms well after we had been a country for over 100 years. So there is a good body of civil law and common law which looks after the rights of Canadians with respect to their property. This has evolved, and is evolving.

Canadians should not be concerned in any way about the fact that property rights are not enshrined in the Charter of Rights and Freedoms. Their rights to property remain sound and inviolate. We must keep that in mind. I can appreciate the concern of the Hon. Member. I do not agree with him that this is a necessity, and I think that there are many who do not. However, if he feels it is something he wishes to pursue, I would encourage him to take it to his colleagues in caucus, the Government, and the provinces. If there is to be any meaningful change, it has to be aired with the provinces, and the provinces have to come along as equal partners in trying to make this change.

Mr. Lorne Nystrom (Yorkton—Melville): Mr. Speaker, I wish to say a few words on the motion put forward by the Hon. Member for Kitchener (Mr. Reimer). The motion is for the

enjoyment of property. It states that it is to amend the Constitution of Canada in order that Section 7 of the Canadian Charter of Rights and Freedoms read:

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

I very strongly oppose this. I wish to confirm what the Hon. Member for Kitchener said that it was the NDP that scuttled this in 1981. I was proud at that time to be the NDP constitutional spokesman when this happened. If the Member for Kitchener wishes a reference on exactly when it happened, it was at the committee stage of the hearings back in 1981, and I believe it was on November 1, which was a Friday. I remember that day very well when the Acting Minister of Justice accepted an amendment from the Conservative Party. The Hon. Member from Burnaby and myself talked out the clock. We consulted over the weekend and persuaded the Prime Minister (Mr. Mulroney) to drop this. I wish to explain some reasons why we did that.

I went over my remarks to the committee at that time, and one of the things I said was that one of the most persuasive arguments against property rights in the Constitution was put forward by a Conservative Justice Minister named Horst Carver, the Minister of Justice for Prince Edward Island. He came to our committee and was extremely persuasive when he said that, if property rights were enshrined in the Constitution of Canada, he was afraid that the provincial rights in this country would be jeopardized and tampered with. Foreign ownership regulations and laws in Prince Edward Island over the restriction of farmland and the restriction of the purchasing of tourism land by foreigners would be put in jeopardy. He was afraid that if property rights were in the Constitution, as stated in the motion where it talks about the enjoyment of property and persons enjoying their property, this would be a wide open invitation to Americans to buy farmland in Prince Edward Island, buy recreation land, corporations could do so, and it would be a great invasion of provincial rights.

• (17:40)

I also recall some Albertans in the Conservative Government of Peter Lougheed making a similar argument without as much passion about why we should not be doing this. Of course the NDP Government of Allan Blakeney did the same thing. I am very proud to have been the NDP spokesman in those days when we scuttled that extremely reactionary and retrograde move by the Conservative Party, a move which would have been a great invasion of provincial rights.

I am happy that it is a constitutional amendment and that it must be approved not only by the House of Commons and the Senate of Canada but by seven of the ten provinces representing 50 per cent of the people.

I make it very clear that Albertans under Lougheed, P.E.I. Conservatives, and many other Conservatives in Canada at the provincial level do not support it. I am very pleased that this kind of amendment will not go through.

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I want to explain why it should not go through. As I said, it was proposed back in 1981. Mr. Bennett, the Premier of British Columbia, repropoed it in 1983. It failed to get through the Premiers despite the fact that there were many Conservative Premiers in the country. I am very proud that it went down to defeat.

I come from the Province of Saskatchewan. There has been tremendous intervention in its economy by Governments of Saskatchewan, such as the take-over of potash mines and things of that nature over the years. This kind of constitutional amendment may have prohibited that kind of intervention in the economy, in that that kind of prohibition would have been opposed by an overwhelming number of Saskatchewan people. I am not only talking about New Democrats. Saskatchewan has a Conservative Government now which maintains the Saskatchewan Potash Corporation. The very right-wing Government of Liberal Ross Thatcher, who was more conservative than most Conservatives, maintained Crown corporations in Saskatchewan. They are a very important part of our heritage. I do not want to see that heritage jeopardized by a Supreme Court decision which says that a person may enjoy property rights when that person might be an American company which would prohibit us from expanding the Saskatchewan Potash Corporation or indeed Saskoil.

Another example is the Province of Quebec. Quebec intervened in the asbestos market. The federal Government has intervened in the oil market with Petro-Canada. In 1984, the Government expanded the role of Petro-Canada through the takeover and purchase of other oil companies. That might be put in jeopardy by property rights being enshrined in the Constitution of Canada.

I have already mentioned Prince Edward Island and the very passionate stand taken by Horst Carver, the Conservative Minister of Justice of that province. I assume Joe Ghiz, the present Premier, would take the same stand on behalf of Prince Edward Islanders.

I think this kind of amendment is very dangerous for ordinary people or ordinary citizens, small businesses, and farmers. I say that as a person who said back in 1981 that I wanted to see economic rights put in the Constitution. At that time I said that we should have economic rights in the Constitution—the right to a job, the right to an income, the right to medicare, the right to decent wages, the right to own a farm, the right to own a small business, and the right to own a home. I am very much in favour of those rights for ordinary people, but I am not in favour of the amendment before the House today.

I have already mentioned some of the reasons I am not in favour of the amendment. However, let me point out that there would be no guarantee if we had the amendment in the Constitution. "Everyone has the right to life, liberty, security of the person" is already there, and the Hon. Member would like to add the following:

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—and enjoyment of property, and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

I know how the Supreme Court of Canada can interpret that.

Mr. Reimer: Mr. Speaker, I rise on a point of order. I know that the Hon. Member does not wish to suggest something that is not so. The only words that are being added to Section 7 are the words "enjoyment of property". The rest is already in there.

Mr. Nystrom: Mr. Speaker, it was totally inadvertent on my part. I know Section 7 of the Charter. I was a member of the committee this past summer, and I am very familiar with the Charter of Rights and Freedoms. Section 7 reads:

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

What the Hon. Member would add is "enjoyment of property". However, I am concerned about interpretation by the courts.

You are a very distinguished lawyer and member of the Bar of Quebec, Mr. Speaker. In that you are sitting in the chair, of course you cannot comment, but I am sure you could probably give us some very interesting opinions on this point. There is no guarantee at all that the Supreme Court of Canada and other courts would not interpret the protection of property in such a way as to rule out a wide variety of government initiatives aimed at, for instance, improving the workplace, regulating technological change, regulating labour relations, restricting the right to pollute, safeguarding the environment, protecting tenants and all kinds of other rights which workers, tenants, and other ordinary Canadians might have.

It seems clear that these and other government actions could be construed as affecting the right to the enjoyment of property. Not only is there the fact that one has property, but one has the right to enjoy that property. What does that mean in the courts of Canada? "Enjoyment of property" are very elastic words, and this is what Horst Carver, the Conservative Justice Minister of Prince Edward Island, was concerned about.

I should also like to note the so-called due process clauses in the Fifth and Fourteenth Amendments in the United States Constitution. Between 1905 and 1937 in respect of these clauses "to strike down laws providing for minimum wages, maximum hours of work and maximum prices, and prohibiting anti-union activity", the court reasoned that such laws were unjust denials of the employer's liberty to bargain with his employees and control the use of his property. I think these are points which we should note.

What does the word "everyone" mean? I ask that question of the Hon. Member for Kitchener. I know he has very good intentions in his motion. I do not question his motives whatsoever. However, what does the word "everyone" mean? What does the word "property" mean? These words can have broad

definitions by Supreme Court justices over whom neither he nor I have control once it is out of the domain of Parliament. It is not so much that we are taking control out of the hands of Parliament. We are taking control out of the hands of the provincial legislatures of Canada and giving it to the Supreme Court of Canada. That is what I do not like about the particular amendment. The word "everyone" could be a Japanese investor, an American investor, a Canadian company, CPR, the Hon. Member for Kitchener, or anybody. Again I say that it is one of the things I do not like about the amendment before the House today. It almost certainly includes corporations.

What about the word "property"? Property includes the rights to control and dispose of a very broad range of assets and so on. That also concerns me. As I said before, it falls under provincial jurisdiction. I do not think that we in the Parliament of Canada should initiate a constitutional change which affects the provinces almost exclusively. Of course we have that right. The Hon. Member has that right. However, I do not think that we should be the ones to initiate it. It is in their domain. If they want changes, they should be initiating the particular move.

Once again I appeal to my friend who comes from a Party which has always stressed that provincial rights are important in rethinking this position. I could go on and on, but I see you signalling, Mr. Speaker, that my time is up. As I said, I think the resolution would do more harm to the rights of ordinary Canadians and do more to protect the rights of big companies and big investors, including many foreign investors. It would also take away many of the rights of provincial legislatures to do what they want with their resources and their farmland. I have already mentioned the case of Prince Edward Island and Saskatchewan, but I see that my time is up.

Mr. Jim Jepson (London East): Mr. Speaker, indeed it is a pleasure to rise to participate in debate on the motion of the Hon. Member for Kitchener (Mr. Reimer). I commend him for his initiative in bringing an extremely important matter to the attention of the House.

I know that with the Hon. Member's heritage the matter is important to him. He appreciates even more how precious property rights are to many, if not all, Canadians. Many of his constituents have come from persecuted countries, and I know how important the motion is to them.

Since being elected in 1984, I have made no fewer than five interventions in the House of Commons on the inclusion of property rights in the Charter of Rights and Freedoms. Many individuals have chosen Canada as their new home because of the freedoms which we enjoy to work hard and to acquire wealth and property. It is difficult for me to understand why in 1981-82 the NDP would not allow the inclusion of property rights in the Charter.

A recent poll commissioned by the Canadian Real Estate Board showed that eight out of ten Canadians said that it is

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either fairly or very important to put property rights into the Charter. This support is consistently high across Canada.

Again I commend the Hon. Member for Kitchener, and I am honoured to have seconded his motion to have property rights enshrined in the Charter.

Mr. Rob Nicholson (Niagara Falls): Mr. Speaker, I am very pleased to join in the debate. I congratulate the Hon. Member for Kitchener (Mr. Reimer) who has, not only on this occasion but on a number of occasions, brought forward a number of important subjects for debate in the House. I congratulate him for that. I think it is a good reflection on the people of Kitchener that they had the foresight and wisdom to send this individual back to Parliament a second time.

• 11:30

Constitutional change as proposed by the Hon. Member for Kitchener is very timely inasmuch as we have also been discussing the Meech Lake Accord. I will say in passing that I believe the Meech Lake Accord sets a new tone for co-operative and constructive federal-provincial relations. The Accord has shown that constitutional change is possible in Canada when it is done collectively and in co-operation with the provinces, and I am sure that this is what the Hon. Member for Kitchener has in mind.

At the outset I would like to emphasize that in my view property rights have played a central role in the evolution of our society. Indeed, property rights are an essential part of British parliamentary democracy. These rights can be traced back to the year 1215 with the signing of the Magna Charta. Today the right to own, use and enjoy property is fundamental to the economic life of our country and of other western democracies. For that reason I believe it should be enshrined in the Charter of Rights and Freedoms.

The role of property in the economy of our country, the right to own, use and enjoy property, is fundamental to the basic feature of democracy, which is individual freedom. As you are aware, Mr. Speaker, the Progressive Conservative Party has had a long and honourable association with this idea. It was the Conservative Government under the late Right Hon. John G. Diefenbaker who in 1960 introduced the Canadian Bill of Rights which included protection for the enjoyment of property. In the recent process leading to the patriation of the Constitution, it was the Progressive Party again that wanted the inclusion of property rights. Unfortunately that process was not included at the end, and I am very pleased that the Hon. Member for Kitchener has come forward in an attempt to correct the situation.

There have already been a number of discussions and debates about this question. I am the first to admit that questions concerning the Constitution are never simple. They are usually difficult, but I do not think that as a result of that we should shrink from the task.

The Member from the New Democratic Party says that the definitions of property are very complicated. I agree with that. We have real property which concerns land. We have personal property which deals with everything from cars to negotiable instruments. Just because the definition of property is very broad and it will, of necessity, have to be interpreted by the courts there is no reason not to embark on the course, a very important one, to have it included within the Charter of Rights.

I say the motion before us would add the enjoyment of property to Section 7 of the Charter thereby guaranteeing the right not to be deprived of the enjoyment of property, except in accordance with the principles of fundamental justice. In conjunction with that, it is reasonable, I believe, to say that what we are talking about is the unreasonable deprivation of an individual when it comes to property rights. I would suggest that some of the fears I have heard enumerated here that people's rights will be trampled on by the rights of the Government to conduct the business of either the province or the federal Government are misplaced. I do not think that is what we are talking about at all. It is not the intention of the Member from Kitchener. He wants to strike a reasonable balance between the property rights of the individual and the legitimate concerns of the state. I would not feel so strongly about this if I had not seen examples in Canadian history where property rights of the individual had been trampled upon.

You would be aware, Mr. Speaker, coming as you do from the Province of Quebec, of all the problems that surrounded the expropriation of land for Mirabel Airport. The facts are this: much more land than necessary was expropriated for the airport. Everybody knew it and acknowledged it. The people whose farms and homes were expropriated fought the issue for years, indeed decades, to do something about it. I became a believer in this resolution just on that issue alone because I always thought that if property rights had been enshrined in the Constitution, people would have had a legal access and would have been able to take a legal route to show and demonstrate to a court of law that their rights had been unnecessarily deprived. It was a very moving moment for all of us when the then Minister of Public Works—I was not there to see it, I saw it on television—spoke to all the farmers who had been deprived of their property and acknowledged—something that should have been acknowledged years ago—that a terrible mistake had been made. All the suffering all those years by those individuals was unnecessary.

Whether this motion goes through or not, I hope other Crown corporations take a long hard look at their property management system. We can start with the St. Lawrence Seaway which owns land in my area. I would suggest the St. Lawrence Seaway should perhaps take a look at how much land it has expropriated over the years. That company should look at the question in the light of what is reasonable for its requirements. I do not limit the issue to the St. Lawrence Seaway. Other companies should do the same thing.

Property Rights

If this motion had been passed and had been part of the Constitution, individuals would have had a remedy in law, and I think that is what we all want. I feel very strongly about this motion which has been supported by a number of organizations. On December 18, 1986 I was very pleased to present a petition spearheaded by the St. Catharines and District Real Estate Board. I know I was joined by the Members from Welland, St. Catharines, Erie and Lincoln, all the Members of Parliament from the Niagara Peninsula, in support of this very worth-while endeavour. This motion has the complete support of the Niagara Falls Fort Erie Real Estate Association. They have made representations to me as one of their two Members of Parliament who represent the area and have asked that we act.

I ask Hon. Members to begin the process of enshrining property rights in the Constitution. It is a long and difficult process but I know it will need the support of the provinces. It is long overdue and we should begin the process now.

Mr. Don Boudria (Glengarry—Prescott—Russell): Mr. Speaker, I will be very brief, not that I have much choice with the time that is left to us in this hour. I just wanted to make a quick remark to the Hon. Member for Niagara Falls (Mr. Nicholson).

The largest single expropriation in the history of this country was made by the Conservative provincial Government of Ontario in 1982 when it expropriated 10,991 housing units in the sale of Cadillac Fairview to Greymac Trust.

Mrs. Mailly: How can you compare that to Mirabel? This is a serious subject.

Mr. Boudria: The Member across who knows so little should listen a little more and perhaps if she is here many years, which is very doubtful, she could learn something. I want to tell the Member from Niagara Falls that I for one cannot support such an initiative for a number of reasons. The Conservative Party has no monopoly on virtue on this issue because of the expropriation to which I have referred. There are still preferred shareholders of Crown Trust, Seaway Trust and Greymac Trust in Canada who have never been properly compensated for the loss of their property confiscated by the Province of Ontario in that year.

[*Translation*]

Mr. Deputy Speaker: The hour provided for the consideration of Private Members' Business has now expired.

Pursuant to Standing Order 36(2), the motion is dropped to the bottom of the list of the order of precedence on the Order Paper.