

Property Rights

PRIVATE MEMBERS' BUSINESS--MOTIONS

[English]

CONSTITUTION ACT, 1982

SUGGESTED AMENDMENT TO INCLUDE PROPERTY RIGHTS

The House resumed from Thursday, October 15, consideration of the motion of Mr. Reimer:

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.

Mr. Deputy Speaker: The last time this matter was debated, the Hon. Member for Glengarry—Prescott—Russell (Mr. Boudria) had the floor.

Mr. Don Boudria (Glengarry—Prescott—Russell): Mr. Speaker, I am pleased to have an opportunity to speak. I have not had the occasion to participate in debate for such a long time.

The last time we discussed this motion, the Hon. Member for Kitchener (Mr. Reimer) had moved a motion suggesting that we consider amending our Constitution by adding the right to own property. I suppose that as a general principle, if I were to ask anyone for his or her initial comments on whether or not people should have the right to own property, the first answer would obviously be yes. However, looking at the issue a little further, one sees that the so-called right to own property does not in fact always exist. Perhaps there is good reason for this.

I bring to the attention of the House, for instance, the fact that a number of provincial government agencies have the right to expropriate property. That, of course, is necessary for the good functioning of Government in a civilized society.

There must be good and proper expropriation procedures to ensure that individuals are reimbursed in cases where expropriation is necessary. There must be evidence to suggest that such expropriation itself is necessary. Once those criteria have been met, expropriations can take place.

I recall that during my days as a Member of the Ontario Legislature this issue came up from time to time. Interestingly enough, one of the greatest opponents of property rights during the time I was there from 1981 to 1984 was in fact the Progressive Conservative Government of the Province of Ontario.

Sometimes people associate Tories with being great defenders of property rights. That, of course, is totally erroneous. Tories have no monopoly on virtue, as we all know,

Under the Bill, a person would commit an indictable offence and be liable to imprisonment for a term not exceeding ten years, or so I am told, when inducing, inciting or coercing a person who is or appears to be under age 18 to produce pornographic movies or material.

I think it is important to underscore the words "person who appears to be under age 18" because some people enjoy making pornographic material, perhaps in certain cases with individuals over 18, but they show or attempt to show that these individuals are much younger. They try to show them as being perhaps only 12 or 13 years of age.

I realize that in some cases it will be difficult to decide whether a person is shown as being younger than he or she actually is. But in certain cases, for example, how can one say that someone aged 19 is shown as being only 17? These are difficult cases. I am sure that those who will be responsible for dealing with these cases will use their judgment in such circumstances.

Still in most cases we see something really different. For instance, we see a young woman dressed and with her hair done to look as though she is 11 or 12, an attempt to show that she is much younger. In such cases I think the Bill should contain specific provisions to deal with these people, including indictable offences applicable to people who radically change their age or appearance in an attempt to appear much younger than they are.

Mr. Speaker, here is the position of our Party with respect to this Bill. First, in terms of principles, we agree that legislation is needed and that time has come for Parliament to take action in this field. It is no longer good enough to say that we reject any attempt to pass legislation, and this is why we want this Bill referred to a legislative committee as soon as possible.

Still it must be noted that we want to amend certain provisions, for example those which relate to erotica, for often there is confusion about what is erotic and what is pornographic.

We are also concerned about the great severity with respect to sexual relations which, in this Bill, are purely and simply forbidden. I would suggest that if there is no violence, and so on, showing a sexual relation in a film is not always necessarily pornographic.

Mr. Speaker, in the few moments I have left I should like to conclude by simply telling the House that I hope this Bill will be referred to the legislative committee as soon as possible so we can make the necessary amendments. I want the Bill to go ahead once the required amendments have been made.

[English]

Mr. Deputy Speaker: It being 2 p.m., the House will now proceed to the consideration of Private Members' Business as listed on today's Order Paper.

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nor should we compliment them for anything they are doing in this regard.

I could be partisan and say that we should not compliment Tories on anything at all, but far be it from me to raise an issue with that tone. I would never want to do that, even if I should.

Let us recall expropriations of the past. As far as I know, the biggest expropriation ever to take place in Canada was the expropriation of assets relating to the Crown Trust, Seaway Trust, and Greymac Trust companies by the Government of Ontario. That is interesting, considering the fact that a Conservative Member is proposing this property rights amendment, pretending that Tories are the great defenders of that issue.

Mr. Mitges: What about Mirabel?

Mr. Boudria: The Hon. Member across is talking about Mirabel. I am glad he is trying to draw a parallel between those whose property was purchased in an expropriation and those whose property was expropriated in the Crown, Greymac, and Seaway Trust matter and whose assets were never reimbursed. If that is a parallel, the Government across is even more frightening than I thought it was.

In that largest expropriation I have described, people's life savings were taken away. People who had invested their life savings in those corporations were left with nothing. Sure, those who had put their money on deposit managed to get their money back with the assistance of the federal Government through the Canada Deposit Insurance Corporation, but those who owned shares had their property expropriated, and the Government of Ontario said that it was necessary. It dealt with the issue for years and, as far as I know, it is probably still not all resolved even though it happened some four years ago.

Obviously the point I am making is that Conservatives are not totally virtuous and cannot claim virginity as it pertains to expropriation without due compensation.

There are other things about property rights that merit our attention. For instance, we know that in some jurisdictions property rights have in the past been interpreted by courts of law as meaning that someone who owned a factory could actually have the *de facto* legislative power to prevent workers in the factory from unionizing or associating. If a property rights clause were entrenched in the Charter, it would do more than simply protect from expropriation those who own real estate. It would do more than protect those whose property had been expropriated without due compensation by Conservative Governments of the past. It could be interpreted in many ways that would deny other rights based on the fact that property rights would supersede those other rights.

Although many people are in favour of the entrenchment of property rights in our Constitution, I must say that I am very concerned about its possible effects.

Mr. Stan Darling (Parry Sound—Muskoka): Mr. Speaker, I am very pleased to have the opportunity this afternoon to speak on the motion moved by my colleague, the Hon. Member for Kitchener (Mr. Reimer). The motion states that property rights should be included in the Constitution.

Canadians from all across Canada support the idea of including property rights in the Constitution. Like my colleague from Kitchener and many others, I believe that it is extremely important to amend the Constitution so that property rights are protected.

It has been a long-standing policy of this Party that property rights should be well protected. We tried to get it into the Constitution, but the Liberal Government, dealing with the NDP, did not want to protect the rights of Canadians during the historic Constitution debate.

Property rights were included in the Magna Carta of 1215, the English Bill of Rights of 1627, the fifth and fourteenth amendments to the American Constitution of 1791 and 1868 respectively, and in 1948, the United Nations saw fit to include property rights in the Declaration of Human Rights. In 1960, the Canadian Bill of Rights also included the protection of property rights. In 1972, the U.S. Supreme Court confirmed once again the need to have this right entrenched. It declared that property does not have rights, people have rights.

• (1410)

A fundamental interdependence exists between the personal right to liberty and the personal right to property. Neither could have meaning without the other. That property rights are basic civil rights has long been recognized. The UN Universal Declaration of Human Rights, which Canada signed in 1948, stated that everyone has the right to own property individually as well as in association with others. It also said that no one shall be arbitrarily deprived of his property. It is therefore important that we amend the Constitution to let the world know that Canada offers everyone his or her basic rights.

At this time provincial Governments may pass legislation which, in most people's minds, violates property rights, and our judges would be powerless since that would not violate a protected constitutional right.

History has shown that property rights mean more than simply a right to own land. It is not impossible to conceive the idea that social programs like social assistance, chattels, personal property, and patents could be challenged. At this time our Constitution does not protect us, and the courts may find it difficult to disregard one type of property yet allow another.

Some in this House would not want this type of protection for fellow Canadians. It is interesting to note that at this very moment in the Soviet Union, citizens are being given the opportunity to own enterprises, albeit a limited amount. Nonetheless, they are moving in our direction.

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Since 1981 this Government has been seeking changes in the Charter of Rights. Unlike the previous Government, the Conservative Government sees its responsibility and it would be dishonest, morally and intellectually, not to seek changes that will ensure our rights in all facets of life, including the enjoyment of property. It should not be left to the whims of arbitrary interpretation. It must be entrenched in the Constitution.

Let me state again that the individual must have a right to not be deprived of his or her property except in accordance with the principles of natural justice. However, we need as well to ensure that someone will receive fair compensation should the need arise, and public interest overrides private interest. At this time we have no safeguards against unjust compensation. In the case of expropriation, we need to make sure that people displaced because of the public interest are treated fairly.

The previous Government at times forgot its responsibility to the people in a mad dash to erect white elephant airports like Mirabel and Pickering. We need to ensure that these problems do not occur again. In the case of Pickering, we are all well aware that the airport was eventually cancelled and somewhere down the road the property owners were given a chance to repurchase their property if they were interested in doing so.

Recently the Real Estate Association of Canada commissioned a Gallup poll which indicated that a great majority, 81 per cent, of those questioned believed it was fairly or very important that we amend the Constitution in order to protect our property rights. I suppose I must declare more than a passing interest in that subject since I have been a real estate broker for 40 years, give or take, and am therefore well aware of how important it is that a purchaser have clear title to the property. Certainly they would have a lot more peace of mind if they know that their property cannot be expropriated by any level of Government.

This right should be in the Constitution. This Government, in its ongoing endeavours to provide Canadians with responsible Government, will ask the House to vote in unison to accept this motion.

Again let me commend the Hon. Member for Kitchener on bringing forward this motion. I hope this House gives very serious consideration to voting in the affirmative because people do not want to be subject to the will of any Government with respect to owning property, no matter at what level.

I am aware, as the previous speaker said, that there are times when one level of Government will have its eye on a particular piece of private property. Of course, it could be for something that was in the public interest, but in those cases I feel the owner should be well compensated for having to give up his property.

Mr. David Orlikow (Winnipeg North): Mr. Speaker, as I listened to the Hon. Member for Parry Sound—Muskoka (Mr. Darling), he reinforced my understanding that what we have

here is the setting up of a straw man by the supporters of this Bill so they can knock it down. No one questions the right of individuals or companies in Canada to own property. We have now come to a point where the majority of Canadians own their own house. They may still have a mortgage on it, but they own it, and no one questions that right. It is because no one questions that right that we believe there is absolutely no need to amend the Constitution or put a clause in the Charter of Rights guaranteeing people the right to own property.

When property is purchased or expropriated by a federal or provincial or municipal Government, it is not done on a whim. When they believe it is necessary—and I will indicate some of the reasons why it may be necessary—they either reach an agreement with the property owner, or there is legislation which outlines the way in which a public body can move to expropriate the property it wants or needs. The case will be heard by a court which will rule on the validity of the move or on the amount of compensation, or anything else.

As the Hon. Member for Glengarry—Prescott—Russell (Mr. Boudria) indicated—and I wish the Hon. Member for Parry Sound—Muskoka had listened—the Conservative Government of Ontario, when this matter was being discussed in Parliament, advised us of its opposition to entrenching property rights in our Constitution, as did most of the other provinces, as would most cities, and as would any federal Government which was realistic and honest.

• (1420)

For example, suppose Ottawa grows to double its size and it becomes necessary to extend the length of the runways at the airport. They may well have to expropriate some land now owned by a farmer which abuts the Ottawa airport property. In Winnipeg the airport is right in the city and, if the runways have to be extended, property may have to be purchased. If this proposal is entrenched in our Constitution that may be very difficult. A court may rule that the federal Government does not have the right to expropriate the land.

In my Province of Manitoba there are repeated proposals, requests, and demands that the highway from Winnipeg to the American border be widened to four lanes. If that proposal is approved by a Government of Manitoba, of whatever political stripe it may be, such a clause as this in our Constitution may create tremendous difficulties or even make it impossible for the province to do that.

During the time of Conservative Governments in Ontario, Highway 401 was almost doubled in size. I am sure that a great deal of property had to be purchased. I have no direct evidence of this, but I would be very surprised if there were not property owners who were dissatisfied with the offer made by the then Government which required the Government to take measures through expropriation. The ability to take such actions is needed by cities as well which also have to improve roads and bridges and build new schools.

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With such a clause in our Constitution we may see a time when the courts would strike down the initiative of Governments to improve safety in the workplace or to make technological change. Inspectors from relevant departments may tell a factory owner that the heating system of his building does not provide the necessary quality of air and that he has to make major or minor changes. However, under this kind of clause an owner may say that he is not prepared to make such changes and that to be forced to do so is an infringement on his right to own the property and deal with it in the way in which he wants.

This could interfere in a marked way with the ability of a province to implement pollution control systems. These are only a few of the reasons we should not pass this resolution.

The Government prides itself in its determination to deal fairly and co-operatively and to consult with the provinces. To include a clause such as this in the Charter would be a massive intervention in the rights of the provinces. Under our Constitution the federal Government is given certain areas of jurisdiction as are the provinces. One of the major areas of provincial jurisdiction since Confederation is over property. To put property rights into the Constitution would interfere with the right of the provinces, as spelled out in our Constitution, to deal with property and property rights.

I have seen no evidence that the rights of individuals or corporations to own and manage their property has been unduly interfered with by Governments at any level. The present laws protect property rights in a legitimate way. This proposal is not only unnecessary but would create very dangerous and difficult problems for Governments at the federal, provincial, and municipal levels. Therefore, we ought not to pass this Bill.

Mr. Ross Belsher (Fraser Valley East): Mr. Speaker, it is indeed an honour for me to speak today on the motion which the Hon. Member for Kitchener (Mr. Reimer) has placed before the House. The motion seeks to amend Section 7 of the Canadian Charter of Rights and Freedoms to include the enjoyment of property.

I am in support of this motion as are several of my colleagues on this side of the House. Even though the Canadian Bill of Rights includes the enjoyment of property, it is only a statement of general principles and does not confer real rights. In the final analysis, this right in the Bill of Rights remains an ordinary common law principle which is incapable of actually protecting property rights.

The Charter of Rights and Freedoms has been accorded a constitutional status capable of overriding federal and provincial legislation. Unfortunately, it is deficient in the field of property rights. The deletion of the right to property in the 1982 Charter of Rights may have been a Liberal Government side-step to avoid an issue which was so strongly opposed by the New Democratic Party and the provincial Governments

whose legislative authority from the 1867 Constitution Act could have been affected.

Even today the Hon. Member for Winnipeg North (Mr. Orlikow) alluded to how his Party is still against the legitimate right of individuals to be the owners of property.

It looked for a time in 1982 as though the Government of the day would have the sense to include the Conservative amendment to add "the right to property and the right not to be deprived thereof". The Liberals withdrew their support of the amendment on January 26, 1981. They caved in.

I am happy to say that the Government of the Province of British Columbia passed a motion on September 21, 1982, which authorized the amendment of Section 7 to include the enjoyment of property. However, that is but one province.

Having spoken to many people on this issue over the past three years, it is obvious to me that many Canadians want the right to enjoy property entrenched in our Charter at a national level. One can compare the situation of not having this specific right in the Charter with the notion that someone has the ability to print a newspaper without having the right to own the printing press. We need the assurance of this right.

Ownership is conducive to an individual's independence, freedom, and happiness. A man's house is his castle. However, what happens when he does not have the right to own that castle? From earliest times property has been defended. Aristotle expressed a strong defence of property and advanced the idea that private property is ordained by natural law and that ownership is conducive to progress. According to this famous philosopher, ownership of property promotes the growth of character because two important virtues result from it—self-control and liberty.

• (1430)

Property is a source of pleasure. Throughout history those supporting absolute democracy, such as Jean-Jacques Rousseau, considered property necessary for the well-being of individuals and society, and thus should be protected by law.

The motion we are discussing today must go through the process of constitutional amendment, if it passes the House. The process might be lengthy. Nonetheless, the process is necessary.

The right to property is a prerequisite for incentive and human progress. It has the support of a great many Canadians, and I hope that we in this Chamber have the foresight to pass the motion and get on with entrenching our right to the enjoyment of property in the Canadian Charter of Rights and Freedoms.

Again, I compliment the Hon. Member for Kitchener for bringing forth this motion. I support it whole-heartedly.

Mr. W. Paul McCrossan (York-Scarborough): Mr. Speaker, I am pleased to rise and support the motion proposed by the Hon. Member for Kitchener (Mr. Reimer) to install

property rights in Section 7 of the Charter of Rights and Freedoms.

This is a very important concept and one which most Canadians believe is already theirs within the Constitution. When I talk to people at public meetings they are very much surprised that they do not have this right. The overwhelming majority want to ensure that such a right is entrenched in the Constitution quickly.

Of course, there are many precedents of countries establishing the right to own property as a basic right. Indeed, the United Nations has established such a right. In our common law history, this goes back to the Magna Carta in 1215 and was reconfirmed in 1627 in the English Bill of Rights. It was one of the early amendments to the U.S. Constitution and has been a fundamental right in the United States for well over a century.

In 1948, Canada implicitly recognized the right by signing the United Nations Universal Declaration of Human Rights. Article XVII 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.

As I said, many other countries have formally recognized the right to own property in their Constitution. These include the United States, Australia, West Germany, Italy, Finland, and Sweden. Many national organizations, including the Canadian Bar Association, have stressed the need to add property rights to the Canadian Charter of Rights. Other organizations include the Canadian Chamber of Commerce and the Canadian Real Estate Association.

Canadians have been polled on this issue. In addition to my personal experience, a national Gallup poll shows that 81 per cent of Canadians feel that it is either very or fairly important to them that this right be added to our Constitution.

Some people say that we already have property rights in the Canadian Bill of Rights. That is true. The Canadian Bill of Rights, proposed by Prime Minister Diefenbaker, was an important landmark.

However, the Bill of Rights is simply a statement of general principle. It does not in itself confer or create real rights. The Charter of Rights which this motion is seeking to amend indeed overrides all other laws in the country, subject to reasonable limitations.

Indeed, property rights were almost in the Charter of Rights in 1981. On Tuesday, January 20, 1981, the Conservative Party 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 the amendment on behalf of the then Liberal Government. However, that Sunday evening, the Leader of the New Democratic Party (Mr. Broadbent), having conferred with his caucus and provincial

counterparts in Saskatchewan, informed Canadians on national TV that the NDP would withdraw 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. I can understand the NDP opposing property rights since it appears to be part of their national platform to expropriate property without reasonable compensation.

Mr. Benjamin: Go to hell! You have got to be kidding. If you believe that, you believe in the Easter bunny.

Mr. McCrossan: There are certainly sections in their national platform about nationalizing banks.

Mr. Benjamin: That is an insult. It is not without compensation.

Mr. McCrossan: It certainly is there. Furthermore, if they do believe in the principle of expropriation with reasonable compensation, they should be the first to be up to support this motion, because the only thing that this charter privilege conveys is indeed that absolute right to have reasonable and full compensation for property.

The Hon. Member for Winnipeg North (Mr. Orlikow) said in his speech that no one questions the right to own property in this country. The point is that Parliament itself has questioned the right to own property in this country, on several occasions.

I am sure all Members are aware of how property has been expropriated without proper compensation in establishing national parks. Certainly there has been a case in the media within the last few weeks about a person in the Maritimes who has been holding out for proper compensation because an Act of Parliament deprived him of his property without proper compensation.

The National Energy Program was an Act of Parliament, supported by the NDP, which expropriated property in the gas and oil sector in the North and in Hibernia without proper compensation. The point is that without charter protection, Parliament itself can and has acted, supported by the NDP, to expropriate property without compensation.

The Hon. Member for Winnipeg North suggested that somehow it will not be possible to extend a runway or carry out the necessary expropriation for a municipal or provincial highway. That is simply wrong. Everyone knows that the Charter of Rights and Freedoms states:

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 do not think there is any doubt that any court would rule that the Government had the right to expropriate where there was a legitimate government need. The question is one of compensation when the property is expropriated, and whether Parliament itself can legislate to expropriate without proper compensation.

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Similarly, I think the Hon. Member's suggestion that we cannot bring in pollution standards or air control standards if we pass this motion is the reddest of red herrings. The United States has this right in its Constitution, and it does not seem to stop that Government from building airports or interstate highways. It does not seem to stop it from bringing in pollution controls.

These arguments that somehow government will be ground to a halt if property rights are conveyed on Canadians are absolutely specious.

I believe the will of Canadians deserves to be heard in this case. Canadians want property rights. Property rights are viewed as a fundamental right by Canadians and should be entrenched in our Constitution. I will support the motion when it comes to a vote.

• (1440)

Mr. Les Benjamin (Regina West): Mr. Speaker, I rise to oppose this motion. Because of the record of the CCF and the New Democratic Party on human, civil, and property rights since 1933, I take it as something of a personal insult.

I ask my hon. friend opposite—who was it when not a single Liberal or Tory would speak up, who stood in the British Columbia Legislature and in the Parliament of Canada and opposed what was done to the Japanese Canadians in 1942? Every single Grit and Tory said their land, property, and machinery could be seized, and most of them did not get any of it back. Where were these “enjoyment of property” Tories then? They were the ones who stood and supported a Liberal Government. If it had not been for Harold and Ernie Winch in the British Columbia Legislature, and J. S. Woodsworth and Angus MacInnis in the House of Commons, no one would have said a word. Yet those Hon. Members have the gall and the nerve, without the courtesy of blushing, to talk to us about the enjoyment of property!

I invite my hon. friends to examine the record of CCF and NDP Governments in Saskatchewan, British Columbia, and Manitoba, on having the best and fairest of expropriation laws with compensation anywhere in the country. We do not need these fatuous insults from the hon. gentleman about our record on human, civil, and property rights. It was the people in our movement who fought against the grasping, racist activities of governments of past years. We were the only ones who stood up to be counted.

Who opposed the War Measures Act in 1970? The War Measures Act allowed the takeover of property, the search of persons and property without warrant, arrest without warrant, and incarceration without charges. Every Tory who talks about the enjoyment of property has the unmitigated gall to come into this Chamber and tell us how they want the enjoyment of property. I can go back to the not too distant days when I was a kid, the days of R. B. Bennett. I challenge my hon. friends opposite to start some move with all the Tory Governments in Canada, federal and provincial, to do something about

expropriation laws, and we have a mess of them, right across the country. In some provinces they are unfair and mistreat people and do not do what the motion calls for except in accordance with the principles of fundamental justice.

Mr. McDermid: Why don't you support the motion, then?

Mr. Benjamin: Just wait for it. The changes in expropriation law and compensation, and who pays the legal costs, is where there is a denial of fundamental justice. No self-respecting Government, whether it is school-boards, municipal, city, provincial, or the national Government, can allow a private or individual interest taking priority and precedence over the public good or the public or national interest.

I resent these guys with the Texas or Oklahoma cowboy syndrome who import ideas from the great U.S.A. to the south. The next thing we know, they are going to talk about the right to bear arms. By the way, some of them have. I have run into some of these Neanderthals in various parts of this country. They want to imitate, copy, or ape what has been put forward by the Neanderthals south of the 49th parallel. Well, this country is different. It is something more than and better than the kind of nonsense that goes on to the south of us, or the kind of nonsense they want to provide here.

“Enjoyment of property” is a neat little phrase. When I received my last tax notice I was not sure whether I was enjoying my property very much.

Mr. McDermid: You can sell it.

Mr. Benjamin: I would not sell it to what could be called the atypical used car dealers I find seated opposite. I would not deal with them.

Mr. McDermid: What have you got against car dealers?

Mr. Benjamin: Let us go back to 1867. Had there been such a clause in our Constitution then, every time a school-board, city, province, or the federal Government had to do something in the public or national interest, it would have been faced with litigation at every level of the courts, right up to the Supreme Court. It would not have been faced by the little homcowner who could not afford to go to court. Every Government at every level would have been faced with the likes of those who want this kind of amendment to the Constitution.

The oil companies like it. These barefoot boys from Bay Street think it is great that the oil companies like it. They think it is great that the Real Estate Association likes it. They think it is great that big property developers like it.

The Government of Saskatchewan prohibited the development of a housing development beside the Regina airport, because those guys who were going to make a fast buck building homes would have put the houses right at the end of the runway if they could get away with it. We had to move in to overrule the city and the real estate developer and say, “No, you are not going to build. You are not going to enjoy your

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property if it means putting up a housing development at the end of a runway at the Regina airport". Any responsible Government has to have the authority to put the public interest and good ahead of the grasping, greedy investors who speculate in property, buying, selling, and putting up developments.

We could ask the people of Prince Edward Island who opposed this. I do not know if they still have the law on their books, but they did have a law which opposed foreign ownership of land in their little province.

Mr. Gass: Mr. Speaker, I rise on a point of order. For the clarification of the Hon. Member who is speaking, anyone who lives in Prince Edward Island can own land in Prince Edward Island.

Mr. Benjamin: But, according to its law as I understand it, anyone who does not live in Prince Edward Island cannot. If this amendment went through, Prince Edward Island would not be able to implement its own laws.

Mr. Gass: Point of order.

Mr. Benjamin: That is not a point of order. The hon. gentleman can get up and make his own damn speech.

Mr. McDermid: Then quit telling untruths.

Mr. Benjamin: He can get up and correct me if I am wrong.

Mr. McDermid: That is what he is doing. Let him.

Mr. Benjamin: He cannot do it on phoney points of order.

• (1450)

Mr. Gass: Mr. Speaker, I rise on a point of order. The hon. gentleman just stated that the people who do not live in P.E.I. cannot own land there. That is totally untrue.

Mr. Deputy Speaker: There will be one minute left on the speech of the Hon. Member for Regina West (Mr. Benjamin).

Mr. Benjamin: Mr. Speaker, I recall the objections of the Government of Prince Edward Island in 1981, perhaps my hon. friend has a short memory. But this applies to every province.

We could not have forced the CPR and the Hudson's Bay Company in Saskatchewan to develop the mineral rights on which they had the leases. We prevented them from enjoying their property. They hauled us into every court in the land, but we beat the buggers anyway!

We could not have brought in a land-bank. The day will come when it comes back. How could we have got some of our national parks if there had been this type of clause in the Constitution? What difficulties would a province or a national Government have had through every court in the country?

The laws that we have are somewhat inadequate. The protection of individual ownership of property is there, but it is not good enough. If I were in the ranks of my friends opposite—heaven forbid—they would do something about improving expropriation laws in order that people were treated more fairly and equitably, and quit trying to ape the United States in our Constitution.

Mr. Dave Nickerson (Western Arctic): Mr. Speaker, I will never be able to understand how the brain works of the Hon. Member for Regina West (Mr. Benjamin), if indeed it works at all. The Hon. Member has presented some of the best arguments that I have ever heard in favour of putting property rights in the Constitution. For example, the dispossession of the Japanese Canadians during wartime, and the imposition of the War Measures Act and what that did to the property of people in Quebec at that time.

These are the best arguments we have had in favour of the proposition put forward today by the Hon. Member for Kitchener (Mr. Reimer), but the end position of the Hon. Member for Regina West is that he will vote against it. That is completely unimaginable.

I wish to give a little lesson in pre-history. At one time in the history of the human race on this planet—

Mr. Benjamin: Are you a member of it?

Mr. Nickerson: Like all good Conservatives, Sir. I have some doubt about some other people in the House.

Years and years ago property rights might not have been as important. I am talking about ownership of real estate, land, and buildings more than personal possessions. When people made their living by hunting and gathering, when they were engaged in nomadic herding, even to the stage where people were engaged in agricultural endeavour but moved from place to place and without permanently founded acreages, property rights probably were not thought about. The concept of ownership in land probably did not exist, because it would have no reason to exist.

When I talk to some elderly people in my constituency, it is sometimes difficult for them to understand the concept of ownership in land. As soon as society went to fixed agriculture, and later when we became an industrial society, that is the time when property rights probably became the most fundamental and important of all the human rights that we enjoy.

Today, whether or not we believe in property rights is the determinant of whether or not we believe in the freedom of the individual. People who own property and cannot be dispossessed therefrom are pretty independent people. It is difficult for the state to kick them around. For this reason, the idea of dearly held property rights has not been looked upon as being desirable by people in the employ of government, the professional bureaucrats, for want of a better word. They do not like the idea of independent people who cannot be easily persuaded to do one thing or another as the state might wish them to do.

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because they have that independence, they can make a living for themselves and are not dependent upon government. This is what property rights mean.

In the part of Canada that I represent, which is one of the most highly governed areas anywhere in the world, that lies in the back of the mind of the people who administer us there. They are very reluctant to let Crown land be sold, or even on occasions to let it be leased. They want to keep it in the collectivity, so to speak, instead of allowing individual ownership, knowing full well that once people become property owners they will demand that degree of independence.

Property rights are notoriously absent in the constitutions of Communist countries. That has not prevented people in those countries from still having that inherent desire to own something. I remember on several occasions talking to people in Moscow, and other cities in the Soviet Union. Their greatest pride and joy was their dacha in the countryside. They are not able to actually own it, but they can get some title or lease. They told me that what they liked to do more than anything else in the summer was to go out there and sit in their dacha. But they would really like it to be theirs, and not belong to this great collectivity. So even in countries where they have tried to stamp out property rights, it still keeps surfacing again and again.

Why is it not in our Constitution? It is not there primarily because of the opposition from the NDP. I understand that when we were discussing these matters in 1981 the Liberals

might have been in support of the motion that was put forward by members of the Conservative Party to enshrine property rights in the Constitution. But after what I assume was reflection, they decided to go along with our socialist colleagues.

Of course, if the fundamental element of party philosophy is that the means of production, which is of course largely land and buildings, should be owned by the state and not by the individuals, as if the individuals are not to be trusted to own this, then of course one would not want property rights in the Constitution.

In closing, I notice that British Columbia, New Brunswick, and Ontario have now passed resolutions along the lines suggested by the Hon. Member for Kitchener. Thus, despite the efforts of our Liberal and socialist friends, it looks like eventually we in Canada will also enjoy these fundamental property rights.

Mr. Deputy Speaker: The hour provided for the consideration of Private Members' Business has now expired. Pursuant to Standing Order 36(2), the order is dropped to the bottom of the list of the order of precedence on the Order Paper. Accordingly, the House stands adjourned until Monday next at 11 a.m. pursuant to Standing Order 3(1).

At 3 p.m. the House adjourned.

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by that Hon. Member, the Standing Committee on Employment and Immigration, made unanimous, all-Party, recommendations of a mechanism for ensuring far speedier access to the refugee determination process.

Yes, Canadians are concerned about queue-jumping. Canadians are concerned about abuse of the system. However, Canadians also want to ensure that in rejecting the abuses and those who would abuse the system and exploit individuals, we do not turn our backs on a tradition of concern for those who are genuine refugees fleeing from persecution.

It was on August 11 that Parliament was recalled to deal with what we were told was a national crisis. Canada was being invaded and the Government intended to take speedy action to deal with that invasion. The action it took, Bill C-84, has been condemned by virtually every group that appeared before both the House of Commons committee which studied the Bill and the Senate committee.

The business before the House now is the report of the Senate back to the House. The Senate heard from some 37 witnesses who gave a very comprehensive review of the issues involved in this important piece of legislation.

[*Translation*]

The Senate, for instance, heard testimony from representatives of religious communities and humanitarian groups, from people from all regions in this country, from the Canadian Bar Association, Immigration Law Section, from professors of constitutional international law, from civil liberties experts and private citizens. Mr. Speaker, the Senate has proposed a number of amendments to ensure that the Bill does not violate our obligations, not just our international obligations but also our obligations to the Charter of Rights and Freedoms. The witnesses who appeared before the Senate committee shared the view that the Bill was contrary to the principles of international conventions on refugees and probably also to the provisions of the Charter of Rights and Freedoms. The courts and court decisions support this view. In fact, the Senate's report suggests this position is supported by several decisions of the Supreme Court of Canada.

Mr. Speaker, Conservatives on the Committee signed this report, and one would have hoped Conservative Members here in the House would have responded to this appeal from their Senate colleagues.

Mr. Speaker, the Government has accepted several amendments proposed by the Senate, but it insists on rejecting other, essential amendments. For instance, it still refuses to accept amendments to Section 6, concerning men and women who work, for instance, with churches and humanitarian groups to help refugees.

Mr. Speaker, these amendments are aimed at protecting these people who want to continue to work in the best traditions of this country. Unfortunately, the Government has refused to accept these amendments. The Government suggests that the amendments will make it impossible to prosecute

successfully those persons who make money by organizing clandestine migrations and by advising individuals on how to make a fraudulent refugee claim. Mr. Speaker, that is not what the Senate says. In fact, it said that the Bill was a threat to Canadians who were not breaking the law at all! I am thinking of Paragraph 48 of the Senate's report, and I quote: "Bill C-84 would create offences with heavy penalties for knowingly organizing, inducing, aiding or abetting people to come into Canada without proper documents".

Mr. Speaker, many witnesses have strongly criticized the provisions concerning aiding and abetting, provisions that have also disturbed a great many Canadians.

[*English*]

Mr. Hawkes: Mr. Speaker, I rise on a point of order. The hour of five o'clock is rapidly approaching. If there were a predisposition on the opposition benches to conclude this item by not seeing the clock for a few minutes, the Government would certainly be willing to support that. I wonder if you could seek such unanimous consent.

Mr. Deputy Speaker: Is there such unanimous consent?

Some Hon. Members: No.

Mr. Deputy Speaker: There is no unanimous consent. Of course, the Hon. Member for Burnaby (Mr. Robinson) will be able to continue his speech whenever this matter is brought up in the House again.

[*Translation*]

It being 5 o'clock, the House will now proceed to the consideration of Private Members' Business as listed on today's Order Paper.

PRIVATE MEMBERS BUSINESS--MOTIONS

[*Translation*]

CONSTITUTION ACT, 1982

SUGGESTED AMENDMENT TO INCLUDE PROPERTY RIGHTS

The House resumed from December 4, 1987, consideration of the motion of Mr. Reimer:

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.

Mrs. Claudy Maily (Parliamentary Secretary to the Minister of National Revenue): Mr. Speaker, that issue of property rights has been a personal concern of mine for at least a decade.

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In 1979, when I ran for the first time as a Conservative, a group of Quebec candidates adopted as their basic political position, almost as a prerequisite to running for the Conservative Party, that property rights become part of any Progressive Conservative elections platform. As for my Party itself, it has had that concern for decades. We are all aware of the efforts made by the Right Hon. John Diefenbaker on the matter of property rights.

Now, Mr. Speaker, what is involved is not simply a matter of lofty principles, but rather practical matters. We know very well for instance that property rights are part of the balance between community and individual rights. Let me explain. The community of course has a right, as a society, to a healthy, positive development, but the individual also has the right to basically protect the principles inherited along with citizenship.

In 1981, during the Constitutional debate, Hon. David Crombie, now a Minister but then a backbencher, although not backward because he had very progressive ideas, stated on February 18, 1981: "Secondly, the Charter of Rights does not include property, as I mentioned earlier. The right to enjoy property is essential to people understanding not only of their rights but of their freedom and security. We put a motion to include property as a right; and it was voted down". The Hon. Member then criticized the approach taken by the New Democratic Leader when he suggested the Charter of Rights had to be enacted as put forward because of the need for change. And the Hon. Member went on to say: "The Leader of the New Democratic Party (Mr. Broadbent) said it is time for a decision, time for change. We have to act decisively in history".

As you see, Mr. Speaker, this principle was of major concern to many responsible members of our party.

I also want to quote the comments made by the Speaker of this House, the Hon. John A. Fraser, who was then Member for Vancouver South. He was asking the then Prime Minister, Mr. Pierre Elliot Trudeau, why, knowing that it would be useless to attempt negotiating to incorporate property rights in the Constitution, the Solicitor General, acting as Justice Minister, had made such a commitment. He also asked: "Is the Prime Minister really trying to make us believe that it was put forward to broaden consensus which the Prime Minister knew perfectly well did not exist?" I should add that the major issue of the day was to broaden consensus among the Opposition Parties. The Right Hon. Pierre Elliot Trudeau had replied: "Madam Speaker, the federal Conservative party seems to attach such importance to this matter" At which point someone had interjected: "You're damned right we do". To which Mr. Trudeau had replied: "The hon. member says, 'You're damned right we do'. I say that if they want that amendment so badly in the constitution, and they want it so badly that it should bind all the provinces as well as the federal government, then let them come and support us and maybe I will give up the support of the NDP." He was therefore willing to trade on a basic principle.

Mr. Fraser had then replied: "Madam Speaker, I remind the Prime Minister that the Conservative proposal is to put these provisions that we have been suggesting and working on to the provinces." In other words, we wanted the support of the provinces for a very basic principle because our party believed in the rights of the provinces as it believes in the rights of the individual.

As for Mr. Hamilton, who was then Member for Qu'Appelle—Moose-Mountain, he said the following in his speech on February 23, 1981: "The third point I wanted to mention was the right to enjoy property, which is the first item in the Diefenbaker Bill of Rights. Why any Liberal or NDPer would deliberately, in full public glare of television, radio and newspaper, stand up and declare that they did not want this entrenched in the Constitution is beyond me. Anyone who knows the history of the new world, South America, North America, Australia and New Zealand knows why people came to these lands. They came to enjoy the ownership of land. To the working man, that means his home."

Vince Dantzer, who was representing the Okanagan North riding at the time, stated on March the 2nd, 1981: "There are other flaws in this document, flaws due to the process and haste which has characterized the passage of this resolution. Where are property rights?"

During the committee hearings the hon. member for Provencher proposed the following amendment: Freedom from unreasonable interference with privacy, family, home, correspondence and enjoyment of property. These basic rights have been accepted in our tradition for hundreds of years. They appear in the Magna Carta. They were present in John Diefenbaker's bill of rights. Yet, the Liberal majority at the direction of the New Democratic Party retreated from the position of acceptance to one of rejection and refused to allow the charter to guarantee the right of Canadians to own and enjoy property. "A man's home is his castle", but not in Canada under a Liberal and NDP government." It is rather ironic, Mr. Speaker, because these days, the idea of a Canada under a Liberal and NPD Government is again fashionable.

Canadians could then remember that at that time, such a government prevented them from enjoying the right of property which is a very basic right, not only as a principle, but also as an economic right.

Everybody knows that the citizen who owns his own house, who has the joy and pride of possessing assets, will respect them, respect himself and his neighbour much more.

On the other hand, we often realize, when watching TV or reading the papers and magazines, the great many social and basic problems faced by people forced to live in the tenement sections of ghettos, such as those found in the major American cities, where a great many individuals, because they do not own any property or their own house, feel dehumanized and show the most complete disrespect for themselves, their neighbours and the premises they live in.

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Personally, Mr. Speaker, I feel that this old principle should be enshrined in the Constitution, but it is also something quite practical for us Canadians, because, as I said, it ensures the balance between the rights of the community and the rights of individual Canadian men and women.

[English]

Mr. Stan J. Hovdebo (Prince Albert): Mr. Speaker, Canadians should not be concerned in any way about the fact that property rights are not enshrined in the Charter of Rights. We have lived and now live under jurisprudence which has established an unwritten basis in law for property rights. Anglo-Canadian jurisprudence has traditionally recognized as a fundamental freedom the right of an individual to own and enjoy property, and the right not to be deprived of that property. This was established without being written into the Constitution.

• (1710)

Therefore, Canadians should not be concerned that property rights are not enshrined in the Charter of Rights and Freedoms. Their rights of property remain sound regardless of whether or not they are in the Charter. In fact, many countries believe that countries such as Canada, which have developed their law structure from the British parliamentary system and the British law structure and have established recognized rights, are in a better position than those which have them written into a charter such as is suggested here. When you include such rights in a charter, because it is sometimes necessary to abrogate those rights in some way, you have to make exceptions to them. As those exceptions develop the rights become less free than they would be if they were not written.

The Anglo-Canadian right to property has been confirmed by a Supreme Court decision. The Supreme Court came down firmly on the side of property rights. While they are not enshrined in the Constitution they are definitely the rights of the country.

Section 26 of the Charter of Rights and Freedoms 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.

The Charter of Rights and Freedoms specifically set out that the fact that the rights of property are not included in the Charter of Rights and Freedoms does not mean that they do not exist. There is nothing in the Charter of Rights and Freedoms which says that these rights do not exist. That is the basis upon which we in Canada live with the security that the property we own is there for our enjoyment.

This therefore seems like a little bit of overkill. Perhaps it is playing a little bit on the fears which people have of government and of what they see across the border where property rights are a little more subservient to the Government. Countries around the world look upon our situation with envy because we feel secure in our property rights and can fight

them in the courts without any suggestion that they are not secure.

In the process of discussing property rights we should also look at the history of Canada. We are in a rather unique situation in that when we brought our Constitution back we had the opportunity to decide what would be in it and what would be in the Bill of Rights. In the process of looking at what had happened over a period of 100 years the Parliament of the day accepted a Charter of Rights which did not include the right to enjoy property because it appeared to that Parliament, as it appeared to many people across the country, not to be necessary. In fact, the two strongest advocates of not including property rights in the Constitution were the then Premier of Alberta, Lougheed, and the then Premier of Prince Edward Island, MacLean—one a Conservative, one a Liberal. The third Premier who came down against the inclusion of property rights was Premier Blakeney of Saskatchewan. In the discussions regarding property rights in the Constitution the position of not including property rights was supported by a Conservative Premier, a Liberal Premier, and a New Democratic Premier, and by the parliamentarians at that time.

Parliament spent many months discussing the Constitution and finally accepted the position which was acceptable to the majority of people in the House of Commons at that time. Consequently, property rights were not included in the Charter of Rights.

I want to confirm that Canadians should not be concerned in any way about the fact that property rights are not enshrined in the Charter of Rights and Freedoms. Property rights have existed for 100 years in Canada and for several hundred years in the British tradition around the world. They have been challenged in courts and have never failed to be upheld. Consequently, I do not believe it is necessary to put property rights in the Charter of Rights and Freedoms.

Mr. Gus Mitges (Grey—Simcoe): Mr. Speaker, it is indeed an honour for me to have the opportunity to speak in support of the motion of my hon. colleague from Kitchener to amend the Constitution Act, 1982, to include property rights.

One of the two reasons I did not vote for the Constitution Act in 1982 was the fact that property rights were not included. The other reason was that the Charter of Rights and Freedoms gave no protection to unborn human beings. Many of us in the House at that time were very upset by those omissions in the Charter. We can see today, as a result of the decision brought down by the Supreme Court of Canada on Thursday, January 28, that unborn human beings are more and more discriminated against by not being included in the Charter of Rights and Freedoms. The Government of the day had no intention at any time to include unborn human beings in the Charter.

However, with regard to property rights, the Government of the day did in fact originally include property rights in the Constitution but later rescinded them. We later learned that

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the Government bowed to the wishes and pressures of the New Democratic Party to remove property rights from the final text of the Constitution. We know why the NDP took this action, Mr. Speaker. Members of the New Democratic Party were being true to their belief that all property should be owned by the state. The NDP believes that the state knows what is best and that the people of Canada should follow their lead with no questions asked. God help us if by some accident of fate the NDP ever came to national power. It would be a disaster of the greatest magnitude.

Denying the right to private property to Canadians certainly makes a mockery of the existing rights to life, liberty, and security of person as depicted in the Charter of Rights and Freedoms.

The member of the New Democratic Party said that the definition of property is very complicated. I agree with that. We have real property which relates to land and we have personal property that 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, is no reason not to embark on that course to have property rights included within the Charter of Rights and Freedoms.

• (17:20)

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 King John, the year 1215, with the signing of the Magna Carta.

Today, the right to own, use and enjoy property is fundamental to the economic life of our country and of other western democracies. For these reasons I believe property rights should be enshrined in the Charter of Rights and Freedoms.

The role of property in the economy of our country, the right to own, to use and to enjoy property, is fundamental to the basic feature of democracy, which is individual freedom. The Progressive Conservative Party has had a long and honourable association with this idea.

It was a 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 Conservative Party again that wanted the inclusion of property rights.

Unfortunately, that process was not included in the end and I am very pleased that the Hon. Member for Kitchener (Mr. Reimer) has come forward through his motion in an attempt to correct the situation.

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 suggest that some of the fears I have heard enumerated in the House, that people's rights will be trampled on by the rights of Governments to conduct the business of either the province or the federal Government, are really misplaced. I do not think that is what we are talking about at all. We want 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.

The House will be aware of all the problems surrounding 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 spoke to all the farmers who had been deprived of their property and acknowledged that a terrible mistake had been made. All the suffering during those years by those individuals was proved unnecessary.

There is no question that if this motion had been passed and been part of the Constitution, concerned individuals would have had remedy in law. I think that is what we all want. Therefore, I ask all Members to begin the process of enshrining property rights in the Constitution. It is a long and difficult process and I know it will need the support of the provinces. It is long overdue and we should begin the process now.

Hon. Bob Kaplan (York Centre): Mr. Speaker, there is an odd historical event occurring now as I sit opposite my friend, the Member for Rosedale (Mr. Crombie). He may remember a former incarnation in his busy life when he served on the Constitution Committee which, prior to 1982, considered the patriation package, including a Charter of Rights and Freedoms.

He and other colleagues of his in the Conservative Party were strongly advocating that the Constitution should entrench property rights. The Conservative Members of the committee were enthusiastic about including property rights but were unwilling at that point to indicate that if property rights were put in the Charter they would support it. In other words, it was a negotiating freebie.

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I hope the Minister will rise and tell the events from his point of view, but my recollection as I was sitting close to the negotiators was that the Official Opposition, the present Government, was opposing the patriation and the Charter, and were wanting changes to it.

I do not mind saying that we needed friends at that time and were quite alone in the country at that point on the patriation package. Most of the provinces were dead against it. The Official Opposition was opposed to it.

Whenever a good idea came along—and I think the inclusion of property rights was a good idea—we always hoped to use that piece of bait to further the small support that the constitutional package had at that particular time. I know the Member will correct me if I am wrong, but my recollection is that they were interested in it. The Member for Rosedale might have said on the record that this would make the package more attractive and easier for them to support, but they never said that if we put it in they would support it.

Mr. Crombie: But we did support it.

Mr. Kaplan: Now the Member for Rosedale wants me to get ahead of myself.

My colleague Jean Chrétien, the former Member for Shawinigan, was negotiating with the committee, hoping to get the support of the Official Opposition. He took ill at approximately four o'clock of an afternoon and was supposed to appear before committee in the evening. I was in Barrie, Ontario, speaking to the Kiwanis Club when I received a telephone call. I had to return to replace my colleague that night in Ottawa because we were working to international deadlines. There were other reasons why that meeting had to be held that night.

I had in my bag of tricks the approval of the negotiating committee to agree to the particular amendment that the Member for Rosedale and others were asking, which, in substance, is essentially the amendment that is before us tonight.

I was very pleased to be able to say that we would amend the package accordingly.

Mr. Waddell: That was Friday night.

Mr. Kaplan: A funny thing happened over the weekend. Other Members can speak to their side and perspective, but when next Monday morning came, it turned out that the negotiating committee had to take that back off the table. I say this to the Member for Kitchener (Mr. Reimer) and hope that he will have some sympathy for the situation we were in at the time. Not only did we fail to pick up any additional supporters as a result of making this part of the package, it looked as if we might lose the New Democratic Party, who had already agreed to support the package the way it was. Their company was an important element to the success of the package.

Now that that is behind us and patriation has occurred, everybody turns out to have been in favour of it all along in spite of the various political positions we were taking. I want to indicate for the record that this amendment does enhance the Charter. It recognizes property rights, not in the absolute—even the right to liberty is not absolute in the Charter—but recognizes it as one of the important values in Canadian society. This is not something to be tossed aside lightly by the Government of the day, by Parliament or by a legislature without having a good, sound justification for doing so in a free and democratic society. That is all this provision would do.

• (1730)

Concerning a grand scheme, the Member who just spoke before me said that the nationalization of all private property is the grand scheme. I hope it is not, and I do not think it is. But even if there were a grand scheme, and even if that grand scheme were adopted by some future Government of Canada, I think that the balance which the Charter provides would respect both interests. The Canadians would be more comfortable in the enjoyment of their property as they are more comfortable in the enjoyment of their liberty and their right of security of the person in a wonderful Charter of Rights and Freedoms which truly makes a difference in our life.

I have another minute or two and I have a comment to make about the notwithstanding clause. The notwithstanding clause in Section 33 of our Constitution permits any legislature or parliament to override the Charter and, in effect, to act as if these rights were not vested in the Canadian people. I think that the notwithstanding clause is incompatible with the Charter. The story of how it came to appear in the document is too long to put before the House now. As everyone knows, it was not the idea of the Government of the day. It certainly was not Mr. Trudeau who wanted his proposals for a Charter of Rights and Freedoms to be suspendable. It was a condition with which we had to agree if we wanted to get that basis of support which the Supreme Court of Canada held that we needed to have to go back to Britain for the last time to get permission and Britain's legislative blessing on the patriation and the establishment of the Canadian Charter of Rights and Freedoms.

What I do not understand, and perhaps some members of the government Party could help me with that—

[*Translation*]

I should like to conclude in French by saying that I do not understand why the Government is now so reluctant to take this initiative. It has recorded a success with the Meech Lake Accord and has greatly helped our Constitution to progress. I do not agree 100 per cent with what it has achieved, but nevertheless, Mr. Speaker, it has obtained the unanimous support of all Canadian governments. Why did it not enshrine the rights of property at that time? I feel it was because the Prime Minister (Mr. Mulroney) had no agenda, he had not "advanced" the interest of all Canadians to have their national perspective in the Charter. That is a major flaw which will be

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remedied, I hope, following the forthcoming election which will "build" the Government of today.

Mr. Gabriel Fontaine (Lévis): Mr. Speaker, I would like to say a few words about the motion of the Hon. Member for Kitchener (Mr. Reimer) to amend the Constitution Act, 1982, 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."

The purpose of this amendment is quite simple: It would protect the houses, buildings and lands owned by Canadians from any arbitrary Government interference. These provisions could have been included in the Constitution Act, 1982, which repatriated our Constitution without the support of the 27 per cent of the Canadian population residing in Quebec, in spite of the fact that there were then 74 Liberal Members from Quebec in this House. Yet, they agreed to a new Constitution for Canadians without the official participation of Quebec.

I would also like to refer to a comment made by the Hon. Member for York Centre (Mr. Kaplan) who said that, when we negotiated the Meech Lake Accord, we decided to limit the discussions to the integration of Quebec into the Canadian Constitution. Indeed, this is why we had a specific agenda. This agenda was quite well-known, notwithstanding what the Hon. Member for York Centre may have said. We were well aware of the wishes of the premiers generally and especially of the Quebec Premier, Mr. Bourassa, to have my province rejoin the Constitution, as you had not taken care of it yourselves.

I shall now come back to property rights, Mr. Speaker. These rights exist, and they scare many people, especially the socialists. Property rights terrify them. What they would like is a community of the instruments of production and especially a community of the means to spend and distribute wealth. They are afraid that, if we keep the existing legislation, they will be unable in the future to nationalize banks and oil companies and to allow state interference in the private sector. This is what the socialist party fears the most about the liberal-socialist coalition already referred to by the Liberal Leader and which would mean a movement to the left by our representatives in the House of Commons. With such a coalition, the Socialists will be in a position to demand more from the Government, to nationalize everything and surrender the future of Canada to technocrats who are not accountable for the use of our resources.

These people, who promote the ideas of Karl Marx, should look towards Russia and China and realize that these countries are starting to privatize some means of production.

Some Hon. Members: Come on!

Mr. Fontaine: They can yell as much as they please, but the fact remains that the Communist system in Russia is moving a little towards capitalism. The same thing is happening in China. They recognize to a certain extent the failure of the Communist system and the collective property.

If we do not want the same thing to happen here, the Government, instead of moving towards collectivism and developing state property to protect—

Mr. McCurdy: Quebec's own little Fascist!

Mr. Fontaine: Mr. Speaker, could we ask the few Socialists who are present here to show a little more respect for the Chair and the House of Commons and allow me to continue? Could we ask them at least that, Mr. Speaker? I know that they are complainers, that they are drop-outs and intellectual failures in our society, but they should respect those who have been elected here and are addressing the Chair.

I want all Canadians to understand that we want to give back the greatest possible benefit to the taxpayers who own and are accountable for their property. We want to make it possible for Canadians to acquire wealth. Strangely, Mr. Speaker, if it were not for us who are aware of the importance of private property, of capital and private initiative, the Socialists could not survive in this system because they are essentially parasites of a rich system which is capable to support even extremists in our society. They are people who tag along private enterprise, because private enterprise is rich. If these people were really serious, Mr. Speaker, they would move to another country. They would move to a country with a system compatible with their philosophy.

Indeed that would bring some relief to our country and to our House of Commons because the greatest frustration I have in this House, Mr. Speaker, the greatest frustration imposed by democracy, which is very useful to me, but the worst enemy of democracy is to see before me these intellectual beggars who aggravate us and try to aggravate Canadians all year round in this House. It is important for Canadians to know these people are like that. It is important for Canadians to know that these people could not care less about Canadians who produce and Canadians who want to develop their country through the private sector and with full respect for personal initiative.

I see they are smiling, but you are smiling because our country can support you, otherwise you would be beggars.

Mr. Ian Waddell (Vancouver—Kingsway): Mr. Speaker, this is just the kind of situation where I would like to be able to speak French.

• (1740)

[*English*]

But I will have to reply in English to my friend opposite. I always enjoy his speeches. I hope that he will be happy when we return him to the private sector where he can be productive after the next election.

Mr. Mitges: Have you got a job?

An Hon. Member: Come on over.

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Mr. Waddell: Members opposite suggest that I run against them. I would be pleased to do that.

The Hon. Member for Lévis (Mr. Fontaine) and the other Conservative Member who spoke, whose riding escapes me at the moment although I believe he is from Ontario, rant and rave about the NDP being for all property owned by the state. They rant and rave and accuse us of being, first, Russian communists and, then, Chinese communists. It is as if they had never heard of democratic socialism. They do not know the difference.

Some Hon. Members: Oh, oh!

Mr. Waddell: It is a case of desperate, pitiful, hopeless people who have to resort to Red baiting. That is what they are doing rather than debating the topic of private property.

The Hon. Member for Prince Albert (Mr. Hovdebo), our speaker on this debate, tried to deal with the issue of private property and property rights. He made the point that during the constitutional debate the Premiers of Prince Edward Island, Saskatchewan and Alberta, who were in fact a Liberal, an NDPer and a Conservative, were against putting property rights in the Constitution. Yet no one in this debate has asked why. I think there are reasons why.

Prince Edward Island was afraid of putting property rights in the Constitution because it wanted to retain the right to enact legislation to protect its farmland and its waterfront from being taken over by Americans especially, and by other people. The people of that province were concerned about that problem. If property rights had been in the Constitution they may not have been able to enact that type of legislation.

The Premier of Saskatchewan had taken over the potash industry for public services. He had taken some resource corporations under public ownership for the great benefit of the people of Saskatchewan, as, indeed, other provinces have done with respect to hydro power and so on. He was afraid that if a property rights provision were in the Constitution, it would be struck down by the courts.

The Premier of Alberta had his own reasons. I suspect they were that he wanted to be able to tax the oil industry, which was the biggest industry in his province. He wanted to get some of the revenues and to control the development, so far as that was possible, of the oil industry within his own province. For public policy reasons these Premiers were suspicious and, indeed, were against having property rights included in the Constitution.

"Property rights" is a buzz word. What the Conservatives really mean by property rights is that they want something in the Constitution that will stop Governments from doing things that would enact the collective public good, that would stop some economic planning, for example, or that would stop the takeover of a particular company. They do not say that they want this without compensation. There would be compensation and so on. In fact, they want this right included in the

Constitution so that government will be severely restricted. They do so because they do not believe in government. I am not talking about every Conservative. There are a group of them who do believe in the John A. Macdonald tradition, something that others seem to be forgetting. It is the mainstream Canadian tradition that there is a partnership in Canada between government action and private industry action.

We have a mixed system in Canada. That is one of the things that makes Canada different from the United States. The Conservative Party is determined to make Canada more and more like the United States until we eventually become the fifty-first state. To say that the NDP does not believe in private property is nonsense. We accept that there is a mixed system of private and public enterprise in Canada.

What the motion before us would do is to load the dice so that there could not be public enterprise in the future. That is what the real agenda is here. That is what the Conservatives want.

The Hon. Member for York Centre (Mr. Kaplan) gave an interesting speech on this subject, especially with respect to what happened during the constitutional committee hearings. I was there and I remember the day to which he referred. I might tell him that, quite frankly, I was astounded by his speech. He said that property rights, and I use his words, were a piece of bait to get Tory support. It is lucky that his mother-in-law or his father-in-law were not there because he would have traded them off as well for Tory support. He said that property rights were part of his bag of tricks. That is an indication, if I might say to the Hon. Member for York Centre, of the Liberal frame of mind.

I think what happened on that Friday night when the Hon. Member for York Centre agreed to put property rights in the Constitution is that Mr. Trudeau and Mr. Chrétien identified over the weekend what was happening. The proposal was promptly withdrawn on the Monday when good sense prevailed.

While the Secretary of State (Mr. Crombie) is in the House I want to say this. I will never forget the look on his face at that committee meeting. I remember when the Hon. Member for Burnaby (Mr. Robinson) was trying to talk out the clock, quite frankly, and there were but a few minutes to go until 6 p.m. Finally, the Hon. Member for Burnaby, if one can believe it, was running out of words. He could not think of anything else to say. However, it finally hit him and he said, "Mr. Chairman, the family farm. We have to protect the family farm".

I will never forget the look on the face of the Hon. Member for Rosedale as well as the looks on the faces of the present Minister of Transport (Mr. Crosbie), the present Minister of Finance (Mr. Wilson), and some other Ministers who thought that that was really something. Of course, the clock struck 6 p.m. and Serge Joyal, who was then the Chairman, declared the meeting adjourned until Monday.

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What was placed in the Constitution was a provision with respect to native rights and not property rights. That is the most radical part of the Constitution. If some were astounded by the Supreme Court decision on abortion, I think they will be astounded by some future Supreme Court decisions on aboriginal rights. They will shake up a great many people in Canada.

In conclusion, the Hon. Member for Prince Albert was quite right. Property rights are included in Canadian law now. An Englishman's home is his castle. We have the notion that there is a right to property. Property cannot be taken away under Canadian common law without compensation. If such a provision is placed in the Constitution, then the Government's hands will be tied. No one is in favour of outrageous expropriations and, in that regard, I refer to Mirabel. Yet the Government cannot be stopped from expropriating land to build an airport since that is in the public good. A balance must be struck.

The experience in the United States in the early 20th century with the American Supreme Court was that it struck down government laws because there was something equivalent to property rights in the American Constitution.

"Property rights" is nothing but a buzz word. The Hon. Member can keep her hot tub in the Gatineau. The NDP will not steal that from her. Property rights are included in the common law and we do not need them included in the Constitution or in the Charter of Rights. The only reason that some Conservative Members want it in there is that they want to restrict the Government from enacting laws that are in the general public interest in the Canadian tradition. They want to take us to a right-wing American tradition, which is not Canadian. That is why this should be rejected.

• (1750)

Mr. Girve Fretz (Erie): Mr. Speaker, I am pleased to have the opportunity to speak in support of the motion introduced by my colleague, the Hon. Member for Kitchener (Mr. Reimer), to amend the Constitution of Canada in order that Section 7 of the Canadian Charter of Rights and Freedoms 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.

The Hon. Member for Kitchener has rightly pointed out that the addition of the words "the enjoyment of property" to Section 7 of the Charter of Rights is a natural adjunct, a given, to those principles that we as Canadians hold dear.

However, the Hon. Member for Cape Breton—The Sydneys (Mr. MacLellan) is on record as saying that "Canadians should not be concerned in any way about the fact that property rights are not enshrined in the Charter of Rights and Freedoms". Yet in a Gallup poll commissioned by the Canadian Real Estate Association 81 per cent of Canadians said "yes", Canadians do feel that it is "fairly" or "very" important

to amend the Constitution in order that property rights be protected.

The right to enjoy property was left out of Section 7 of the Charter of Rights when it was proclaimed in 1982. As a result, Governments are able to pass legislation or make regulations that may violate property rights. The exclusion of property rights is a grave oversight, in my opinion.

Protected property rights go back to 1215 with the signing of the Magna Carta. The right to own is similarly recognized in the English Bill of Rights in 1627, in the United Nations Universal Declaration of Rights which Canada signed in 1948, and finally in the 1960 Canadian Bill of Rights. But now in 1988 we do not have that protection.

The entrenchment of property rights is recognized in many democratic countries, such as the United States, Australia, Italy, Finland, Sweden, and West Germany. In Canada, however, it is not.

The simple acknowledgement of the principle of property rights and the understanding that there is an inherent belief that what one owns or possesses is his right to keep, is a tremendously reassuring principle that has evolved through time. We take a degree of satisfaction and pleasure, perhaps even refuge in our possessions, our reward for hard work.

I take pleasure in sitting in the backyard, working in the flower bed, mowing the lawn, or just puttering around because it affords me a certain degree of peace of mind, contentment, and enjoyment.

But what if my little Shangri-La were taken away from me, for some reason or another? What if my property rights were not recognized? This very real event has happened to many Canadians. Many Canadians were persecuted in their mother country because of government upheavals, changing ideologies, war, or religious persecution. Not only were their human rights violated, but as I argued earlier, property rights, being a direct adjunct, were violated without any form of compensation.

While it is not likely that this occurrence will happen in Canada, the entrenchment of property rights in the Canadian Charter of Rights and Freedoms would prove to be a safeguard, guaranteeing the rights of property owners against abusive or threatening measures taken against them.

I fully appreciate the difficulties that Hon. Members are encountering in defining the term "property". I believe that all Members from all sides of the House have stated that property encompasses not only property as in real estate, but intellectual property, passive property, and government largesse, which includes welfare payments, old age benefits, unemployment insurance compensation, and so on.

I am in agreement with the Hon. Member for Kitchener who argued that, although it may be difficult to define and interpret "enjoyment of property", it should not detract from the central principle of recognizing and entrenching property rights in the Charter.

During the last election campaign, the Progressive Conservative Party took the position that it supported the entrenchment of property rights in the Charter. Since that time, as a result of the Meech Lake Accord, the Province of Quebec has become a constitutional member. Provincial authorities are presently investigating their concerns in regard to property rights.

I believe that we will do an injustice to the Canadian people if the House does not support the motion presented by the Hon. Member for Kitchener. It is an injustice because the entrenchment of property rights in our Charter is clearly what Canadians want, and it is fundamentally the correct course of action for us to take as parliamentarians.

[*Translation*]

Mr. Claude Lanthier (LaSalle): Mr. Speaker, I think we still have four minutes to debate this motion today, but we were unprepared for this. Still I think I will echo some of the comments of my colleagues.

[*English*]

I wish to speak a little in English to ensure that all the folks from LaSalle are listening to me.

I am pleased to have this opportunity today to speak on this motion for a resolution to amend the Constitution to add property rights to Section 7 of the Canadian Charter of Rights and Freedoms. This is a matter of constitutional reform with no significant potential implications. It is a matter that has stimulated debate and discussions in the House of Commons and in other forums, and that has not yet been resolved. This is because while the premise of this amendment is simple, the actual amendment proposed raises rather complex questions. The premise is that the houses and homes, and lands and property of Canadians deserve protection against arbitrary government action. However, the actual amendment raises questions that go beyond the concerns expressed for having such a constitutional provision. This is clear from previous debates and discussions. Therefore, I am pleased to have the opportunity to speak to some of those matters today in the hope of adding some clarity to this debate.

The first thing I would note is the text of the proposed amendment before us.

[*Translation*]

Has my time expired, Mr. Speaker? Too bad, I had a good text to read but unfortunately I ran out of time. Thank you for your attention.

Mr. Deputy Speaker: The hour provided for the consideration of Private Members' Business has now expired. Pursuant to Standing Order 36(2) the order is dropped to the bottom of the order of precedence on the Order Paper.

Adjournment debate

PROCEEDINGS ON ADJOURNMENT MOTION

[*English*]

A motion to adjourn the House under Standing Order 66 deemed to have been moved.

ACID RAIN—GOVERNMENT'S STRATEGY VIS-À-VIS UNITED STATES/GOVERNMENT INTENTIONS/REQUEST THAT CANADA BREAK OFF NEGOTIATIONS WITH UNITED STATES

Ms. Lynn McDonald (Broadview—Greenwood): Mr. Speaker, recently I raised the question of acid rain and the negotiations with the Americans on an accord, and the fact that the negotiations are not moving ahead at all. We are not anywhere near to having an agreement that would actually reduce the emissions that cause acid rain. In the United States, emissions come largely from the midwest. We need emission reduction in the United States parallel to what Canada has done.

• (1800)

Ontario and Quebec have done a remarkable job at reducing sulphur dioxide emissions. We have an understanding that they will be reduced by 50 per cent by 1994. We would very much want to see the Americans making a similar commitment, and I regret to say that we do not have that. I do not see that the federal Government is working strenuously to that end, yet every day we hear new news about the effects of acid rain. Today the Presbyterian Church in Hamilton, on James South, is nearly falling down as a result of acid rain. Damage to monuments and buildings is part of the bill which must be paid on acid rain.

[*Translation*]

The withering of the maple groves, especially in Quebec, is another problem. The Union des producteurs agricoles taxes Ottawa of weaknesses and spinelessness in the face of the serious problems caused by acid rain from the United States.

An international forum on acid rain will be held soon in Quebec. Experts from the United States and from Europe will be attending. The Quebec provincial Government will be represented, the environmentalists will be there, but not the federal Government.

Now, the withering of the maple groves is caused by the acid rain, especially from the United States. And the European expertise may be useful to us in Canada, since the withering of European forests is well advanced and the remedies are also well advanced over there.

[*English*]

I regret that the Canadian Government is not going to be there, nor will it provide financial aid for this important conference which is coming up shortly.

The Minister of the Environment (Mr. McMillan) has called acid rain the litmus test regarding the competence of the Government in dealing with environmental questions with the

The new multiculturalism Bill is the accumulation of three very important happenings that have taken place in a multicultural sphere that I believe played a major role in the ongoing progress of multiculturalism in Canada. I am referring to the committee report called *Equality Now* of 1984—a committee of which I was a member—and its 80 recommendations which, to a large degree, have been supported by the Government. I am referring as well to the creation of the House of Commons Standing Committee on Multiculturalism established by our Government on June 28, 1985. The committee's report *Multiculturalism: Building the Canadian Mosaic* was well received all across Canada. All of us on the committee worked long and hard on the report and it had great input from many multicultural groups and individuals throughout Canada. I believe we came out with a very good report and a lot of good recommendations. One of the main recommendations was to have established a multicultural policy, and this the Government has proceeded to do. As I said earlier, we have come a long way in recognizing Canada as a truly multicultural country and we are making continued progress.

I have been in the House long enough to understand that it is hardly ever possible to receive or to obtain at one time or at one sweep the adoption of all items that one proposes in the form of a Bill or otherwise. Patience is a virtue around this place and it has its own rewards. I have had ample evidence of that in my 16 years as a Member. I am optimistic that if we continue as Members of this House and as members of the Standing Committee on Multiculturalism to pursue the betterment of multiculturalism in a non-partisan way, we will continue to make positive progress.

I am not so naive as to think that because we have a Bill spelling out glowingly what is necessary to ensure equality for all Canadians, by some stroke of a pen it will be accomplished. There also has to be ample evidence, the will and the determination of those responsible to make sure that the Bill will be carried out to the letter. Action, Mr. Speaker, is essential for the production of results, and actions speak louder than words.

In conclusion, as I am an optimist, it is my hope, and I believe the hope of all well minded Canadians from coast to coast, that we will continue to make progress until every Canadian, regardless of his or her background, will feel with every fibre of his or her body that Canada is, indeed, the wonderful country that we all keep repeating it is.

The Acting Speaker (Mr. Paproski): I do not think I better entertain questions. The Hon. Member will have 10 minutes left in his question and comment period when we commence this debate again.

It being five o'clock, the House will now proceed to the consideration of Private Members' Business as listed on today's Order Paper.

Property Rights

PRIVATE MEMBERS' BUSINESS— MOTIONS

[English]

CONSTITUTION ACT, 1982

SUGGESTED AMENDMENT TO INCLUDE PROPERTY RIGHTS

The House resumed from February 1, 1988, consideration of the motion of Mr. Reimer:

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.

Mr. Patrick Boyer (Etobicoke—Lakeshore): Mr. Speaker, the question now before the House is whether property rights should be entrenched in the Canadian Charter. I am here to join with my colleagues to say unequivocally, yes, they should be.

Very specifically in the words of the resolution put forward by our colleague, the Hon. Member for Kitchener (Mr. Reimer), Section 7 as we want to amend it would thereafter 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.

This thirty-third Parliament is dealing with property rights on three different fronts. We have had before us the patent legislation which is seeking to end the ambiguous property status of those who have developed through medical research new drugs and technology in that field to ensure that their property rights are respected and to end the period of uncertainty which has been a detrimental period for Canada in that respect.

• (1700)

On another front, the House has been dealing with copyright legislation, long overdue since the present Act is dated 1924 and fails abysmally in many ways to respect the intellectual property developed by writers, artists, musicians, composers and others. On that front as well, we have an important opportunity in this Parliament to set to right a long-standing need for protection of property rights.

Third and finally, we have before us this opportunity to add property rights to the Charter itself. There are three reasons why I as a Conservative and a democrat feel fundamentally that this is the way to go and the only way to go. The first of those has to do with the concept of a property-owning democracy.

I believe it is, pretty simply and straightforwardly that when a man or a woman has some interest in property in Canada, he or she takes on a stronger interest in and awareness of what is going on that might affect the country. It is a basic proposition

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that what one has, one cares for. That is reflected in turn in environmental questions, zoning questions and local, provincial, national and political questions that will affect the property. Therefore, a property-owning democracy is an important aspect of the health of Canada as a democratic society. Commensurate with that must be protection in the Constitution for property which is owned by Canadians.

Second, and again both as a Conservative and as a democrat, I believe that the best protection most Canadians have for their property rights will come from the Constitution. When I say "most Canadians", I am not saying that this is important because the wealthy and large corporations need it. *Au contraire*, Mr. Speaker. Those are the very ones which can afford the high-priced legal services and know where to speak, how to speak and when to speak to see that their property rights are not overridden. No, I am addressing this particularly to the interests of ordinary Canadians, the working people of Canada who own homes, cottages or other properties, and must see that large government does not arbitrarily deny them those property rights. That is the importance of constitutional protection.

The third and final reason I cite as a Conservative and as a democrat is that by entrenching and guaranteeing property rights, we thereby complete the circle that is necessary to give vigour, meaning and vitality to all the other rights that are in the Charter, the democratic rights, the freedom of assembly, the freedom of religion and the freedom of expression. All the other rights are made firmer and put on a stronger foundation when property rights of individuals are also entrenched.

I am not making a mistake here. I do not believe that property has rights, I believe that people have rights. However, a fundamental interdependence does exist between personal rights and liberties and the personal rights in property. Neither could have meaning without the other.

That the right to property is a basic civil right has long been recognized. After World War II, in 1948, Canada was a signatory to the Universal Declaration of Human Rights. I hardly need remind you, Mr. Speaker, that Article 17 of that declaration contains two simple propositions: first, that everyone has the right to own property as well as in association with others, and second, that no one shall be arbitrarily deprived of his property.

Not only in the international councils of the nations but here in Canada our own distinguished former Prime Minister, the Right Hon. John George Diefenbaker, recognized this. If ever there was a fighter for the underdog in society, if ever there was someone who knew the importance of legal protection for the basic liberties of the individual, it was our former Prime Minister, John Diefenbaker, who saw to it in his Bill of Rights enacted through Parliament that provision was specifically made for property rights protection.

There have been many others who have addressed this subject. John Locke, for example, the philosopher and political theoretician, asserted that it is beyond the state's power to take

away a man's property without his consent. In Locke's view, indeed the end of government itself is the preservation of property.

I am not resting my arguments on pure theory and abstract principles. This is something that affects Canadians in real and specific terms. It affects a Quebec farmer who looks out across his fields one morning to find workmen digging. They are employees of a power authority and they are on his property to build a transmission pylon. Seven years after an Ontario man purchased a lot, it is rendered useless without compensation. A conservation authority zones it as part of a flood plain. In Alberta, your home province, Mr. Speaker, nine cottage owners go to their properties to discover that a public utility has cut a 15-foot swath of trees from their land.

These are actual cases. These are activities by government that are affecting Canadians who own property. These Canadians stand without protection. The Charter of Rights, to which we look for the protection of our freedom to speak, our political rights and our freedom of religion, is silent on the protection of the basic property rights of individual Canadians.

At one time I might not have spoken so strongly on this. However, I have come to see that big government, of which we have a lot in Canada these days, is capable of making big mistakes. In my own Province of Ontario, I think of the valuable farmland that had been owned by generations of farmers in the Pickering area, farmland that was expropriated for an airport that ultimately was never built.

There are many questions we face with the Charter. This morning on Parliament Hill I chaired a seminar organized by the Canadian Study of Parliament Group. One of the panelists, David Lepofsky, was speaking of the limitations of the Charter. Of the nine he identified, one had to do with express provisions that were absent from the Charter. This is one of those lacunae, one of those absences, one of those vacuums that exist.

The Charter lacks many provisions that we believe should exist. In my book *Political Rights*, I identified 10 fundamental freedoms and political rights that are the foundation of our free elections. An examination of the Charter of Rights and Freedoms reveals that only five of those ten are actually contained in the Charter.

We must look at the work that was done by an earlier Parliament as an unfinished work. In 1981, a great deal was done to bring the Canadian Constitution, through an amending formula, to this country and to entrench in it a Charter of Rights. It now falls to those of us in the thirty-third Parliament to see that another step is taken to complete that work.

As a Conservative whose Party stands for this proposition and as a democrat who believes fundamentally that the strength of Canadian democracy will be enhanced by this provision, I stand in support of the entrenchment of property rights in the Canadian Constitution.

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Mr. Waddell: Mr. Speaker, I rise on a point of order. Would the Hon. Member permit a question?

The Acting Speaker (Mr. Paproski): Not in Private Members' Hour, I am sorry.

Mr. Waddell: Not even with unanimous consent?

The Acting Speaker (Mr. Paproski): I do not think you will get it in any event. I will ask for unanimous consent. If there is such unanimous consent, I will permit the question. Is there unanimous consent?

Some Hon. Members: No.

The Acting Speaker (Mr. Paproski): The Hon. Member for Thunder Bay—Nipigon (Mr. Epp) has the floor.

Mr. Ernie Epp (Thunder Bay—Nipigon): Mr. Speaker, it is a very democratic Chamber when some people get gagged, but of course rules are the very essence of democracy.

We are involved this afternoon in considering a particular proposition. The Hon. Member for Kitchener (Mr. Reimer) has proposed the recognition of property rights in the Charter of Rights and Freedoms. This, of course, is a very political proposal put forward in this thoroughly political and very partisan Chamber. Nothing wrong with that, but it is also fair game for the political football we are involved in, particularly in Private Members' hour.

• (1710)

The Hon. Member for Kitchener spoke in support of this proposal for the first time in this session of Parliament on October 15. He made clear how very political this matter is. Fairly early in his comments he observed that there were two good reasons for putting a proposal of this sort forward. He alluded first to the National Energy Program, which allowed him to hang some things on the Liberal Party which formed the Government in the early 1980s. Then he went on to say that another obvious area of concern is the nationalization programs of the NDP which would allow the seizure of assets without necessarily providing full compensation. That makes quite clear how partisan this particular proposal is.

One of the things the Conservatives like to do, of course, is to suggest that New Democrats have no respect for property. When we speak critically of this particular proposal, as I intend to do this afternoon, it is open season on the socialists. Recognizing that particular penchant on the part of my Conservative friends, I always smile when I think of the observations of a young man who made a tremendous start in his political career in our caucus as finance critic before going to the provincial political scene. Bob Rae, now the Leader of Her Majesty's Loyal Opposition in the Ontario legislature, said that of course New Democrats believe in private property. We believe in it so profoundly that we think everyone should have some. That quip very nicely underscores some of the realities of the situation that one should consider before one

really takes off on philosophizing about the value of the principle of private property in the Charter of Rights and Freedoms.

Mr. Rae's observations provide a bridge for me to another situation which I think is worth citing. I am thinking of the late 19th century in the United States when the Supreme Court made a momentous decision. This was about the same time that state legislatures were involved in some of the nastiest activities the North American continent has ever witnessed. The Supreme Court was given the opportunity in one particular legal matter to consider whether corporations were persons in the eyes of the law. The court decided they were.

Corporations are large, impersonal organizations, very often controlled by a few. One thinks of the rise of the Standard Oil Company and Johnny Rockefeller who, between Sunday school lessons, carried out the vicious practices that drove competitors in the petroleum industry off the scene. This allowed him to put together a complex which was so powerful that the Supreme Court was forced to break it up in 1911 and create Standard Oil Companies in various states including New Jersey, Indiana, and California.

At about the same time a variety of states were influenced by what was 19th century progressivism in the U.S. This was to have its influence in Canada. In fact, in the 1920s the Progressive Party of Canada drew some inspiration from it, although thank God not particularly in the direction I want to talk about. Those state legislatures erected structures of discrimination that made segregation on the basis of race, discrimination in law against black people, a reality in state after state. This was particularly so in the south, but not just in the south.

When I arrived in Baltimore as a graduate student at Johns Hopkins in 1964 I was told that a restaurant where I occasionally ate had been desegregated very recently. The Baltimore Symphony Orchestra had, within a handful of years, been open to attendance by Baltimore's blacks. Previously, only white persons could go to hear the symphony orchestra perform. That was the structure of racism in the U.S. which triumphed at about the same time that American corporations began to run truly amok and become triumphant in what can only be described as a corporate society with all of its ramifications.

When one thinks of those realities, one recognizes the context within which the principle of the sacredness of private property rights should be put. There are good reasons for considering it critically. I am sure the Hon. Member for Kitchener gets a certain amount of political credit for carrying on this battle in the House. Every Conservative who chimes in is of course doing the same thing.

There is little enough regard, when those discussions are held, for the extent to which common law undergirds private property, and the extent to which the statute law which previous Parliaments have passed established property rights for the Canadian people and those who come into the country.

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We should recognize that the laudable old principle that an Englishman's home is his castle was based on these very principles of common law which exist pre-eminently to protect property. The legislation established to provide for corporations, which allows stock to be sold, is the means by which the Parliament of Canada allows private individuals to band together in an organization or corporation and carry on business. That is reality. Anyone who knows the philosophy of English common law, which became Canadian law appreciates how it operates and knows that perfectly well.

One might of course remember that one of the statute laws in a related area, that which provides for labour organization, was designed to break up, if you will, one of the other common law understandings, which is that employment is based on a master-servant relationship. The servant has essentially no rights. That is another common law principle which the Parliament of Canada decided more than 100 years ago to begin modifying by allowing organizations of workers to be legal combinations instead of illegal organizations involved in restraint of trade.

Putting these realities in common and statute law to one side, it seems to me that what is particularly missed by those who speak so enthusiastically in support of this proposition is the fact that when the common law based right of private property, or the statute establishment of corporate property, which I have also been describing, is challenged, whether it happens to be in an expropriation proceeding of the sort the Hon. Member for Etobicoke—Lakeshore (Mr. Boyer) was just citing or some other proceeding, very often what is taking place is the assertion of another ancient principle in English government, that of the assertion of the right of eminent domain of the Crown or the rights of the community.

• (1720)

We New Democrats think particularly of the rights of the community and think that there is more than adequate protection for property rights now and that it is terribly shortsighted and incredibly partisan for people to want to provide even more safeguards in the Charter of Rights and Freedoms against the right of the community, the right of eminent domain of the Crown, to assert a community interest in one place or another and challenge private ownership.

Mrs. Barbara Sparrow (Calgary South): Mr. Speaker, I have no hesitation in supporting the motion of my colleague, the Member for Kitchener (Mr. Reimer), to include property rights by amending the Constitution Act of 1982. The right to own property should be the cornerstone of our Constitution. A man's or a woman's home is their castle and means security and freedom to be oneself free from the judgmental and intrusive eyes of strangers.

One of the factors which brought early settlers to Canada and which brings the immigrants of today is the desire to own their own home. This is fundamental to Canadians, past, present, and future, and it ranks with freedom of religion,

freedom of speech, and all the other freedoms which we as Canadians enjoy. The pioneers who settled in western Canada endured all kinds of privation and sacrifice to build their own homes on their own land and to enjoy, in security, the fruits of their own labour.

There are more than 30 countries in the world which have the right to own property included in their fundamental constitutional rights. While not attempting to have Canada take the lead from our southern neighbour, I would like to point out that the fifth amendment to the American Constitution states that "no person shall be deprived of life, liberty or property without due process of law", to which might have been added "nor shall private property be taken away for public use, without just compensation".

The French Charter of Human and Citizens' Rights of 1789 states that "the purpose of any political association is the conservation of natural and unwritten human rights. Those rights are freedom, ownership and resistance to oppression". The Canadian Bill of Rights of 1960 states that "everyone has the right to life, liberty and property". Property in its broadest sense can include intellectual and commercial property such as patents, trademarks and copyrights. If one does not have the right to ownership or the right to possession of property, things, and your own belongings, in my view there are no freedoms.

Early in this century the railroads of Canada and the Government advertised extensively in Europe encouraging people to come to Canada to take up homesteads, lands of their own. As I have said, Mr. Speaker, many people immigrated to Canada attracted by their right to own homes or indeed farms. Our forefathers learned that rights were very often related to property. It is only people born wealthy who do not understand that to own something not only makes it better for you but ensures that you are protected.

Poorer people in this country know the importance of the enjoyment of property and worry very much that it is not presently protected under our Constitution. Any constitution is the general directing plan for the common life of its people. Regardless of Party or regional affiliation, we are deciding something very important for the people of Canada over the next 100 years and we should, therefore, know a great deal about the set of rules which has been set.

A Constitution should be comfortable and reassuring and should build on rights already enjoyed by Canadian citizens such as property rights as contained in the late John Diefenbaker's Bill of Rights of 1960. Whether this right was excluded deliberately or inadvertently from the Charter, now is the time to put it right.

Canada's right to property was first asserted in the Magna Carta and had steadily been reasserted in the courts and statute law. In addition to the 1960 Bill of Rights, the right to property is also contained in the United Nations Charter of Human Rights.

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Our Charter of Rights should ensure Canadians the right to the enjoyment of property as this has been of great importance to the building of our country. Due to geographic expanse, by definition many of the component parts of Canada differ greatly with respect to climate, topography, resource allocation, and living standards. People in different parts of Canada have very real and different problems to face as a result of their location and heritage.

However, one right to which all Canadians cling is their right to own and enjoy the property which they have gained through sacrifice and desire. The future of Canada will remain secure only if we allow Canadians in various parts of our country to have their regional identities, to maintain their traditions, and to live up to their own values in Canada. The right of ownership was not confirmed in our Charter of Rights and, therefore, leaves a gap or a question in the minds of Canadians that that right is no longer theirs.

The Fathers of Confederation set a monumental task for themselves. They structured a nation from the wilderness and established two levels of government which were to act as partners in the building of a new nation. Their task was to form the union and it is our task to preserve that union.

The omission of property rights from the Charter has caused anxiety among all segments of our population and people feel that their ownership can be jeopardized and taken away from them in any number of ways. I find it hard to believe that the Government responsible for drafting the Charter of Rights failed to include the right to hold and enjoy property. That Government, which professed to be that of a free and democratic country, failed to protect the right of its citizens to own a piece of land or a home. It refused to accept a Conservative opposition amendment for those rights to be included.

During debate on patriation of the Constitution in 1981 the Hon. Member for Provencher (Mr. Epp) sought to amend Section 7 of the resolution by substituting the following: "Everyone has the right of life, liberty, security of the person and the enjoyment of property and the right not to be deprived thereof except in accordance with principles of natural justice", much along the lines of the current motion.

It is impossible to discount what the lack of protection of property has cost. Under the terms of the scurrilous National Energy Program, the Liberal Government reserved the right, at any time up to granting a production licence, to back in for up to 25 per cent interest in any Canada Lands development. Mr. Speaker, the Liberal offspring, Petro-Canada, benefited and the petroleum companies lost, not only money but trust in Government.

Based on history Canadians have believed that once they own property the Government will never attempt to confiscate that property. However, there is a provision within the Charter which makes all previous laws protecting property void. I have been given an opinion that property rights given under past laws which are not included in the Constitution would be overridden.

It may be that when the New Democratic Party stated its opposition to the entrenchment of property rights at the time of patriation it was because it feared it would stand in the way of its policy to nationalize everything in sight. The members of the NDP were saying at that time that it would be more difficult to nationalize resource industries if property rights were in the Charter. Conservatives were saying at that time that property rights should be in the Charter, and included the words, "In accordance with the principles of fundamental justice".

It has been said to me that the individual who does not have the right to own property becomes himself the property of the state. I reiterate my very strong support for this motion.

• (1730)

Mr. Blaine A. Thacker (Parliamentary Secretary to Minister of Transport): Mr. Speaker, it is a privilege to rise to speak in favour of the motion before us in the name of my distinguished colleague, the Hon. Member for Kitchener (Mr. Reimer), which would entrench in our Charter of Rights the fundamental right to the enjoyment of property.

I thank my colleague for continuing to push this motion forward. Fortunately, as a result of parliamentary reform it certainly must come to a vote. Members will have to stand and be counted within the next couple of hours of debate.

I also want to thank the Canadian Real Estate Association for its dedicated support of the principle behind the entrenchment of property rights. I am aware of the number of people from my riding who, as part of the Canadian Real Estate Association, have been coming to Ottawa at their own time and expense to push this important principle. We should also acknowledge that British Columbia, New Brunswick and Ontario have already passed resolutions in favour of entrenching property rights. This House should soon do the same.

Why must we do it now? Why were property rights not entrenched in 1981? It is a sad story and speaks to the values of the three political Parties, at least in 1981.

We all recall that the 1981 Charter resolution contained only three of the four historic fundamental rights that our ancestors fought and died for many years ago. It included only the right to life, liberty and security of the person.

The fourth right, property, was left out. In fact, that is probably the greatest right of all, because when people have economic freedom, political freedom and social justice follow very quickly after.

In actual fact, Canadians had property rights in the resolution for some 48 hours. I shall never forget January 21, 1981, when my Party introduced an amendment which would entrench property rights. I will not forget January 23, 1981, when the Liberal Party accepted that amendment. It was a joyous moment, and I must say that I made several calls to people in my riding expressing how beneficial we had been as

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Members in having the amendment accepted by the Liberal Party. Alas, the New Democratic Party was opposed.

The Liberal Party felt that it needed the NDP support, even though it had a solid majority in the House at that time. I shall always remember with great sadness and, indeed, with anger, listening to the leader of the New Democratic Party speak against the entrenchment of property rights.

I shall never forget the next week when the Liberal and the NDP Parties together rescinded the amendment to the resolution that would entrench the right to property. It was the most gross attack on Canadians' rights that ever occurred in the history of this nation. It is up to this Parliament to remedy that error.

As you know, Mr. Speaker, I am an optimist. I am asking members of the Liberal Party today to stand in favour of their classic rights, as Liberals have since the beginning of time—the entrenchment of individual rights, particularly property.

I know that the NDP will not do so, and I can hardly wait for the next election when I can bound up the front doorsteps throughout my riding and the country to tell people that their very home will be in jeopardy if the NDP get their vote.

Why are entrenched property rights important? Such a right protects individuals from the abuse of governments and the abuse of power which governments, however well-intentioned, ultimately bring about. It is simply the fact that the concentration of power in government, with the bureaucracy and standardization in an attempt to put everything in writing, leads to abuses.

What are the remedies when one is oppressed by a government? In the case of property, the remedies are very few and very expensive. However, with the entrenchment in the Charter comes the right to go to one place, our judicial system. There, one can convince a dispassionate, independent and very powerful court that the individual has been oppressed by the Government. The court has the power to remedy that injustice. That is absolutely critical, particularly in this modern age when we are becoming more imbued with rules and regulations set by governments, sometimes far away.

Let us not forget that it is a problem that affects ordinary Canadians. Earlier, my colleague gave an example of a Quebec farmer seeing workmen digging in his field. Let me give other examples.

Seven years after an Ontario man purchased a lot, it is rendered useless without compensation due to a conservation authority zoning.

Nine cottage owners in Alberta go to their properties to discover that a public utility has cut a 15-foot swath of trees from their land.

Many other Alberta property owners feel the heavy hand of public authority exercised through the provincial Government's 13 restricted development areas. The Government may, among many other infringements against private

property, expropriate land in these areas without respecting the remedies that are available to individuals through the province's Expropriation Act.

In Montreal a delicatessen is fighting for its existence in an established location on land it has owned for 37 years. The city has a by-law that allows expropriation of land provided a developer owns two-thirds of a city block.

I could go on to give examples that have been sent to the Canadian Real Estate Association and which it documents for the House each year. It will not be long before the time in October, 1988, when they will be back to set out further examples of how our fellow citizens have lost their rights and privileges, not to mention financial compensation, because we have not entrenched the right to property in the Constitution. It was a gross oversight in 1981, and a tragedy for the nation. We have a chance in the next two hours of debate to remedy that wrong. I am convinced the House will do so. I certainly ask members of the Liberal Party to search their consciences deeply. If they oppose the entrenchment of property rights this time they will be gone forever as a Party in this country.

Mr. William C. Winegard (Guelph): Mr. Speaker, it is a pleasure to support this important motion moved by the Member for Kitchener (Mr. Reimer).

As I was preparing a few notes to enter this debate, it struck me that most Canadians already assume that they have the property rights that this motion is addressing. They assume that they have a constitutional right to the ownership and enjoyment of property in accordance with fundamental justice.

If we went out on the street now to ask the first 25 people we met if they have a constitutional right to own and enjoy property, their answer would be yes. It is so fundamental that they would not even think twice about it. Their answer would be yes, that they have that right as a Canadian.

They would assume that no government would have the right to take away the protection that they believe they have concerning their own property. Everyone in this country has the right to be protected from others and the right to be protected from the state, if necessary.

• (1740)

I well remember the speech of the Hon. Member for Niagara Falls (Mr. Nicholson) in October when he reiterated once again the story of Mirabel and how the rights of those landowners had been trampled upon. I would like to quote from that speech because I think it is important how one person, the Hon. Member for Niagara Falls, became so convinced that this amendment was necessary. I quote from page 10021 of *Hansard*:

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.

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Those are words to which we should all listen. I am grateful to my colleague for putting them on the record.

I remember also on that same day, my colleague, the Hon. Member for Kitchener talked about a Government that had confiscated lands from the oil companies. Those lands, presumably, did not count because they were north of the 60th parallel. Somehow Canadians forget all about that.

Canada is a signatory to the United Nations Universal Declaration of Human Rights which protects property. We have our own 1960 Canadian Bill of Rights which recognizes property rights. Why, then, would we balk at including property rights in our Constitution? It is not as if we were really breaking new ground. We have heard today that many, many countries around the world have already recognized the necessity to enshrine property rights in their constitutions, countries such as Australia, the United States, West Germany, Italy, Finland and Sweden, to name just a few.

The motion of the Hon. Member for Kitchener would not be necessary if this House had accepted the resolution from the Progressive Conservative Party in 1981. The Prime Minister of the day did not follow through, presumably because the New Democratic Party withdrew its support, and it withdrew its support because then as now it is not really a Party devoted to the rights of the individual but rather to the rights of the community as opposed to the individual.

In the name of the public good—is that not a ringing phrase, Sir?—my colleagues in the New Democratic Party would happily take away from those individuals or corporations which have been successful. We are not supposed to be successful. But what that Party does not understand is that the successful can look after themselves. We need this amendment for the person of modest means, for the person of modest influence. Surely, it is the ordinary Canadian whom this amendment protects.

I listened today with great interest, as I always do, to my friend, the Hon. Member for Thunder Bay—Nipigon (Mr. Epp), who spent considerable time telling us that property rights were already protected by law, that all was well without any change, that common law was well established. It is true that common law precedents protect property to a significant extent, but the Constitution is supreme. If my colleague does not object to property being protected by common law, which he says is good enough, why would he object to those rights being written into the Constitution? “Curiouser and curiouser”.

When this Bill was before this House in October of 1987, much was made of the fact that “property” would have to be defined. Of course it would have to be defined. On that same day in October when the Bill was debated, one of my colleagues to the left said he was really worried about corporations being included. A corporation is not allowed legal rights? Are corporations not to be protected from capricious actions taken by Governments? Because that is partly what this is about.

Let me finish this short intervention as I began. I believe that most Canadians already think they have these rights under the Constitution. They could not believe or they would not believe that we had not entrenched the right to own and enjoy property, a fundamental right in any democratic society. Let us correct a past mistake. Let us accept the motion of the Hon. Member for Kitchener. Let us show Canadians that what they believe is in fact true, that they have the rights they think they have only because this Parliament ensured that they have those rights. Let us get on with it. Let us move to this motion when this debate is over with a conviction that we can indeed have our property rights entrenched in our Constitution, and no one, no capricious action on the part of any government now or in the future, will be able to take those rights away from us. That is the kind of country I believe Canadians think they have.

Mr. Norman Warner (Stormont—Dundas): Mr. Speaker, I appreciate the opportunity to join in this debate this afternoon on the motion to amend the Constitution Act of 1982. This amendment is an amendment to the supreme law of Canada. I have mailed a copy to my constituents, many of whom are students. In many cases people who took the document framed it. It is something that is very important to them. It is something that is very readable. It deals with our basic laws.

• (1750)

Being the supreme law of Canada I believe that it outlines these laws in plain, ordinary language which most people can read and understand. The legal significance of various words and various terms are dealt with by our courts and are open for interpretation. However, in most ways, this is a very readable document. It is very simple in its construction. It has 12 headings which are: Guarantee of Rights and Freedoms; Fundamental Freedoms; Democratic Rights; Mobility Rights; Legal Rights; Equality Rights; Official Languages of Canada; Minority Language Educational Rights; Enforcement; General; Application of Charter; and Citation. In these sections various aspects of our law are dealt with.

Under the heading Mobility Rights it states:

6(1) Every citizen of Canada has the right to enter, remain in and leave Canada. (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right (a) to move to and take up residence in any province; and (b) to pursue the gaining of a livelihood in any province.

These are accepted as very basic rights and principles. People accept them without thought. It is something that they have known they have had for years. Most constitutions of other countries entrench these rights and freedoms.

This document also protects the aboriginal people so that treaties that have been entered into prior to the entrenchment of the Charter of Rights and Freedoms will be acknowledged and accepted.

I suppose the predecessors of this Charter go back to the Magna Carta of 1215 and, more recently, the Bill of Rights

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which Mr. Diefenbaker brought in in 1960. All of these documents have dealt with what people have felt were their basic rights and freedoms.

I know that when the settlers of Stormont—Dundas came over 200 years ago to establish themselves in that community as viable citizens they looked to the rights of property as being very definite and as being inherent with ownership. Today, there are people who have followed, farmers and business people who consider that they own property. They believe that they own property. They know that they own property. Yet here we are with our basic and supreme law which does not acknowledge the enjoyment of property as part of the Charter of Rights and Freedoms.

The portion that the Hon. Member for Kitchener (Mr. Reimer) is asking to be amended is one that reads:

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.

As many previous speakers in this debate have indicated, the inclusion of "enjoyment of property" is very natural. It is something that most people believe should be part of this law. The exclusion of such makes this law very questionable since the ownership of property is inherent and as such a part of what Canadians have felt since the beginnings of our country. To buy, to sell, to retain and to hold for possession property is something that we all believe in. It is something with which we deal in our everyday lives. Not to include this in the Charter is to perhaps question if it is viable or not.

I recall a poster that the Canadian Real Estate Association sent to me a couple of years ago. It was a picture of a beautiful home in a beautiful setting on a hill. It was a very pretty scene, almost a dreamy type scene. I suppose it is something that many people hope they will be able to fulfil, that is, to own a beautiful dwelling such as that.

Earlier in debate there was some question of abuses which citizens have had to be subjected to in recent times. The concerns of Mirabel were discussed. In that case, quite obviously, more land was expropriated than was necessary for even the most grandiose of airports that could have been imagined in a development of many years. The rights of the citizens of that community have been acknowledged and land has been returned to them. Thus the proper enjoyment of property can be a part of their life as well.

Usage of property is very important. The privilege that Governments have to expropriate property has always been considered very seriously. It is something which I am sure provincial Governments and municipal Governments will acknowledge, especially as the provinces consider legislation such as the legislation which is before us. I assume that this Bill will be passed. Seven provinces and at least 50 per cent of the population are required to ratify a change to the Charter. I assume that all provinces will be giving this matter consideration and where there may be complications they will address

these complications and the federal Government will acknowledge changes that will be necessary to implement this amendment.

In the Cornwall and Stormont—Dundas area much of our waterfront has been acquired by the Government through different agencies, either through the St. Lawrence Parks Commission, which manages a great deal of property for the province, or the St. Lawrence Seaway Authority, which is a federal Crown corporation. These lands were acquired at the time of the Seaway's construction. They have been managed in a responsible way since then. Although from time to time we may disagree with certain positions of the bodies that are involved, generally, development has been progressive.

However, recently, it has been acknowledged that this all-Canadian seaway will not go forward for many years, and lands that are held now for some 30 years are being allowed to be developed. The St. Lawrence Seaway Authority is retaining ownership. Rights to develop the lands have been allowed to be extended to private developers. Long-term leases can now be negotiated. In fact, some very interesting residential development is now proceeding in the western part of Cornwall on lands that have been a virtual eyesore and which in any other community with waterfront property would have enjoyed beautiful development for many years. It has been one of the unfortunate complications the Seaway has presented for my community. Although the rights to the property remain with the federal Government in the City of Cornwall the lands are being more properly utilized and will continue to be more of a people place in the future, a place that will have mixed development such as commercial, residential and private property reserves for parks and other recreational uses.

The Acting Speaker (Mr. Pappas): Order, please. The time provided for the consideration of *Private Members' Business* has now expired. Pursuant to Standing Order 36(2) the Order is dropped to the bottom of the list of the order of precedence on the Order Paper.

• (1800)

PROCEEDINGS ON ADJOURNMENT MOTION

[English]

A motion to adjourn the House under Standing Order 66 deemed to have been moved.

FINANCE—GOODYEAR TIRE COMPANY—TAX REMISSION ORDER

Mr. Patrick Boyer (Etobicoke—Lakeshore): Mr. Speaker, on March 7 I asked a question of the Minister of State for Finance (Mr. Hockin) about a remission order that had been granted to Goodyear Tire Company worth \$50 million over four years. I asked whether the Minister was prepared to rescind that order in light of the fact that company officials