

*Constitution Act, 1982*

to be secure in his or her ownership of a wardrobe, a BMW or a luxury home.

It is in the area of the substance of the motion, that is, its actual wording, that the greatest potential for disagreement exists. During previous debates on property rights in the House, much of the contention was engendered in two inter-related questions. First, what exactly is meant by "property"? Second, how would the inclusion and subsequent interpretation of "the enjoyment of property" impact upon such diverse bodies as the provinces, native people, environmentalists, women's groups, civil libertarians, business and labour? Those are important questions. It may be admitted that it is beyond the scope of this brief address to attempt an exhaustive explanation and critique of the various issues implicit in them. However, it is crucial that such matters be held in proper perspective. To that end, I should like to make the following comments.

First, it is indeed true that the last two or three centuries have seen the concept of property evolve from a rather basic interest in land and chattels or personal property to a more complex concern with intellectual property such as patents, trademarks and copyrights, to passive property such as stocks and shares, and now to the so-called new property such as social security systems and public employment. Therefore, the defining of what is meant by property is now a necessary and sometimes complicated exercise.

Second, one must take the legitimate concerns of the aforementioned groups very seriously. It is only common sense for Prince Edward Island to be worried about excessive foreign ownership of its limited land resources. Every Canadian who loves Canada wants the appropriate environmental laws to ensure that our natural heritage is not abused. I, personally, have absolutely no patience with polluters, be they individuals, small or big businesses, or foreigners. Women's groups are right in wanting to safeguard the recent gains which have been made in family law legislation which have ensured a more equitable understanding of property rights within a marriage relationship.

There will always be a concern to ensure, on those occasions when difficult decisions must be made as to whether the public interest demands governmental expropriation of strategically-located land, that it be done with just recompense. Labour has raised important questions with respect to the just division of assets between the ownership and the workers upon the bankruptcy of a company. All this suggests that the careful legal interpretation of the "the enjoyment of property" is also a necessary and complicated exercise which is of particular concern to such groups and to Canadians in general.

However, having granted that "the enjoyment of property" may require both careful definition and legal interpretation, it is in no way sufficient to negate the premise and intent of the motion. Just because it may be difficult to define and interpret what is meant by "life", "liberty", or "security of the person", does not mean that we should refrain from enshrining them as fundamental rights. Similarly, just because it may be difficult to define and interpret "the enjoyment of property" does not

necessarily mean that it must be excluded from the Charter. To so argue is, at best, to allow the necessary qualification to negate completely a valid principle and thereby engage in inverted logic. At worst, it is an attempt to create a smoke-screen by consciously confusing primary and secondary considerations. Indeed, the first consideration in this whole matter is whether or not, in principle, it may be agreed that "the enjoyment of property" must be secured as a fundamental right for all Canadians within the Charter. In discussing the premise of the motion, I have argued at some length that it is logically inconsistent to do otherwise.

Apparently, even the Liberals and the NDP agree with this assessment, although their performance during the constitutional debates on the subject might suggest otherwise. The Liberal spokesman, the Hon. Member for Glengarry-Prescott-Russell (Mr. Boudria), recently stated that he was in agreement with the principle of property rights, as reported in *Hansard* on December 6, 1984. Similarly, the spokesman for the NDP, the Hon. Member for Churchill (Mr. Murphy), repeatedly stated in the House that his Party, in principle, was in favour of property rights. Some of his comments were reported in *Hansard* on February 1, 1985.

All that is fine, as far as it goes, but it does not go far enough. Both the Liberal Party and the NDP have failed to pursue the principle to its logical conclusion. That is, since life does not operate in a vacuum, principles cannot be left in abstraction. Therefore, we must ensure that the principles of liberty lead to their natural conclusion in property rights.

I am content with the simple addition of the phrase, "and the enjoyment of property" being placed in the middle of Section 7 of the Charter of Rights. The parameters of the definition and the interpretation of this addition would be limited by the latter part of Section 7, which states that the right to life, liberty and security of the person and the enjoyment of property are limited "in accordance with the principles of fundamental justice".

As there will be a constitutional conference during the life of this parliamentary session which will at least discuss the issue of Senate reform, I strongly urge the federal Government and members of my Party to demonstrate to the people of Canada that we support the inclusion of property rights in the Charter of Rights. If the provinces in their wisdom choose to say no, then let them answer for their error to their electorate.

In conclusion, I call upon the House to refer the motion to the Standing Committee on Justice and Legal Affairs in order that the appropriate witnesses may be heard, a consensus achieved, and a conclusive decision made to secure within the Charter "the enjoyment of property" as a fundamental right and privilege of each and every Canadian.

● (1720)

[Translation]

**Hon. Jean Lapierre (Shefford):** Mr. Speaker, I would like to start by congratulating the Hon. Member on presenting this motion to the House. The concept of property rights and the