

*Private Members' Business*

wanted changes, it was framed by a group of elite politicians in a power brokering deal between the federal government and the provinces with very little if any opportunity for the people to put forward their points of view.

**An hon. member:** All men, no women.

**Mr. Scott (Skeena):** As my hon. friend said, it was a group of white Anglo-Saxon Protestant men. No women or minorities were reflected. It was very much a power brokering deal.

I have read a bit of history and I understand that at the time Prime Minister Trudeau considered very carefully going to a referendum because he was having a problem getting the provinces to agree to the amendment of the Constitution. If the government of the day had gone to the people and had asked for their input, we would have today a charter without a notwithstanding clause. That was put in there at the request of the provinces. It was done in a power brokering deal arrangement made behind closed doors with a group of elite politicians.

Does the member who moved the motion not agree that the process was flawed and that if we had the proper process we would not be in the situation we are in today? I guess that leads to the following questions. Where does sovereignty fundamentally reside? Does it reside in the federal government? Does it reside in the provincial governments? Is it shared between them? Or, does it reside in the people where it properly should reside?

The power sharing arrangement was constructed by and for political interests.

• (1845)

I go on from there to say that the framers of the charter in my view have a fundamental misunderstanding of what a charter of rights is for. A charter of rights should be about freedoms from and not entitlements to.

If we look at the Canadian Charter of Rights and Freedoms as it is today, it is not that. There are certainly some reflections of that idea in there but it is more than that. It has some fundamental omissions in my opinion and it has some things in there that we could easily do without.

I would like to talk about the omissions first. There is no entrenchment of private property rights. This was done to serve the interests of the provincial governments but it certainly is not in line with what Canadians want. I suggest again if the process had been right that would be in there.

There is no tax limitation clause. There is no ability for the people to say that government can have only so much of my skin and I want the rest. There is no ability to do that within the

charter. There is no deficit limitation clause. There is no ability for the people to say that government can only go into debt so far, that government can only have deficits of such a per cent of gross domestic product and no more.

That is not in the charter. There is no ability within the charter for referendums, initiative or recall and that could very well have been placed in there as well. It is something that we in this party know from campaigning and talking to people throughout Canada is very popular with the people but it is not in our charter.

I want to talk now about a part of the charter that we could do without. Section 15 of the Constitution Act of 1982 provides in subsection (1) that no Canadian will be discriminated against because of race, sex, disability, et cetera. Subsection (2) of the same section notes that the first section does not mean that government may not enact laws that are intended to ameliorate past discriminations.

What this subsection implies is that subsection (1) holds unless government has decided that a reverse discrimination program is in order. If there is such a program, the rights of those who are affected by such programs are simply forfeited in the interest of achieving the aims of the program.

This reverse discrimination or affirmative action provision in effect means that there is no protection for individuals from discrimination against them by Parliament if Parliament deems that in some past period of time some group covered by subsection (2) was discriminated against. This is another fundamental flaw in the charter.

While I agree that the notwithstanding clause is fundamentally undemocratic and its removal would enhance the charter and give it real meaning and protect the inalienable rights of Canadians, there are these other changes to the charter that need to be addressed as well.

In line with that, as my hon. friend earlier suggested, we have to look at reforming appointments to the Supreme Court. We have to look at a more democratic way of having those appointments made so that people can feel that at the highest levels of protection of our democratic interests we do have a democratic institution, an institution that is elected and not appointed, that is there to safeguard those interests.

**Mr. Allmand:** Mr. Speaker, on a point of order. The hon. member for Skeena asked me a question and I am wondering with the permission of the House if I could briefly answer it.

**The Deputy Speaker:** Is there unanimous consent for the member to briefly answer the question?

**Some hon. members:** Agreed.