

holder was saying that if property rights are put in the Constitution, those who own property such as bonds and assets would have more rights to the assets of a company when it went bankrupt than the workers who work there. In other words, you could work there for 10 years and the company could owe you \$5,000 or \$50,000 in pension benefits. They could owe you \$20,000 in wages and more in benefits and pension rights, but, according to the mortgage holder who was speaking to the *Winnipeg Free Press*, you would not have any rights. The person who would have rights is one who is not that badly off and has assets, bonds, and some kind of securities or bills owing from that particular company.

We are not speaking against property rights, Mr. Speaker. We in this caucus happen to represent farmers. Some of our caucus members are farmers and own their own farms. Most of us own our houses. Some of us have cottage land which we own. We are not against property rights. However, we want to make sure that property rights will only be included in the Constitution once we have protected the rights of other Canadians by recognizing the rights of tenants, native people, and people who are concerned about the environment. That is something that I have not had a chance to talk about, Mr. Speaker. We must recognize the rights of a provincial government to ensure that the limited land available is best used for the purposes of the whole public. Once that is guaranteed and we have found a process to ensure that we have not taken rights away from the province and the individuals, we can have property rights in the Constitution, but only then.

It is very important that the House not deal with property rights in the artificial manner in which the Conservative Party has brought them before us on the last two occasions. It cannot be brought forward as a motion against the Government. It cannot be brought forward as a Private Members' Bill. It must be brought forward as a serious piece of government legislation which allows the provinces and all those affected to speak before it is passed.

Mrs. Mary Collins (Capilano): Mr. Speaker, I would like to add my congratulations to the Hon. Member for Mississauga South (Mr. Blenkarn) for bringing forward this very important motion. I agree with the Hon. Member for Cambridge (Mr. Speyer) that obviously Private Members' Hour does not provide an adequate opportunity to discuss the concept of entrenchment of property rights in the Constitution. However, it does provide an opportunity to discuss some of the issues. I hope some of those issues will be brought out during this debate.

I too am sympathetic to the idea of entrenching property rights in the Constitution. I reiterate the support of my colleagues and my Party in this respect. In considering the entrenchment of property rights I believe we cannot discuss it in a vacuum. I believe that we must understand the context of the real world in which constitutionally entrenched property rights would operate. We should and must take into account the important interests of society which justify reasonable and fair restrictions of property rights. Not the least of these

interests are the interests of women. That is the area I would like to address today.

● (1750)

It is imperative that we act in a manner that least affects the exceedingly hard-won gains that women have made toward equal opportunity and employment and economic issues in recent years.

Let us consider the issues that women's groups have brought forward. They have argued that the entrenchment of property rights might jeopardize the interest of women, and we need to analyse some of those issues to reassure ourselves and society at large that such an initiative is well and thoroughly considered. For example, women are concerned that the protections we have won under the family law reforms might be annulled by the application of constitutional property rights protections. Matrimonial property legislation now provides for the division of assets upon divorce and separation.

The courts are empowered to divide assets among separated or divorced persons irrespective of the apparent legal title to those assets. Spouses are deemed to have acquired an interest in property by virtue of the marriage relationship. The extent of the interest varies with the circumstances. The types of property to be divided on marriage breakdown range from the matrimonial home to automobiles, from personal possessions to pension rights. The practical effect of these laws is to recognize the mutual contribution of homemakers and breadwinners to the success of the family as an economic and social unit. They also prevent the equal partners in marriage from suffering unequal burdens upon marriage breakdown.

What women's groups are asking is whether the entrenchment of property rights could be accomplished without dismantling the matrimonial property systems that have been set up under family law reforms. We should recall the wording of the clause proposed in the resolution of the Legislature of British Columbia, my home province. That resolution proposed that Section 7 of the Canadian Charter of Rights and Freedoms should be amended to add the right of enjoyment of property to the rights already enumerated therein. Everyone would have the right not to be deprived of the enjoyment of property except in accordance with principles of fundamental justice.

The constitutional protection of property rights proposed by the Legislature of New Brunswick is worded somewhat differently. That Legislature resolved that the Charter should be amended to add Section 7.1 which would read, "Everyone has the right to the enjoyment of property and the right not to be deprived thereof except by due process of law".

The women's groups are concerned that whatever form of wording is chosen the result will be to allow the courts to interpret "due process of law" or the "principles of fundamental justice" as a guarantee of substantive due process.

Let me explain. Under the Fifth and Fourteenth Amendments to the United States Constitution, no person may be deprived of life, liberty or property without due process of law. In American jurisprudence, due process has in the past been