

*The Constitution*

My ancestors and the ancestors of many of my constituents fought the lords and kings of England to establish their rights. They came to Canada as free men and women. They did not consider it necessary to draft a bill of rights. They considered that the individual had all the rights and freedoms necessary. They were prepared to delegate away certain rights and freedoms to the government in order to operate an orderly society.

**Mr. Blais:** Tell us about Penetanguishene.

**Mr. Lewis:** The minister asks me about the town of Penetanguishene. The situation there has split the community. The minister is not in agreement with many members of the Liberal Party in that community who feel that the community does not need a school which is going to split the community. The riding president of the Simcoe North Liberal Association told me that. I appreciate the minister raising the matter.

The Criminal Code is an example of such a delegation. It defines crime and stipulates punishment for citizens who commit crimes. Elected representatives of the people decided to take away an individual's freedom if he or she could not live within the rules of society. In certain other instances, rights were affirmed by documents such as the Magna Carta written in 1215 which enshrined the writ of habeus corpus confirming that the state must appear in open court and show just cause why an individual should be deprived of his or her freedom. I submit that the individual has all the rights and freedoms and, through his or her elected representatives, may delegate away certain rights.

I understand the concerns of my constituents who have come to Canada from other countries where the individual's rights and freedoms are not as sacred as they are in Canada. These people are concerned about the protection of their rights because they were deprived of them, in some cases by governments in countries which have a bill of rights. In no way should they feel that any individual right is threatened in Canada. There should be a certainty to rights. For that reason, I am personally prepared to support a charter of rights and freedoms.

If we enshrine our rights and freedoms as defined in 1981, we must be sure that the charter contains all the rights and freedoms now considered to exist and allow for quick, easy amendment to improve the charter. No one in this House is a Solomon who can state unequivocally that the Charter of Rights and Freedoms contains all the rights and freedoms that presently exist or should exist. The values and attitudes of society change. That is the nature of things. I have suggested to many audiences that anyone writing a charter of rights and freedoms in 1900 would not have included the proviso that women have the right to vote. Would such an amendment have passed in later years if it had to go through the government's proposed amending formula? If the amendment was considered premature by one province or another, it would have failed. Rancour, disappointment and discontent would prevail.

I am also bothered by the fact that my rights as an individual are to be determined by a judge, not an elected representative. As a lawyer, I have great respect for the

judicial system, the judiciary and the rule of law, but I do not want to tell a citizen that a constitutional amendment is required to assert the rights which he thought he had. Government should be of laws, not of men. Rights not defined in the Charter of Rights and Freedoms should be capable of definition or improvement by elected representatives, not judges.

I appreciate that the point I am now about to make is not constitutionally fine tuned. I ask the government to consider some method whereby the charter of rights and freedoms could be amended by a vote in Parliament, improving and expanding the rights contained in the charter by a simple majority of Parliament. But if rights or freedoms are being reduced, they must be subject to the amending formula.

In the spirit that it is the duty of the opposition to suggest improvements, I wish to comment on two possible amendments to the Charter of Rights and Freedoms.

It is a glaring deficiency for the proposed charter of rights and freedoms not to contain a guarantee of an individual's rights to own property. The Progressive Conservative Party has proposed that everyone has the right to life, liberty and security of the person and the enjoyment of property and the right not to be deprived thereof, except in accordance with the principles of natural justice.

The Liberals and NDP have rejected protection for an individual's property rights. That is a glaring error. The right to own property and not have it taken away except by natural justice is a fundamental right of all Canadians. That right should be enshrined. We do not seek to prevent government from expropriating a citizen's property where it can prove a specific need that is fair and in the interests of society. But we are concerned that by omitting entirely any reference to property rights, the Liberals will be inviting a judicial interpretation that citizens have no right to own property. Socialists will rejoice.

I wish to put on record a letter I received from the Midland-Penetang District Real Estate Board. I quote:

Our board and its 86 members cannot condone and further condemn the Liberal government's action of refusing to entrench property rights in the Charter of Rights and Freedoms.

Property rights as presently provided for in the Canadian Bill of Rights should be included within any Canadian charter of rights and freedoms.

We do acknowledge and commend the efforts of your party regarding the necessary inclusion of property rights within the charter of rights. Our board further endorses the Conservative party's wording of this proposed amendment.

In today's society, a person's privacy faces countless intrusions. Property ownership preserves a feeling of privacy. It allows us to "get away from it all" with a sense that we are retreating to something which is "ours" and cannot be confiscated by the state. That concept is precious to Canadians. It is a concept of personal independence. It also fosters a sense of permanence. Mark Twain once said, "Buy land, they stopped making it".

Surely the Charter of Rights and Freedoms should be expanded to include this basic concept enshrining the right of every Canadian to own property.