

Constitution Act, 1982

For them, property rights mean the right to own and enjoy their homes, their farms, their businesses without arbitrary interference from the Government. Property rights mean that they can provide for their children and their future. Property rights are their security, their assurance that things they have striven so hard to acquire and accomplish will not be undermined.

As important as property rights are, all of us recognize that they must, like other individual rights, sometimes give way to higher interests in the common good or to other individual rights. The Hon. Member for Kitchener understood that well in his presentation to the House. There are many laws affecting property interests which are essential to the proper functioning of our society. I speak of laws such as public health and safety, environmental laws, resource laws, community planning laws and family laws. In one way or another, such laws regulate the ownership and use of property in the public interest.

All three levels of Government in Canada—federal, provincial and municipal—have found it necessary to enact such laws. In doing so, they have usually struck a reasonable and fair balance between property rights and important societal interests.

There are many who are concerned, however, that the entrenchment of property rights will tip this balance in a way which is detrimental to these important societal interests. The provinces, women's groups, environmentalists, civil libertarians, native people and others have voiced concerns about the potential consequences of entrenching property rights. I see no reason why the concerns expressed should prevent us from acting. Those concerns simply indicate to me that there is a need to be cautious and sure that we have consulted all of those groups before we act in amending our Charter.

Some of the provinces are concerned that in applying property rights guarantees to provincial laws, the courts will substitute their economic and social beliefs for the judgment of legislatures. They believe that these sorts of judgment should be made by our elected representatives. The provinces would not appear to object to these sort of procedural protections which may be provided by the entrenchment of property rights in the Charter. Nor do they appear to object to protection against arbitrary government action. They do object to any step that would usurp their responsibility to make important social and economic policy decisions on the basis of public interest.

Women's groups are also concerned that by entrenching property rights we will be enabling the courts to substitute their policy views for those of Government. They point, and rightly so, to the experience in the United States in the first few decades of this century.

[*Translation*]

Mr. Lapierre: Mr. Speaker, I rise on a point of order.

The Acting Speaker (Mr. Paproski): Does the Hon. Member for Shefford (Mr. Lapierre) have a point of order?

Mr. Lapierre: Yes, Mr. Speaker, on a point of order. I am very happy with the speech made by the Hon. Member for St. Boniface (Mr. Duguay), but if I am not mistaken, Mr. Speaker, in the case of private members' business, if one were to speak till six o'clock, would all those good words not be vain? Could you remind the Hon. Member for St. Boniface of the rules in order that—

[*English*]

The Acting Speaker (Mr. Paproski): That is not a point of order.

[*Translation*]

Mr. Duguay: Thank you, Mr. Speaker. I can assure my colleague that I fully understand the Standing Orders of the House of Commons.

[*English*]

The women's groups to whom I was referring point to the experience in the United States in the first few decades of this century. During that time, the courts invoked the due process clause of the U.S. Constitution to strike down social and economic legislation. I make that point not to undermine the points made by my hon. colleague. They are indeed valid.

[*Translation*]

Mr. Malépart: Point of order, Mr. Speaker.

The Acting Speaker (Mr. Paproski): Is the Hon. Member for Montreal-Sainte-Marie rising on a point of order?

Mr. Malépart: Mr. Speaker, I believe my hon. colleague and friend from St. Boniface does not know the procedure. Could you explain to him that what he is now doing is talking out a Bill which is of great importance for Canadians?

[*English*]

The Acting Speaker (Mr. Paproski): I do not think that it is fair to the Hon. Member, particularly in private Members' hour. I regret that Hon. Members are doing this. The Hon. Member still has a minute left in which to speak.

[*Translation*]

Mr. Duguay: Mr. Speaker, not only do I know and respect the rules of this House, but I do not abuse them as do some other Hon. Members.

[*English*]

The present Government has not had sufficient opportunity to consult with the parties concerned in this matter and to consider properly their views. Consultation takes time. My colleague, the Hon. Member for Kitchener, has raised a very important issue. He has contributed to an important debate. Canadians understand that the matter that he raises is significant to all of us. It needs to be done with a great deal of care and concern so that when we put forth amendments they are supported by the provinces and Canadians get what they so rightfully deserve, an entrenchment of property rights.