It was the constitution of the United States. It took a long while in American history but finally they won in 1954 by gathering together the funds necessary to challenge those laws. They won in the Supreme Court of the United States in that very famous case, the Brown case.

• (1815)

Can members imagine if they had a notwithstanding clause in the American constitution and Mississippi, Alabama, Georgia or any of those states could simply say that despite the Supreme Court of the United States, too bad, they are going to legislate exactly what they had in the first place. The constitution of the United States would not mean anything. That would be ridiculous. It is ridiculous in most countries. The notwithstanding clause was accepted as a political compromise and it was unfortunate and wrong.

During the discussions on the Charlottetown accord there was discussion as to whether the committee of which I was a member, the Beaudoin–Dobbie committee—it was Castonguay at one point—should make recommendations against the notwithstanding clause.

We debated it at great length and finally we left it aside, much to my dismay, on the grounds that while the notwithstanding clause is not correct in principle there was no chance we could get the provinces to agree, therefore we should not waste our time pursuing something that we could not get agreement on. I say that was unfortunate.

There are other people who will argue that the last word must always be with the political people, the elected people. I can remember an NDP premier of Saskatchewan, Allan Blakeney, whom I respect for other things. He took that point of view.

Legislatures and Parliaments in this country are not unlimited. The Constitution Act of 1867 puts limits on us in many respects. There are limits on catholic schools and protestant schools. There are limits on what one can legislate in the provinces and what one can legislate at the federal level.

There are limits with respect to what one can do regarding the monarchy in the country. One cannot legislate in any respect whatever one wants. There have always been limitations. What the charter did was extend those limitations and say that certain rights belong to people and political bodies cannot take them away.

The argument that political bodies should be completely free to do whatever they want or what they think right at any time is not right in principle and it is not acceptable even from a legal point of view.

I want to remind the House that in 1986 at a large national convention after we lost in a devastating way the election of 1984, the Liberal Party passed a resolution by well over 80 per cent of the delegates attending in 1986 in Ottawa, saying exactly what I have in my motion today, that we should take steps to get rid of the notwithstanding clause.

As a matter of fact, the then leader of our party, the Right Hon. John Turner, presented the same motion that I am presenting today. It was in his name until he retired. I have taken up the motion although I have always supported the same point of view.

I am saying that if we are going to have a Charter of Rights and Freedoms on such basic rights as I have described—I would not say the same thing about marginal rights which are important or other types of rights—and that we have in this charter, they should never be subject to suspension.

If one agrees to suspension in one case, then one leaves oneself open a little while down the road to the suspension of other rights whether they be religious rights or language rights or rights to express one's opinions, freely to write what one wants, to form a trade union, or to form a political party.

I ask this House to take this motion seriously. This is not a piece of legislation in itself. It is a motion that will express the view of this Parliament.

During the discussion right up to the Charlottetown accord some people said that we could not get rid of the notwithstanding clause altogether but that maybe we could get agreement on its limitation, maybe we could take it off the equality rights section, perhaps we could take it off the fundamental freedoms section but leave it on the political rights, in other words restrict its ambit of application.

That was one solution proposed. Others said that maybe we could reduce the number of years for which the notwithstanding legislation is valid. As members know, right now when you pass a bill under the notwithstanding clause it is only good for five years and you must do it all over again. They said let us reduce that to three years, two years or whatever.

• (1820)

Then others said maybe we should introduce a two–thirds requirement for its use. If you are going to suspend basic rights in the Constitution with the notwithstanding clause you should at least have to have two–thirds, three–quarters, not the ordinary 51 per cent majority.

If it was impossible to get rid of the clause altogether I would certainly accept those kind of compromises. I think they would go some distance in reducing the concern that the many minorities in this country have.

Let me say this is a country of minorities. You look at the House we have today, we come from many parts of the world, we come from many linguistic backgrounds, many racial backgrounds, many religious backgrounds. It is not as it was in 1867 when we were basically catholics, protestants, we were all white