

Supply

and since we have a majority Government, if all goes as it should, the motion will be defeated. What happens then, Mr. Speaker? The Minister of Justice gave some indication of that himself in his speech, but I would like to say it again. The rules of the House are very specific in this respect. There is an old Parliamentary rule that goes back almost to the stone age, namely, that when a question has been decided on by the House, the same question may not be reintroduced, in the form decided by the House, during the same session. Beauchesne has already been quoted. I shall, if I may, refer to Bourinot, Fourth Edition, page 328, paragraph 9, where he refers to *Renewal of a question during a session*. Some reference was made to this a few minutes ago.

It is always possible to introduce a much different motion which would be basically the same as the one previously defeated in the House. Then again, Mr. Speaker, a Member could still argue that the motion is, for all practical purposes, basically the same as the one already disposed of by the House, which could lead to a long debate as to whether this new motion is in order or not as it basically reflects one which was previously defeated. I must therefore say once more, and that is why I wanted to take part in this debate in the first place, that the procedure followed by the sponsor of this motion, as well, of course, as by his party, is extremely dangerous because, even if these negotiations, which are very delicate since there is no unanimity on all elements of the motion, were to be successful, if only one Member refuses to give his consent, we shall automatically be faced with a non-confidence vote at 3 o'clock on Monday afternoon. Obviously, the government would have to vote against the motion at that time, and this would automatically mean that what most of us want to do, mainly entrench property rights in the Constitution, could no longer be done during this session.

The procedural aspect is therefore a matter of substance and not simply of form, because the procedure followed by the Opposition in debating this motion could lead to a Parliamentary deadlock which, and I emphasize this point, would prevent us from re-introducing a motion to do what we all want or what the majority of us want, namely to entrench property rights in the Canadian Constitution.

In any case, Mr. Speaker, I hope that reason will prevail when the time comes in a few minutes or half-hour when someone rises to submit to the Chair the wording of an eventual agreement that might break this deadlock.

I would like to use the little time left to me to say a few words about the substance of this motion. I said at the outset that I am basically in favour of what it proposes, and so I am. I believe that, for various reasons, including those I gave earlier, it is probably a good thing to entrench the right to the enjoyment of property, even though nothing would be changed since this right already exists. Reference was made to the common law. Reference was also made to our whole legal history, from the Magna Carta to the Star Chamber and the quashing of

general mandates by the British courts a few centuries ago, and because of all this history, property rights are sacred in our legal system. These rights exist. We would therefore not be granting new rights, but even if this does not change the law as such, it is important symbolically, as the previous speaker said, to recognize the value of this right which is fundamental in our society and to entrench it in our Constitution.

● (1540)

Many considerations are involved. Of course, there are ideological considerations as collectivism runs counter to ownership and property rights. We live in a society which is not collectivistic and where property rights exist. I believe that we must not only recognize this fact but also proclaim it, because this is a characteristic of our society of which we are proud. Of course, there is also legal considerations—I mentioned some of them earlier—not because this creates a new right, but rather because, by entrenching it in the Constitution, even though the Hon. Member for Edmonton-East (Mr. Yurko) suggested that this provision would be subject to the notwithstanding clause, we would give rise to a major political debate, and in his reply, the Hon. Member for Ontario (Mr. Fennell) was partly right in expressing the wish that this right, if entrenched, would at least prevent obvious abuses and infringements by the various jurisdictions, whether provincial or federal. A proper public debate would therefore have to take place beforehand. Naturally there are strictly constitutional considerations, and here is one of them: will these constitutional rights, because they are constitutional, and these property rights, because they are constitutionally enshrined, take on a special meaning which will give Canadian courts the impulse they may need to look beyond their own jurisdiction and put them in their appropriate sociological context? Considering that none of the cases now before the courts have been referred to the Supreme Court, I would suggest that we all hope that in the next few years the Supreme Court will be called upon to rule on the interpretation of several provisions of the Canadian Charter of Rights and Freedoms. We hope, I repeat, that the highest court in the land will set the Charter of Rights and Freedoms in an appropriate judicial context which will transcend the restrictive interpretation it gave to the Canadian Bill of Rights. But, of course, it is an issue which has yet to be defined because it will be up to the courts themselves to assume that responsibility which they might possibly prefer not to take on.

And of course there are psychological considerations as well. As one of the previous speakers said, the property right is the fact that once you are home, you feel well, you feel secure, you like to be there and fully enjoy that right. I think we should not minimize that aspect, the hope of Canadians to become homeowners. When you talk about property—and I must admit that the NDP Members were right on in their amendment which the Chair ruled out of order, Mr. Speaker—you