prescribed by law as can be demonstrably justified in a free and democratic society".

We have had our liable and slander laws for many years, but if they were to be challenged as contrary to the Charter of Rights and Freedoms, the spokespersons for the government could argue that these were exceptions that were reasonable in a free and democratic society. In other words, one should not be able to tell lies that will hurt the reputation of other people.

The difference with article 1 of the charter is that it is the court which decides whether the law being challenged is an exception to the charter or not and it is not a politically elected Parliament or legislature that decides. To me that is very important.

What does it really mean when we have a notwithstanding clause in our Constitution and in our Charter of Rights and Freedoms? It means that our minorities really have no protection vis–à–vis the majority. It means that the minorities are subject to the rule of the majority. The notwithstanding clause becomes a contradiction to the very reason for the charter in the first place.

• (1810)

Those of us who argued in favour of the charter, including Prime Minister Trudeau, said that we must have a charter entrenched in our Constitution to protect minorities of different kinds against the rule of majorities in cases where fear often is demonstrated, where all of a sudden in certain situations people want to trample over the rights of the minorities. He said that we could not leave that to ordinary legislation, that we must recognize basic principles and put them beyond the rule of the majority. However if a notwithstanding clause is included that is contradicting what is being done in the first place. You are giving with one hand and then taking away with the other.

To me that is hypocrisy. You really do not have a Charter of Rights and Freedoms if a legislature can pass a law using the notwithstanding clause, using the words "notwithstanding the rights and freedoms we are legislating as follows". You really do not have protection and that is what was supposed to be done in the Charter of Rights and Freedoms. However you are giving with one hand and taking away with the other. It becomes a farce. It can even become mob rule. That is, the mob, the majority when they want to act, they act regardless of the basic rights of the minorities in society.

I had the privilege of being educated at law school by Frank R. Scott, one of the great Canadian professors of law and one of the great civil rights lawyers in our entire history. He was able to challenge two laws Quebec Premier Duplessis passed in the post–war period.

One was a law to ban the Jehovah Witnesses. Frank Scott with others was able to have that law overturned. We did not have the Charter of Rights and Freedoms in those days. However because he was a very imaginative lawyer he was able to do it by referring to other parts of the Constitution.

Then Premier Duplessis passed a law called the padlock act. It allowed him to put locks on the doors of anybody suspected of being a Communist. I have no sympathy for Communists. The point is if it can be done for the Communists, it can be done for the Reform Party, the Liberal Party, the Conservative Party or any other party if you do not like them and you are allowed to pass a law banning a political party. Again, Frank Scott was able to win without the charter.

However I put this to the House. If there had been a charter with the notwithstanding clause and Frank Scott had won in the Supreme Court of Canada, Mr. Duplessis would simply go back to his legislature and say: "Notwithstanding the Supreme Court of Canada, notwithstanding the Charter of Rights and Freedoms, we are once again going to ban the Jehovah Witnesses. We are once again going to ban a political party".

When it was introduced and agreed to by my own party and our own government, it was said we were agreeing to it to get the package through. It was said that it would never be used and if it was going to be used, it would be rare.

It has been used several times. It has been used in Saskatchewan; it has been used in Quebec to override the Supreme Court of Canada and to override other rulings of the court with respect to the charter.

I ask Quebecers in particular to consider that if the legislature of Quebec can do it for language in that province, then another province can do it for language as well. If it can be done for language, it can be done for religion. If it can be done for religion, it can be done for equality between the races.

Once you agree to do it, then one day you cannot say to the guy in the next province or to this Parliament that it should not be done for that when you have done it yourself. You cannot pick and choose on this kind of thing.

Imagine what the situation would have been if the United States had a notwithstanding clause. I know it took a long time but it was finally in 1954 in the famous Brown case that the discrimination laws against blacks in the United States were finally struck down. They were laws that were enforced in several of the southern states that said that blacks must sit in the back of the bus, that said that blacks had to sit in a certain part of a cinema, that said that blacks could not go into certain parks, that they could not live in certain districts, that they could not go to certain schools.