

December 9th, 2010

Business of Supply
Government Orders

Mike Savage, MP, Dartmouth-Cole Harbour:

Mr. Speaker, I am delighted to have the opportunity to speak on this motion that was brought forward to the floor by the distinguished member of Parliament for **Moncton—Riverview—Dieppe** who has served for many years.

This is an important motion for many of us, perhaps more so for the Liberals than some others because of the heritage of this party. I want to preface my comments by just putting it in context. When I saw this motion it made me think about the times I have travelled as a parliamentarian, which is a great privilege.

One of the great privileges of being a parliamentarian is the opportunity to travel abroad, as well as to travel within Canada. One of the first trips I took as a member of Parliament in 2004, I believe it was, was the opportunity to travel to Berlin with the then-minister of justice, the member for **Mount Royal**, surely one of Canada's most distinguished parliamentarians, one of Canada's most distinguished human rights experts and, I would suggest, one of the world's human rights experts.

I had the chance to accompany him on a visit to Berlin. The issue was human rights. Part of the topic was how to balance human rights with security. The guest list was truly impressive, except for myself. He was there with supreme court justices and ministers from other countries, talking about human rights. I learned so much at that meeting, not so much about the technicalities of constitutions and charters and things like that. I am not a lawyer, but I have certainly been accused of being one.

This is an interesting thing to experience, going to other countries and talking to people about Canada. People talk about what it means to them to be Canadian. That conference must have been in 2005, because we were going through the issue of civil marriage. Other countries were just absolutely awestruck by how Canada can be a progressive nation that understands that the majority is stronger when the minority is protected.

This is the kind of image that Canada had abroad. I would suggest it has been somewhat diminished in recent years, but Canada has this reputation.

I do not travel as much as I could. Like all members of Parliament, I could travel quite a bit. I had the opportunity recently to travel to the country of Azerbaijan, a former Russian state doing its very best to now be a democracy. It had great freedom fighters and liberators in that country who have brought Azerbaijan to a pretty good place as a democracy, a fledgling democracy but one that values the opportunity to settle its issues by the ballot and not by the bullet.

It is embracing democracy and it is embracing human rights while trying to understand the context and nuance of protecting minorities while moving the country forward. It is a country that has a fair amount of wealth. It has some Caspian oil. It is doing pretty well.

I was invited, along with Senator Percy Downe to be an election observer for its election, which was a very well run election. I was very impressed, seeing people coming in to vote for the first time and getting the ink mark on their thumb. They consider that a badge of honour. In many cases they have not voted before. They do not understand all about it, except that it is important.

When we met with the electoral commission, we saw that Canada is one of the ideals. Canada is one of the countries that people look up to, because as much as it may get acrimonious in this chamber, as it has as recently as 45 minutes ago, this is where things get decided, and that is as it should be.

Part of the thing that makes that work is that we have the Canadian Charter of Rights and Freedoms. We have an overall umbrella that ensures that Canadians have a certain level of protection.

For that reason, I am particularly happy to have the opportunity to speak to this motion today. The motion, as read earlier by the member for **Moncton—Riverview—Dieppe**, is:

That the House recognize the vital role played by the Charter of Rights and Freedoms in ensuring justice, liberty, equality and fairness for all Canadians and call on the Government to reject the views expressed by several members of the Conservative Party of Canada that belittle and criticize the Charter's impact on Canadian society.

There are some of those. There are also a large number of Conservatives, in my view, who fully and completely support it, and many who have embraced the Canadian Charter of Rights and Freedoms. I think of Progressive Conservatives like Brian Mulroney and Joe Clark. I am sure there are members who sit in the House today who would share that view.

The history of the Canadian Charter of Rights and Freedoms is important. We had the Bill of Rights, which was one of Mr. Diefenbaker's landmark achievements. Mr. Diefenbaker was a great believer in human rights. As a lawyer on the prairies he defended many people, many of whom were unjustly accused, and he came to believe that we needed to have a Bill of Rights.

I had significant admiration for Mr. Diefenbaker. He was strongly opposed to things like capital punishment, which went against a lot of the view at his point in time. He believed overall in the fact that there has to be some protection.

The charter that we are talking about today was preceded by the Canadian Bill of Rights back in 1960. However, the Bill of Rights was only a federal statute, not a

constitutional document. It was an important document, an important measure for Canadians to have, but it became clear that we needed more. As a federal statute it was limited in scope, was easily amendable and was difficult to apply to provincial laws. The Supreme Court of Canada also narrowly interpreted the Bill of Rights. The court was reluctant to declare laws inoperative. It was a good document but we needed more.

Our great former prime minister, Pierre Trudeau, was somebody I looked up to as a younger man. He understood this. He understood it was difficult. It is never easy to make major changes in Canada. It is never easy to get things through Parliament, and it should not be easy. This is not a place where things should be rubber-stamped. This is not a place where things should be easy to move along. Part of the test of how important something is, is how much work goes into making it happen.

The fundamental freedoms of the Canadian Charter of Rights and Freedoms include “freedom of conscience and religion; freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication; freedom of peaceful assembly; and freedom of association”.

It speaks about the democratic rights of citizens. It even refers to the maximum duration of legislative bodies. It speaks of mobility rights, “Every citizen of Canada has the right to enter, remain in and leave Canada”. It speaks about rights on life, liberty, security of person, search and seizure, a whole number of issues. This is a very significant achievement in Canada.

We all have different touchstones that to us really mark turning points for Canada. For some people, it might be some of the great battles that took place in World War I when, as some people say, Canada became a leader of nations. For some people, it might be World War II. For others, it might be getting our own flag in the 1960s or the bilingualism and bicultural commission. Women's rights is a significant one.

For many Canadians, 1982 was a seminal moment in Canada, a moment when we said we were going to make this happen through the Charter of Rights and Freedoms.

The charter spoke to official languages. English and French are the official languages of Canada. They have equality of status and equal rights.

The rights that I would say symbolize Canada are minority language educational rights, aboriginal rights and freedoms not affected by the charter, and a whole host of other things that were included in the national discussion. The Charter of Rights and Freedoms' coming in 1982 made that a very significant time for Canada.

As a case study, I want to speak about myself when I was first elected to this place in June 2004. One of the big issues in my first time in this Parliament was that of civil marriage. In Canada it was a contentious time. I can recall very clearly following the 2003 Ontario Court of Appeal ruling on the constitutionality of same sex marriage.

The court referenced section 15 of the charter, the equality section. Let me quote directly from the ruling:

The ability to marry, and to thereby participate in this fundamental societal institution, is something that most Canadians take for granted. Same-sex couples do not; they are denied access to this institution simply on the basis of their sexual orientation.

Sexual orientation is an analogous ground that comes under the umbrella of protection in s. 15(1) of the charter.

In addition, a majority of this Court explicitly recognized that gays, lesbians and bisexuals, “whether as individuals or couples, form an identifiable minority who have suffered and continue to suffer serious social, political and economic disadvantage”.

This was thrust into debate in the House of Commons. I was very pleased former prime minister Paul Martin made this an issue. It was not an easy one. I can recall discussions with prime minister Paul Martin, one of the Canadians I respect more than anybody else. He would tell anybody that it was an issue he struggled with. It is not an issue that was natural to him growing up. I know many people who struggled seriously with this issue. In my view the Charter of Rights and Freedoms became the seminal touchstone in that battle for civil rights and for civil marriage.

I know it was not easy. I spoke to many of my constituents who disagreed with me very strongly, people I grew up with and went to church with, people who I know are good people, who believe in equality, who believe in the fact that all people are created equal, who honestly and sincerely believe that people who are gay, lesbian or transgender are as good as they are, but they had an issue with civil marriage. I understood that.

I recall meeting with a Baptist preacher from my constituency. He came to see me over Christmas 2004. He wanted to pray with me about this issue. I was delighted and honoured to do that. I never felt at that time that I was giving up my religion to support civil marriage. I believed that I was embracing my religion, that I was doing what, in my view, my God would want me to do, but I understood that other people had a different interpretation.

The Charter of Rights and Freedoms became so important in that discussion, so important to Canadians who had different points of view. People have often said in this place that there can be two principled positions that do not agree with each other. Because an individual feels so strongly that he or she has the principle does not mean he or she has all of it. There has to be some third party, some clear and undiluted third party that makes it clear for people.

Many people would say to me that they had issues with this and they were not sure what to do, but because of the charter they supported it. Other people did not feel that way. To this day we have discussions, and I respect the point of view that they brought forward. For me, it certainly made it a lot clearer.

I see some members here who were elected with me in 2004. The member for [Leeds—Grenville](#) and others will remember those debates. I was asked by our leader to be on the special legislative committee that looked at that issue. It was not all that easy. We heard lots of points of view. We heard all kinds of witnesses in a hurry in order to meet certain deadlines. It was a very special time.

When people ask me about some of my proudest moments, among my proudest moments was voting for and seeing civil marriage brought to Canada. I believe that Canadians are proud of that. The world has not changed traumatically in Canada. When I visit other countries, people look at that and say that Canada was right to lead on that issue. It was a fascinating time. It was tense. People were in disagreement, but we can look back on that period and be proud that after a free and open debate where so many views were aired, and after hearing hundreds and hundreds of witnesses, we passed the bill, and Canada became the fourth country in the world to allow civil marriage for gays and lesbians. It was fascinating. That was an important time, and the Charter of Rights and Freedoms was seminal in that in moment.

The other issue I want to touch on is the court challenges program. I am certainly disappointed that program was cancelled. That program was introduced in the late 1970s. It was meant to provide support to minority organizations, in many cases, linguistic minorities, organizations that felt they could not achieve the full equality of Canada, but did not have the money to launch all kinds of big legal battles on their own. The court challenges program assisted with that. It was introduced in 1978. Prime Minister Mulroney expanded it, but then it was dropped. It came back under Prime Minister Chrétien in 1994 and then it was de-funded in 2006.

The court challenges program helped a lot of groups. When we think about some of these organizations or groups, we should think about whether we believe they should be proud of the national dialogue and whether we believe these organizations or groups of people should have rights in this country.

The program helped with a lot of issues. How about some disabled groups, amending employment insurance benefits that discriminate against parents of children with disabilities, expanding the common law definition of “marriage” for same-sex marriage, testing criminal law provisions, ameliorating systematic discrimination against African Canadians in the criminal justice system, addressing the discriminatory impact of immigration security certificates on racialized communities, supporting first nations status entitlements, voting rights for inmates.

Carmela Hutchison, who was the president of the DisAbled Women's Network of Canada, said:

Without the funding provided by the Program, many of the organizations and individuals that have invoked the guarantee of equality under the Charter would have been otherwise unable to do so. With the government's decision to de-fund,

Canadians who most need the Charter are now effectively denied access to that protection

Victor Wong of the Chinese Canadian National Council said:

We hope that the Fédération des communautés francophones et acadienne du Canada are successful in their challenge. We urge all Canadians to highlight the importance of this program....

That is what was said about the court challenges program. It went hand in hand with the Canadian Charter of Rights and Freedoms.

We have had the Canadian Charter of Rights and Freedoms since 1982. We celebrated a significant milestone back in 2007, the second year that the current government was the Government of Canada. At the time, I can recall former prime minister Jean Chrétien saying how shocked he was that the federal Conservative government had no plans to commemorate the 25th anniversary of the Canadian Charter of Rights and Freedoms. I was shocked, as well. I thought it was really sad that we did not do more on the 25th anniversary of the Canadian Charter of Rights and Freedoms to say that this is important to us, let us celebrate it and look at the achievements that we have had.

Instead, there was a conference on April 17, 2007. One of the conference organizers told Canwest News that the **Prime Minister**, the then justice minister, the then heritage minister and the former justice minister had all been invited to address the event but had declined.

Former Conservative prime minister John Diefenbaker was such a proponent of the Charter of Rights. Mr. Chrétien said, "I hope they will not put the flag at half-mast Tuesday because it will be an anniversary".

It kind of bothered me at the time that we did not do more to celebrate what I think was a very significant moment in the history of Canada. I was disappointed, as were other members of this House not too long ago when the new citizenship guide came out from Citizenship and Immigration Canada and there was no mention of the important step that was taken when Canada became a truly equal society in terms of marriage for gay and lesbian Canadians.

I am not going to throw all kinds of quotes at people. I am sure that they have been brought forward already today.

We have seen a number of members stand and indicate that they will support this motion. I hope that the government will support this motion.

We have heard the former police chief and the new member of Parliament for Vaughan, Mr. Fantino, indicate that he has some issues around the Canadian Charter of Rights and Freedoms.

If we asked Canadians if they think the Charter of Rights and Freedoms matters, even those Canadians who may not know all the details, even all those Canadians who may not have reams of information about the detail of the Charter of Rights and Freedoms, I think it means something to Canadians. It is almost a rainbow of equality that goes across this country. It is part of the fabric of Canada that we should be proud of, and many Canadians are proud of. It makes a difference. It makes us better. It allows us to stand out. New countries that are doing their very best to be democratic, such as Azerbaijan, can look to Canada and say, "That is what we want to be, a country that knows we are stronger when we protect the weak, when we actually help them to protect themselves".

That is what the charter gave us. That is what we should be celebrating all the time. That is certainly what we are doing today with this motion from the member for

Moncton—Riverview—Dieppe. I am proud to stand in support of that motion.

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Mr. Speaker, I agree completely with the member for **Moncton—Riverview—Dieppe**. The **Prime Minister** has said things such as, "Yes...I agree that serious flaws exist in the Charter of Rights and Freedoms". I think it sends a dangerous signal, and I must say, it is a signal that people are right to be afraid of because we have seen organizations that do not have a majority voice in this country that have been shut out. That is a shame. That is a signal that has been sent by the Prime Minister. I think that is very unfortunate.

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Mr. Speaker, it is a good question. There were a number of things that were not included in the charter that may have. I have had many discussions with people with disability who feel that they have not been protected adequately under the Charter of Rights and Freedoms. So to the previous point, that may be something that we can look at.

The point that my colleague brings up is true. Quebec has its own charter, which is a very robust document. So there may well be things that are missing from the charter, but the principle of the Charter of Rights and Freedoms, that overarching belief in equality, is really what is most important and it has been used to advance the cause of many people in Canada who would not have had their cause advanced without the Charter of Rights and Freedoms. As to improvements, I have never seen a

document yet where one could not say there is something missing here or there, but there are not many documents about which I have more faith than the Charter of Rights and Freedoms.

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Mr. Speaker, my colleague from Bonavista—Gander—Grand Falls—Windsor came to Parliament at the same time as I did, and I can recall discussions we have had on, for example, civil marriage. At the end of the day, we did not agree 100% on that, but we had a respectful discussion about it.

The significance of the court challenges program is that the countries that are the strongest, the countries that really have strength, are the countries that allow themselves to be exposed to challenges such as were allowed under the court challenges program. When I think about my children, Emma and Conor, who may or may not be in the gallery today, this is the kind of thing that I want to hand off to them. This is the kind of history and commitment to equality that I want my kids and all kids to have as we go forward, this belief that we are stronger together when the majority allows the minority to have equal rights and that we are not afraid of that. I think the court challenges program was one of the most important tools in allowing that to happen.

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Mr. Speaker, I respect the work that my colleague does. All I can say is if that is the position of the Liberal Party, I suspect it is probably a sensible position.

I do not have the detail on the bill that the member has, but I think that if things are living, breathing and changing, as my colleague from **Prince Edward—Hastings** said, I do not think it is unreasonable to have a sunset clause in a bill.

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Mr. Speaker, if my colleague from **Scarborough—Rouge River** said something about the Constitution, I would not challenge him. It would be like playing hockey against Sidney Crosby. He knows this better than anybody in this House. He is the Sidney Crosby of this place.

I would say there are lots of things that are living, breathing documents, and I support that theory.

In terms of the third leg of the stool, I think we have rights and freedoms which allow us to assume our responsibilities. Many Canadians do not have the opportunity to assume their responsibilities.

All of us as Canadians have a responsibility. We have a responsibility to honour our past, to honour where we have come from and to honour all the work that has gone into making Canada a truly fortunate and blessed nation on earth. What makes us that is having the rights and the freedoms that allow us to assume our responsibilities as good citizens.