

Human Rights

Mr. Diefenbaker: Yes, a very eminent jurist. That was his conclusion.

Mr. Pickersgill: With whom the Prime Minister disagreed at the time.

Mr. Diefenbaker: I seem to remember an hon. gentleman saying today that he was one of those who knew how to learn from experience and passing occasions.

Mr. Pickersgill: Does the Prime Minister admit that Mr. Ilsley was right?

Some hon. Members: Sit down.

Mr. Pickersgill: Does the Prime Minister admit that Chief Justice Ilsley was right at that time?

Mr. Diefenbaker: It is not for me to say whether Mr. Ilsley was right or wrong, but that was the report of the committee and Mr. Ilsley was held in such high regard not only by the members of that government but also by us that all of us paid our tribute to a man so judicially important.

I now come to the all-Liberal committee of the Senate of 1950. It set out its suggestions and recommendations on page 305. Let me point out who was on this committee so that there will be no mistake in that regard in case anybody wishes to know. The membership consisted of: Hon. Senators Baird, David, Davies, Doone, Dupuis, Gladstone, Gouin, Grant, Kinley, Petten, Reid, Roebuck, Ross Turgeon, Vaillancourt and Wood.

When some hon. members tell me that a bill of rights should be in language that will touch the hearts I say that these people produced a bill of rights and I am going to refer to the language they used. Here is what they concluded:

The preferable place for such fundamental law is in the constitution, which at present in Canada is the British North America Act.

Then, it says:

The enactment of a national bill of rights, however, presents difficulties.... No informed person with any sense of responsibility would suggest that the dominion parliament forcibly invade the provincial jurisdiction. Concurrence, therefore, is an essential requisite to constitutional progress.

After pointing out all of the difficulties, it says this:

Your committee therefore recommends that, as an interim measure, the Canadian parliament adopt a declaration of human rights to be strictly limited to its own legislative jurisdiction. Such a declaration would not invade the provincial legislative authority, but it would nevertheless cover a very wide field.

Every one of the members of that distinguished committee was a member of the Liberal party. Then, the report goes on to say:

While such a declaration would not bind the Canadian parliament or future Canadian parliaments, it would serve to guide the Canadian parliament and the federal civil service. It would have

[Mr. Nowlan.]

application within all the important matters reserved to the Canadian parliament in section 91 and in other sections of the British North America Act. It would apply without limitation within the Northwest Territories.

Those who oppose this bill say it should be pointed out that this bill passed by parliament, when it is a statute, is subject to repeal. It is. So was the habeas corpus act of 1670; so was the Bill of Rights of 1689; so is the Statute of Westminster of 1931. The history of mankind within the British commonwealth of nations has been, without exception, that once a statute has been passed as a landmark of liberty no subsequent parliament has ever repealed it.

Let me reiterate that those documents which have been referred to as the bulwarks and buttresses of our freedom, inherited in the British tradition, without the exception of even Magna Carta, have all been subject to repeal. Do we find any of those great documents altered, disposed of or destroyed from time to time? One thing is clear. Those who will read the constitutional history of the United Kingdom know that any statute placed on the statute books by parliament dealing with liberty never attains oblivion by repeal.

We pass on to the next argument. It is stated that we want something like the preamble to the declaration of independence. We want something Lincolnesque.

Mr. Pickersgill: He did not write the declaration of independence.

Mr. Diefenbaker: We do not want a document with pedestrian words; we want something that sounds sonorous and touches the heart. I think the hon. member for Assiniboia (Mr. Argue) was the first to lead off in that regard. I would ask him to read the bill of rights of the province of Saskatchewan. I want to mention this because it was passed in 1947. It is an act to protect certain civil rights. I read:

This may be cited as the Saskatchewan bill of rights act.

Every person and every class of persons shall enjoy the right to freedom of conscience, opinion and belief, and freedom of religious association, teaching, practice and worship.

Every person and every class of person shall, under the law, enjoy the right to freedom of expression through all means of communication, including speech, the press, radio and the arts.

Every person and every class of persons shall enjoy the right to peaceable assembly with others and to form with others associations of any character under the law.

And so it goes. My hon. friend said we would have some trouble with this bill of rights; it did not have economic rights in it. It is interesting to see what the socialist government of Saskatchewan did in that regard. It has a provision on economic rights which reads: