

Human Rights

I think I ought to repeat those words, because they are different from what we hear from the treasury benches in this thin gruel which we are being offered now:

Those who contend that these rights rest in the provinces aver that we in this country must be a balkanized Canada whereby an individual may enjoy certain fundamental rights in one province while in another they may be denied. It is that question of legislative jurisdiction that I am asking the government of this country to submit to the supreme court. If it is the law, then it denies to the individual that Canadian citizenship which should be the result of the measure introduced by the Prime Minister in 1944. To say that in one part of Canada a Canadian may enjoy freedom of religion and of speech and of association, all of those great and abiding freedoms, and that in another province a Canadian may not enjoy them, is a denial of the possibility that we shall ever build a united Canada on the basis of equality of the individual before the law in all parts of the country.

Then a little further along on the next page—I think it would be very interesting to have this whole speech put on the record. My time is limited and I cannot do that, but I should like to quote this part:

With those who say that the dominion parliament has no power to pass a bill of rights I do not agree—

This is the Prime Minister speaking in 1948. I continue:

—but let us accept that for a moment. The first thing, then, that the parliament should do is to equalize the rights of Canadians everywhere in Canada, so that they can go to the foot of the throne, to the Supreme Court of Canada and, if they will, to the privy council, when their rights have been abrogated.

In other words, 10 years ago the Liberal government of that day was being condemned because it would not override the constitution, it would not pass centralizing legislation, it would not pass legislation whether or not it was ultra vires of the parliament of Canada.

Mr. Diefenbaker: That is a complete misinterpretation.

Mr. Pickersgill: The Prime Minister can reinterpret it in his own time, which is unlimited, instead of wasting my time.

Mr. Diefenbaker: I am just clearing up the inaccuracies of the law school student.

Mr. Pickersgill: If the Prime Minister were not exceedingly sensitive about this he would not be interrupting me, because we in this house know something about the right hon. gentleman's technique. He does not want the public to be reminded that 10 years ago he was saying there should be a real bill of rights which would guarantee the rights of all Canadians against any encroachment from any authority in Canada; because that was the position he was taking there, if his words meant anything, and I think for once they were clearer and less ambiguous than they

usually are. If they did not mean anything, if they were just hot air, then I will leave the Prime Minister to say that for himself in his own time, because I think they did mean something. I was taking them at their face value; I was giving the Prime Minister credit for sincerity at that time, if not for as much constitutional knowledge as one in his position should have.

I come next, sir, to the question—

Mr. Martineau: What is the next act in the comedy?

Mr. Pickersgill: —of the limited sphere which the government has now laid out for itself in this legislation, that is to say legislation that is clearly and exclusively within the jurisdiction of this parliament, without any question, to pass; and I do not doubt that this bill is clearly within our jurisdiction to pass. When we come to that field I then say to myself, what does this bill really do? It is very clear what it does—

Mr. Parizeau: It guarantees freedom of speech.

Mr. Pickersgill: I do not think my freedom of speech has ever been in any danger except from certain hon. members who interrupt speeches in this house. It certainly has never been in any danger because of any lack of a bill of rights in this country. But what does this bill do? What does it do in clause 2? It says:

It is hereby recognized and declared that in Canada there have always existed—

—certain rights; that is all it does. In any substantive way that is absolutely all it does. It does not confer upon us one right that we do not have right now; it repeats that we have rights. One recalls in the history of medieval parliaments in England that it was customary to reiterate in statutes in every generation, or sometimes oftener than that, laws that were not enforced; but I say it can do no harm to reiterate that we have those rights which have always existed, as the Prime Minister's bill says. They have always existed, but this is not any additional guarantee that they will go on existing any more than Magna Carta or the other great charters of our liberties, which are part of the laws of Canada and which, it seems to me, ought to be cited in this bill as being part of the law of Canada. There is no doubt about that.

I know, sir, it is not parliamentary to attribute motives, but it is hard to escape the feeling that an attempt is being made in this bill to create the impression that something new is being brought in, something that did not exist before; but the draftsmen have not quite dared to go that