

He says:

It would seem obvious that the arbitrary experiences of the past few years have shaken our historical position of freedom, and yet the head of the government which has been in power during this period not long ago, could make a ringing declaration (over the air) in favour of liberty just as if the whole structure were as unharmed as in the days of his youth.

It is not unfair to characterize this as unawareness of the social process.

A little later on, he says:

The simple truth seems to be that there are always men in places of authority who prefer short-cuts, who are timorous and therefore avail themselves of power, who are impatient of parliamentary methods, who wish "to get things done" or who, by reason of something within themselves, some instinct for power, some egotism, actually desire to bring in authoritarian methods.

I could continue. He becomes even stronger as he proceeds. Finally, he ends up in support of the necessity of a bill of rights. He says:

The modern state has behind it a power not possessed by the Stuarts; a state police of whose conduct the ordinary citizen is unaware, just as he is unaware of the ideas which govern those who are in control of it. Such men may be in every respect estimable. They may be liberty-loving citizens. Or they may be obsessed with desire for power. They may, as police, feel the necessity for results overruling the stumbling methods of freedom. Whatever they may be, the citizen does not know their nature or their methods. All he can be sure of is that power "grows with that it feeds on."

Then he continues in effect to say that unless something is done in this connection to establish a bill of rights for Canada the state will continue to expand to the detriment of the rights and the freedoms of the individual irrespective of the terms of the charters.

I have a few suggestions to make. The first one is that this committee should consider the advisability of the repeal of the War Measures Act which has been on the statute books since 1914. In between the first and the second wars, on several occasions in the House of Commons a declaration was made that it was no longer in effect. That act, standing as it does, constitutes an invitation to any government in the future under the emergency theory to declare an emergency to the detriment of the rights of our people.

Mr. RINFRET: Who passed it?

Mr. DIEFENBAKER: It was passed by the Sir Robert Borden government in 1914.

An hon. MEMBER: Shame.

Mr. MACKENZIE: A very necessary act, too.

Mr. DIEFENBAKER: My right hon. friend says it was a very necessary act. It was necessary in the period of the war; but in the

days of peace, with the challenge that the state is making to the rights of the individual, Professor Lower supports the stand that I take, namely, that the act should be repealed.

My second suggestion is that the Official Secrets Act be considered by the committee in order to remove some of the present presumptions of guilt which deny an innocent person his full rights of defence. I suggest that the Public Inquiries Act, which was made such use of by the espionage commission, should be revamped, to the end that no longer shall the power rest in the hands of the state to bring an individual before a commission meeting behind closed doors, to hold him there and interrogate him with a view to self-incrimination, while denying him his rights. Even after the Public Inquiries Act was used by the commission, does it not strike hon. members as interesting and strange that most of those convicted at their trials were men who were not locked up at all but were men against whom proceedings were taken regularly according to law? Among those was a former member of this house and two or three others. Proceedings against them were in no way submitted to investigation or interrogation by this commission; yet in their cases convictions were obtained; whereas, when British principles were departed from, in many cases convictions were not obtained.

In the interests of our judiciary the time has come for parliament to make a declaration—I think it is about to be made in Britain—that a royal commission dealing with matters in any way of a political nature should not have seated thereon judges of our high courts of justice.

I have dealt with the Supreme Court Act, chapter 35, 1927. I am not going over the authorities, but they are to the effect that an individual who claims his freedoms have been denied has no inherent right of appeal to the court, because no matter of monetary value is in issue. The act should be brought up to date and an alteration should be made in that regard to the end that such anomaly should be removed.

I was going to deal with one other matter but I will not. It is the question of the constitutionality of a bill of rights. I refer hon. members to the judgment to which I have already made reference, namely, a judgment of the Supreme Court of Canada in 1938 dealing with the Alberta Press Act. It decides, as I understand the judgment of Mr. Justice Cannon, that every freedom is guaranteed to every Canadian and that when the British North America Act was passed it was never intended that any provincial authority should be