

Human Rights

rights and freedoms are safeguarded will require a high degree of administrative imagination and drafting skill.

And finally, to parliament, to the hon. members of this house and succeeding houses, this bill will be a backdrop against which the actions of the future will be played and consideration of the great range of matters coming before parliament will take place. With the knowledge and will of parliament what legislation is passed shall be fitting and shall be consonant with the great objectives of a free society as set forth in this bill of rights.

I know it will be difficult to reconcile the needs of administrative processes in efficient departmental operation with some of the rights set forth in clauses 2 and 3. But after all, to paraphrase what one hon. member said during the course of his remarks, in this complex society in which we move the rights of the individual have been eroded to an increasing extent. The easy road of arbitrary power makes it so convenient to reach the administrative goals that are set whatever the price paid in the process for the value of human rights.

They say it does not mean anything. When they vote I want them to realize that it does. I want them to appreciate that those clauses enumerating these freedoms and democratic rights are of the essence of legislation, past, present and future. Anyone who says that this is a meaningless declaration is either motivated by lack of knowledge or realization of what a bill of rights means, or has other purposes for playing down the importance of this legislation.

We have moved steadily in this direction. For many years we had a public radio system, the C.B.C., and private radio systems in competition one with the other. I criticized that. I said that it was not in accordance with the canons of justice as we understand them that anybody should be placed in the position of being competitor, policeman and adjudicator in his own cause. That is the situation that prevailed through the years. We changed that in the legislation covering radio so that the C.B.C. would not be a judge in its own cause. That was a major step forward to assure that justice shall not be denied to anyone.

I now come to the question whether we should have a constitutional amendment or merely a statute of parliament. Those who were opposed to any bill of rights now say they are in favour of one but it must go further than this one, it must be a constitutional amendment. They know from their own experience that it is not restricted to

any one province but that except in matters such as economic matters when the financial responsibility is to rest on the federal government the provinces have shown no desire to give up their intrinsic rights constitutionally guaranteed.

I will cite an example of this because some hon. gentlemen seem to have forgotten it. They tell me that things are going to be different now. I ask them to read the *Votes and Proceedings* of the legislative assembly of the province of Quebec for February 17 last. Following this I received a communication from the clerk of the legislative assembly. There was a unanimous vote; all voted the same way. There is no criticism in this. The same would have happened in other provinces. This was the unanimous decision taken by the legislative assembly of Quebec on February 17 last:

The legislative assembly of the province of Quebec reasserts that the rights of the province must not be restricted, diminished, amended or altered by an act of the parliament of Canada and without the consent of the provincial legislatures and prays the clerk of the legislative assembly to transmit a copy of this motion to the Right Honourable the Prime Minister of Canada.

They say we should wait until we get the consent of the provinces. Having regard to the experience of the past and the natural attitude of the provinces which have certain rights under the constitution, they still say, do not do anything until you are able to secure a constitutional amendment. That argument answers itself.

Indeed the matter was considered in 1948 by a special joint committee of the House of Commons and the other place on human rights and fundamental freedoms. I have before me the proceedings of that committee, volume No. 11. In the final report of Mr. Ilesley these words appear:

The power of the dominion parliament to enact a comprehensive bill of rights is disputed. This is indicated by the letters received in reply to an invitation addressed by the committee to the attorneys general of the provinces and to deans of certain law schools to express their opinions with respect to the power of parliament to enact a comprehensive bill of rights applicable to all of Canada.

Having gone specifically into the question in great detail, a subsequent committee was set up—

Mr. Pickersgill: Would the Prime Minister give the date of the first one?

Mr. Diefenbaker: It was 1950.

Mr. Pickersgill: No, the first one; Mr. Ilesley was not here in 1950.

Mr. Diefenbaker: It was 1950.

Mr. Nowlan: Is that the Mr. Isley who was minister of justice and is now chief justice of Nova Scotia?