

BILL OF RIGHTS PROPOSAL DEBATED

**MINISTER'S ANALYSIS.** A motion by Mr. John G. Diefenbaker, Progressive Conservative member for Prince Albert, Saskatchewan, launched a one-day debate in the House of Commons on February 7 on a Bill of Rights for Canada.

After the Minister of Justice, Mr. Stuart S. Garson, had opposed the proposal as unnecessary in a federal state, the main feature of which is the sovereignty of its legislative bodies, the Leader of the CCF group, Mr. M.J. Coldwell, moved an amendment proposing a Bill of Rights, along much the same lines as Mr. Diefenbaker, through an amendment to the British North America Act.

Mr. Diefenbaker's proposal was set forth in the following motion:

"That, in the opinion of this House, immediate consideration should be given to the advisability of introducing a Bill or Declaration of Rights to assure amongst other rights:

1. Freedom of religion, freedom of speech, freedom of the press and radio;
2. That Habeas Corpus shall not be abrogated or suspended except by Parliament;
3. That no one shall be deprived of liberty or property without due process of law, and in no case by Order-in-Council;
4. That no tribunal or commission shall have the power to compel the giving of evidence by any one who is denied counsel or other constitutional safeguards.

**SUPREME COURT**

"And that as a preliminary step the Government should consider the advisability of submitting for the opinion of the Supreme Court of Canada the question as to the degree to which fundamental freedoms of religion, speech and the press and the preservation of the constitutional rights of the individual are matters of federal or provincial jurisdiction."

Following are the remarks with which Mr. Diefenbaker concluded his speech:

"I believe, Sir, a Bill of Rights is necessary in our country today to provide a framework for our thinking and to crystalize the spiritual values in the concept of freedom. The situation before 1914 - since when there have been two world wars and a cold war - has been proven inadequate today. Our fundamental freedoms were not written into the British North America Act because it was believed at that time by philosophers that never again would those fundamental principles be in danger of being undermined.

"We have learned today, with the experience of the years of war and a cold war, that freedom has to be paid for in every generation; that it cannot be purchased at bargain counters; it cannot be purchased on credit with payment to be made in the future. It can only be purchased by action. I ask that the Govern-

ment give consideration, not to the introduction of a Bill of Rights at this time but to ascertaining first the constitutionality of a Bill of Rights and then, having so determined, that they ensure the preservation of fundamental freedom in our country, under law and under the constitution."

Some excerpts from Mr. Garson's speech in reply follow:

"The introduction of this deceptively simple problem but rather emotional one into such a complex field creates a problem which, as the Hon. Member for Prince Albert said, and I agree with him, is an extremely difficult one. It is the problem of superimposing a Bill of Rights, after the United States fashion, upon the federal constitution of Canada, whose main feature, inherited from the constitution of Great Britain, is the sovereignty of its legislative bodies. The feat of superimposing such a Bill of Rights upon such a constitution is, at least on its technical side, a very difficult feat indeed.

"Our present constitution is not perfect; but there are few if any that are any better. And if we are going to improve it we must have a thorough and accurate understanding of both its virtues and its defects. In order to make sure that the Bill of Rights proposed would correct those defects without at the same time adversely affecting its virtues, we must be sure that it is technically possible for us to do what no one has yet done in the world, namely superimpose a Bill of Rights upon the constitution of a federal state, the main feature of which is the sovereignty of its legislative bodies.

**UNITED KINGDOM**

"My submission is that a Bill of Rights which is advocated in any of these forms which have been suggested is not the most effective form in which the recognition of those rights can take. I suggest to the Hon. Member for Prince Albert (Mr. Diefenbaker) that there is no country in the world whose constitution includes a Bill of Rights which recognizes and protects those rights as effectively as they are recognized in the United Kingdom and in this country of Canada. The United Kingdom has no Bill of Rights in the sense in which the Hon. Member for Prince Albert and the Hon. Member for Rosetown Biggar (Mr. Coldwell) use that term as referring to something which they would like to add to our Canadian constitution.

Referring to Mr. Diefenbaker's submissions of what he held to be instances of need, Mr. Garson said:

"What have those to do with our constitution or a Bill of Rights? As my Hon. friend himself told us this afternoon, all that is required in any of those cases is to introduce