

rights in regard to the passing of any law within their purview disallowed, so that such laws may be disallowed by the government of Canada as a whole. Outside of that, under the Statute of Westminster today, this parliament and our legislatures are supreme with respect to the right to legislate touching all these matters.

I understood that the hon. member for Lake Centre (Mr. Diefenbaker), in discussing this matter, was satisfied that that state of affairs should continue, and that was about the only part of his main contention with which I myself did not agree. On page 3158 of *Hansard*, he said:

It might be argued that another government, another parliament, can revoke a bill of rights passed by parliament. True; but has not history shown that when laws are put upon the statute books, having the support of a vast majority of the people, they stay there?

That has been the tendency in the past, but I am not so sure that it is a sufficient guarantee today that, should we pass such an act of parliament, some parliament that succeeded us might not immediately cancel it. I have a feeling that we should go farther than that. Are there not rights so fundamental that they should not be interfered with by a majority in this parliament, which might not represent a majority in the country at all? We know there is the possibility of having a tremendous majority in support of a certain party for certain ideas in this parliament, which was elected by much less than a majority in the country. That is quite possible, and should all rights be subject to the will of a particular parliament, acting as it might be not in accordance with the will of the people, but only in accordance with a minority?

That very problem was faced by the people of the United States, and they decided that there were certain fundamental rights which inhered in the people themselves and that they should not be subject to be taken away from them by the members of congress—certain rights to liberty, the right not to be proceeded against by the government, certain rights such as we have in *Magna Carta*. They felt that congress should not be able to take these rights away from the individual by a majority vote, but that these rights could be taken away only by a change in the constitution, which would require a demonstration that an overwhelming part of the people in the United States desired to have such rights interfered with.

This is provided for by requiring that there must be a two-thirds majority in congress and that three-quarters of the states in the United States must agree to any change

[Mr. Tucker.]

of that kind before these rights can be interfered with. Many people say that our system has worked better than the system in the United States in protecting fundamental rights and human liberties. They say that too much faith can be put in written constitutions, that if people know that the parliament they elect can take away all their rights from them, they will be more careful about the kind of parliament they do elect, whereas if they feel that parliament cannot touch their rights they will be more careless in the sort of parliament they elect, knowing that it cannot entrench so far upon their rights.

Again, other people suggest that a constitution is of no value if the government becomes too powerful. They cite the constitution of the Soviet Union, which guarantees all these fundamental rights and freedoms, but which no individual citizen of the Soviet Union can enforce because the government has become all-powerful.

These are, of course, arguments which this committee will take into consideration. But what is going on in the world today in regard to this great question of the rights of the individual? I have mentioned the Soviet Union. No one will say that there are any real fundamental rights or freedoms that can be enjoyed under the control of the Soviet Union, and why is that so? It is because the government of the Soviet has become so powerful that, no matter what rules have been written into the constitution, they cannot be enforced against the government.

Throughout the world today there are those calling themselves communists who are working to have the same sort of system established everywhere. We know that the United States is worrying now about how to stop the spread of that system throughout the world.

There are others who advocate a system of complete socialism, who advocate the state owning and controlling all the means of production, all the means of distribution, whereby the state would be so powerful that the citizen in such a state would be very much in the same position as the citizens of Soviet Russia. The question, then, arises: What powers should you give to the state to act by a mere majority in parliament? If it is true that, should the state take control of all the means of livelihood, the people are all working for the all-powerful state and must look to the state for their living, and by that very fact they lose their real, essential freedom, the question we have to ask ourselves is this: Should these various rights to which I have referred, the right to property, the right not to have your business taken away from you,