

parliament has the power. Mr. Varcoe has expressed an opinion which is clothed in that degree of uncertainty which all good lawyers adopt towards matters which have never been before the courts. I can say this, that I have the opinion of three outstanding professors of law in this dominion, whose opinion is that parliament has the power to pass a bill of rights of a similar nature to that covered by the legislation as at present on the order paper in my name.

There has been so much said about the attitude of the provinces that we should find out what the attitude of the provinces is.

Hon. Mr. CRERAR: Let us get down to cases, Mr. Diefenbaker. A province passes a law regarding the owning of property, where property shall be owned. This conflicts with a law or declaration made by this parliament. How do you proceed from there?

Mr. DIEFENBAKER: Mr. Chairman, there was an editorial the other day in the *Ottawa Citizen*. It was a very thoughtful one and it referred to the differences of opinion as to the power of the dominion to assure fundamental freedoms. A suggestion was made in the last paragraph of the editorial that, if parliament did not have the power to pass a bill of rights then it could, at least, pass a declaration of rights and fundamental freedoms.

The question as to whether parliament has the power to pass a bill of rights is being given first importance by this committee. We are in the dark until we know the attitude of the provinces.

Senator Crerar asked me about the question of one province passing a law saying that any person of a certain religious faith shall only hold property in certain areas or subject to a limitation of his freedom in that direction. Well, Mr. Chairman, we have had the opinion of Mr. Varcoe on that question by inference. However, that does not touch the fundamental freedoms of our country. The fundamental freedoms as declared under the international bill of rights are, speech, religion and association. The freedom to hold property is not one of the fundamental freedoms because you could well imagine that we in this country might set up a form of government whereby it was decided that the holding of private property should not be permitted. That would be no interference with fundamental freedoms.

Mr. HAZEN: Mr. Varcoe called that a right.

Mr. DIEFENBAKER: I appreciate that and I said it was pointed out by Mr. Varcoe. The answer to Senator Crerar is that that is not a fundamental freedom that is, as Mr. Hazen says, a right.

Hon. Mr. CRERAR: Then, take a concrete illustration, Mr. Diefenbaker, the famous padlock law passed in the province of Quebec several years ago. That was an interference with fundamental freedom and fundamental right. Was it within the competence of the province to pass such a law?

Mr. DIEFENBAKER: I do not want to enter into an argument about the padlock law because the government of Canada had invariably followed a course of disallowing all laws interfering with freedoms across this country but when the padlock law was passed, the government forgot or the then Minister of Justice if he did not forget to deal with it, at least, did not deal with the question.

Mr. HAZEN: I think we are getting away from the point. Mr. Diefenbaker suggested—I do not know whether he made a resolution or not—that this committee obtain the benefit of the opinion of heads of law schools and the attorneys-general of the different provinces, and I think he suggested that these opinions be in the form of written references. Well, I think that this committee should have the people here to give evidence instead of having written references. Those people should come here. We should ask the heads of these different law schools, or a number of them who are interested in this matter, to come here and give evidence before this committee so that we shall have an opportunity