

The Constitution

are debating now which was put forward by the Liberal government.

It should not surprise anyone to learn that there are some differences of opinion in our party and that the Premier of Saskatchewan opposes the constitutional package before us. I want to say to members of this House that in supporting this constitutional package before us, we are saying that when this is passed, it will bring important improvements to the people of Canada. We are saying also that this proposal is not perfect. We are saying that had we been drafting the proposal, were we the government, it would have been considerably different. I am certain that it would have had in it some provisions about spelling out the economic rights of the people of this country, for instance, the right of every person in this country, who wants to and is able to work, to have a job so that we do not have the kind of unemployment we have today.

In supporting this proposal and the idea that our Constitution should be patriated, and in supporting the idea that in the Constitution there should be an entrenched charter of rights, we are following the policies laid down by our party and by the CCF before it. The first convention of the CCF was held in Regina in 1933. At that convention, the party adopted a manifesto which has become well known in Canada as the Regina Manifesto. I want to put on the record some provisions from that manifesto because I think people are entitled and want to know that our position is right in line with the position we have followed for many years. Let me quote from the Regina Manifesto of 1933 as follows:

—the amendment of the Canadian Constitution, without infringing upon racial and religious minority rights or upon legitimate provincial claims to autonomy, so as to give the Dominion government adequate powers to deal effectively with urgent economic problems which are essentially national in scope;

The convention resolution from which I just quoted looked to the patriation of the Canadian Constitution and the entrenchment of a section spelling the fundamental freedoms of the people while seeking "collaboration of the provinces to incorporate them in the Canadian Constitution". All the party resolutions urged that provincial consent for this change be sought, but never called for unanimous agreement for patriation or any other aspect of constitutional change.

● (1530)

However, it has become obvious that a majority of the provincial governments are now, and are likely to be in the foreseeable future, opposed to entrenchment of the bill of rights in the Constitution. If we have to wait until we have approval from the provinces, we are not likely to achieve either patriation of the Constitution or an entrenched bill of rights, for which our party worked for so many years, in the foreseeable future. If we are to patriate the Constitution and get a bill of rights, much as we would have preferred to have it done in co-operation with the provinces, we have to do it unilaterally.

Let me give another example from Frank Scott, one of the founders of the CCF, former dean of the law faculty at McGill University, a renowned expert on the Constitution and one of the leading civil libertarians during the past 40 to 50 years. He has spoken and written frequently on the question of bringing

the Constitution back to Canada and on the desirability of entrenching the bill of rights in the Canadian Constitution. It is in part because of the arguments that he has advanced over the years that I am so enthusiastic in my support for both the patriation of the Constitution and the entrenchment of a bill of rights. Let me quote a couple of paragraphs from what Professor Scott has written:

The insertion of a bill of rights in our own Constitution, and support for the proposal of an international bill of rights, seem to be logical parts of a good domestic and foreign policy for Canada. Perhaps a growing recognition of the international importance of cultural liberty for minorities will help us to reduce our internal conflicts over such issues.

In the Canadian Bar Review, 1949, he wrote:

To define and protect the rights of individuals is a prime purpose of the Constitution in a democratic state. In Canada today many people are feeling that this purpose is not being adequately achieved . . . it is not surprising that natural law concepts are being re-examined and put forward in the form of a bill of rights for Canada, designed to shield the individual from abuses of governmental power, while at the same time a more positive role for the state in securing the economic basis for personal freedom is also being stressed.

I respect the views of those who oppose entrenching a bill of rights in the Constitution. Some who take that view do so because they have been impressed by the fact that in Great Britain people have had freedoms and property rights as much as in any democratic country without any bill of rights. Their rights are protected through common law. They were successful in protecting the rights of their citizens for hundreds of years.

In recent years, several million people have come to Great Britain from former colonies, mostly non-white people. There are reports almost every day in the newspapers of prejudice and discrimination against those people. I am certain that those people now living in Great Britain have come to realize that they need protection from an entrenched bill of rights such as the one we are discussing at the present time.

Let us look at the experience in the United States, a country with a large and diverse population which includes people from many different racial, religious and ethnic backgrounds. For many years they had open, and indeed admitted, legal discrimination. There were segregated schools, buses and restaurants. Between two and three million non-white people living in the south and southwest were not permitted to vote. Their Congress was not able to deal with those problems because of the divisions in that country. Discrimination in those and other fields in the United States was not banned by law until the United States supreme court dealt with some of the problems. The United States supreme court outlawed discrimination because their constitution and interpretation of their bill of rights showed that that kind of discrimination was illegal.

The first major decision handed down by the Supreme Court was reported in *The New York Times* on May 18, 1954, headlined "High court bans school segregation 9-0". The story began:

The Supreme Court unanimously outlawed today racial segregation in public schools.