

appears in the late Right Hon. John Diefenbaker's Bill of Rights.

I believe that the rule of law and the strict adherence to this concept offers greater protection than someone's interpretation as to what constitutes natural justice. Interpretations can vary, according to who happens to be sitting on the judge's bench at any particular time.

Section 15 of the resolution is too weak and lends itself to abuse by any future government that might want to bestow special privileges or special status on particular groups in our society for political gain or expediency. It would lend itself too easily to quota systems in hiring and appointing, a form of discrimination. I am opposed to discrimination in any form, no matter how it is dressed up in pious rhetoric and legalese.

To stay with that point for just a moment, I would like to cite an example of what I mean. One of our proposals would make it unlawful for anyone to discriminate against anyone else in the workplace, in making accommodation available to any person, and in other ways that have often been referred to as selective placement.

Our motion reads as follows:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Now I would like to move to Section 7 of this resolution. As I mentioned earlier, in the unhappy event that this Constitution is foisted on the Canadian public, Section 7 leaves a lot to be desired. It is here that we can take the first steps towards relegating the Prime Minister's permissive society concept to the trash heap where it belongs. In fact, it is in Sections 7 through 14 that we would like to lay the groundwork for bona fide, de facto protection for law-abiding Canadians.

Beginning with Section 7, I must again insist that the wording of this section falls short of guaranteeing the rights spelled out in the section. Fundamental justice can mean many things to many persons, whereas due process of law refers specifically to the protection of life, liberty and the security of the person according to established law.

Fundamental justice is a high-sounding phrase, and like just about everyone else I like the sound of it. But for the purposes of safeguarding human and civil rights, I must refer to the precious wording of the law as we have enjoyed it in Canada through the British common law.

Although the phrase "established by law" appears elsewhere in the section entitled "legal rights", I am concerned that the wording of Section 7 might encourage courts to interpret it to mean something other than what is intended. I think that this is just one more example of the sort of escape hatches, or loopholes, that this government is trying to slip through in this Constitution resolution.

This concern has been expressed by other members who have taken part in this debate, namely the concern that our parliamentary system of government and the British common law will be replaced by something that the average Canadian

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does not even fully understand. There is a deep and legitimate concern that the role of Parliament and the powers presently conferred on Parliament will be gradually assumed by the Supreme Court of Canada.

● (1520)

We are all reasonably familiar with the basic difference between our constitutional monarchy or parliamentary system of government, and the republican system in the United States. The United States system is based on the Roman triangle, with the executive, legislative and judicial powers at each of the three corners. The Supreme Court of the United States has the responsibility of interpreting the U.S. constitution. However, in the final analysis, the voice of the people is expressed in the House of Representatives; the House of Representatives has the final voice. The final voice of the Canadian people is vested in their Parliament, and that voice and that power must remain here if we are to survive as a parliamentary democracy.

Several months ago when these debates first began, the concern was expressed that if we follow the government's present course with this resolution, the Supreme Court will not only interpret and rule on law, but will also be allowed to make laws. In my view, that would subordinate Parliament to the courts.

For over 300 years, Mr. Speaker, the courts and Parliaments of Canada and the United Kingdom have resisted pressure to introduce some elements of the United States jurisprudence, in particular their rules with regard to the types of evidence allowed to be introduced into criminal trials. As recently as January of this year the present government attempted to introduce the U.S. exclusionary evidence rule into the body of Canadian law. Happily they were forced to back down.

I have with me a letter from the vice-president of the Ontario Association of Chiefs of Police on the subject of law enforcement which reads as follows:

Dear Sir:

Further to our conversation of last night, I am enclosing a copy of a news release issued by the Canadian Association of Chiefs of Police, January 27th, 1981.

At an Executive Meeting held by the Ontario Association of Chiefs of Police on January 28th, 1981, the news release by the Canadian Association of Chiefs of Police in reference to the recent amendments to the Charter of Rights and Freedoms was reviewed.

The members, who represent the entire police community of Ontario, were unanimous in their decision to support the stand taken by the Chiefs of Police of the Canadian Association of Chiefs of Police of which we are members.

The fears expressed by our fellow chiefs are not imaginary. You might say we are confused and wonder why this sort of legislation would be introduced which would destroy the fine justice system we have in this country today.

Knowing your background and the stand you have taken in issues involving the safety of the citizens of Canada, I am sure that you would agree that if the American exclusionary rule, commonly known as the "fruit of the poisoned tree rule" were introduced in law in the Dominion of Canada, the quality of law enforcement in this country would degenerate.