

place at that time between Alexander Hamilton on one side and Thomas Jefferson on the other, when the United States bill of rights was being established.

Alexander Hamilton took the view that I thought my right hon. friend took. He used these words:

I go further and affirm that bills of rights in the sense and to the extent in which they are contended for are not only unnecessary in the proposed constitution, but would even be dangerous. They would contain various exceptions to powers not granted, and on this very account would afford a colourable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do?

Why, for instance—

Said Hamilton.

—should it be said that the liberty of the press shall not be restrained when no power is given by which restrictions may be imposed?

I thought the tenor of those remarks found expression in the address of my right hon. friend.

On the other hand, Thomas Jefferson, realizing that a federal union was being set up and that the rights of the individual had not been assured under the British charters of freedom, used these words:

A bill of rights is what the people are entitled to against every government on earth, general or particular; and what no just government should refuse or rest on inference.

Answering what my right hon. friend said, that there is no need for a bill of rights as our freedoms are established, I would quote with approval Mr. Bernard K. Sandwell, as follows:

The famous declarations of liberty in England, the Magna Carta and the bill of rights, have no binding effect upon the British parliament or upon the dominion parliaments upon which its powers have devolved in the respective dominions. Canadians learned with something of a shock a short time ago that their parliament, according to an express decision of the privy council, has power to send into exile and to strip of their property any Canadian citizen whom it elects so to treat; it can probably do so only by declaring an emergency to exist, but it can make its own emergency and the exile does not have to be connected with the emergency nor does it terminate when the emergency is over.

I am not going to deal with the emergency doctrine today, because the Minister of Justice (Mr. Ilsley) is not in his place at the moment. Mr. Sandwell sets out the fact that all government has to do today is to have a majority in parliament in order to declare an emergency, and the individual freedoms that are interfered with in consequence may then be denied. Whatever an international bill of rights may do for Canada

[Mr. Diefenbaker.]

as far as I can see it cannot detract from the necessity of one for our own country. We have taken our liberties for granted as Mr. Sandwell says in that article; but events of recent years have shown that they can be lost by apathy. The answer through the years by those in authority to those who would uphold freedom is to the effect that, "I have heard those same arguments before." Charles I directed those very words to John Hampden in 1628.

Mr. MACKENZIE: He lost his head.

Mr. DIEFENBAKER: That was 300 years ago; yet the right hon. Secretary of State for External Affairs resurrected them in this house some two weeks ago in answer to a speech I had made regarding freedom. You may ask me, "Where have our rights been interfered with?" I am going to mention a few instances. What about freedom of religion? We find interference with that right under the guise of its being a provincial right. Those whose rights are interfered with, if freedom of religion be one of our charter rights, should have the right to appeal to the Supreme Court of Canada to have their rights preserved and their freedoms maintained. They have not that right. I am going to ask the Minister of Justice to bring in an amendment to the Supreme Court Act to provide that when anyone has his freedom interfered with, by leave of the supreme court when he has shown to a judge of that court that there has been such interference, there shall be the right of that individual to appeal to that court. After all, if our freedoms mean anything they mean the right and the heritage of every Canadian. They are not circumscribed by territorial or other considerations.

There has been the interference with the right of freedom of the press. There was interference with the press where the press was directed what it should publish and when it should publish. When my right hon. friend says that jurisdiction to restrict the freedoms rests with the provinces I ask him to read the judgment of the supreme court in 1938 in connection with the submission regarding the Alberta press law.

Have we our freedoms when the state by order can provide for the deportation of Canadians whose only offence is their colour? Have we freedom on the part of the individual when in these days the crown's power increases and crown officials have clothed themselves with impunity from challenge by the courts. How many of our officials may interfere with the individual's economic freedom without there being any right on the part of that