

*Industrial Relations*

like to read an excerpt which I think is fundamental and elementary. At pages 21 to 24 he deals with the rule of law and he says:

But the supremacy of law, as we know it, means something more than the exclusion of arbitrary power, and something more also than the equality of all citizens before the ordinary law of the land administered by the ordinary courts. It means that in this country—

He is speaking of Great Britain and I speak of Canada.

—unlike some foreign countries,—

There are very few people in this country who would like to ape them, I am glad to say. Recently we had a minister of my faith here. If he wants to start a revolution my advice to him is to go back to Canterbury from where he comes and start a revolution there. I want to say to this ecclesiastical gentleman, if you can place him in that category, that he has not done any credit to the land of his birth because, irrespective of what government has been in power there, they have always had a deeper regard for freedom in its truest sense than his conception of freedom. I know something about these Cook's tours to Russia where they do not get any farther than the Kremlin and eat off the gold plates that the czars had in the old days. They think they have seen the country.

**An hon. Member:** Were you there?

**Mr. Mitchell:** My hon. friend asks whether I was there. Yes, I was there. I think a man's duty is to the institutions under which he lives; and, if I may say so to my Conservative friends, there are fewer communists in Canada today than at any time since I have been in the country. I should like to give some very simple advice. Let the communists advertise themselves. Do not advertise their cause for them. I grew up with one of their leaders in this country. I never mention the names of these people in public. Until he was put in the penitentiary he was unknown. My good friend the hon. member for Vancouver East (Mr. MacInnis) knows the gentleman I am talking about, and I use the term advisedly. Let the sun shine in. The best cure for communism in this or any other country is the right to express an opinion notwithstanding the fact that ninety-nine and nine-tenths of the people disagree with your opinion. I think the British people have proven that.

**Mr. Smith (Calgary West):** I am sure you never got that bad.

**Mr. Mitchell:** I may say to the hon. member for Calgary West (Mr. Smith) that I believe

this sincerely and I have had some experience with these individuals. We used to handle them in a different way in Hamilton when I was younger.

**Mr. Graydon:** They are still handling them there.

**Mr. Mitchell:** We handled them in a different way.

**An hon. Member:** They took care of you there yesterday.

**Mr. Mitchell:** They took care of my hon. friend in that city.

**Mr. Graydon:** Your friend, too.

**Mr. Mitchell:** Hewart's book continues:

Under the contrasted system, where the constitution is written out in declarations or definitions or rights, the rights of the individual may be said to be deductions drawn from the principles of the constitution. The contrast is vital and is to be traced to profound differences of history, of temperament, and of outlook. This is not the place for any comparison of the respective merits and advantages of the two systems. But it may at least be observed that, under the system which we know, it is far more difficult for constitutional rights to be suspended or taken away.

To summarize the matter, it may be said that the "rule of law" comprehends and denotes the following principles:

1. No one can lawfully be restrained or punished, or condemned in damages except for a violation of the law established to the satisfaction of a judge or jury or magistrate in proceedings regularly instituted in one of the ordinary courts of justice. The rights of personal liberty and of freedom of speech, the liberty of the press—

While I am referring to the liberty of the press, I heard a great deal said about the press the other evening. The press has said some hard things about me but I have never objected. I am still a member of the House of Commons.

The rights of personal liberty and of freedom of speech, the liberty of the press, and the right of public meeting, are all a result of the application of this fundamental principle.

2. Everyone, whatever his position, minister of state or government official, soldier or policeman, is governed by the ordinary law of the land and personally liable for anything done by him contrary to that law, and is subject to the jurisdiction of the ordinary courts of justice, civil and criminal.

The plea of "act of state" is not permissible as a defence to an action in respect of anything done within the realm, or to any action by a British subject. It is confined to proceedings commenced by foreigners in respect of duly authorized acts done by officers or servants of the crown abroad.

The crown—that is to say, the government—cannot itself be proceeded against, either by petition of right or otherwise, for any alleged wrong on the part of its servants. The remedy for any such wrong is against the individual wrongdoer. But in practice the crown as a general rule pays any damages that may be recovered against its servants for wrongful acts committed in the course of their public employment.