

at the federal level, particularly as such redress had not been forthcoming for a number of years.

I can only make the comment that I can see no distinction between this type of action by a provincial government and that of common bank robbers, the only difference being that the bank robbers go to jail.

Now, honourable senators, I will deal with my last example, that being the bill of the present Government of British Columbia to which I referred earlier. I speak for myself and, I know, for many other British Columbians, when I say that while I do not agree with the economic philosophy of the NDP in so far as it advocates a socialist state, I, at least, looked forward, following their election to the Government of British Columbia last October, to a much higher level of morality in government than we experienced under the Bennett regime. If there is one thing the NDP never tire of, it is asserting their superior virtue. It therefore came as a shock to me and, I know, to Senator Lawson, as well as to many other people in British Columbia, to have the new government not only prove itself no better than its predecessor but actually prove itself worse. While its predecessor liked to pay only what it unilaterally considered to be fair compensation for expropriated property, the new government goes a step further and asserts that there will be no compensation whatsoever.

Honourable senators, if I did not point this out earlier, I should mention that clause 14 of Bill 103, which declares these contracts void, was brought in by the British Columbia government as an amendment on third reading, without notice, which is undoubtedly the reason it passed the legislature without an outcry at that time.

These few examples I have given, of provincial legislation unchallenged by the federal authority in spite of its clear duty and right to do so, clearly place the Canadian citizen at the level of a citizen of some banana republic, without those protections which are embedded in the American constitution, on the one hand, not to be overthrown by any politician and which, on the other hand, either through usage or the common law, are available to the citizens of England.

I might comment here on what is commonly referred to as the double standard of political morality which we have in Canada, where the public and the press, and media generally, clearly expect a higher level of public morality at the federal level than they do at the provincial level. This applies to both the conduct of public officials and legislation. Apart from this double standard, you might ask why there are not examples at the federal level of legislation infringing on human rights such as those examples I have given as being perpetrated by various provincial governments. I say to you, honourable senators, one very good reason is that no federal government in its right mind would submit legislation such as I have given examples of to Parliament, because, even if with a majority government it could ram it through the other place, it would never get it past the Senate. So we probably justify our existence in the area of civil liberties by just being here.

● (1520)

Let me quote section 29 of Magna Carta.

[Hon. Mr. van Roggen.]

No free man shall be taken, or imprisoned or be diseised of his free hold, or liberties, or free customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we not pass upon him, nor condemn him, but by lawful judgment of his peers, or by law of the land. We will sell to no man, we will not deny or defer to any man either justice or right.

It is important to keep in mind that at the time of Magna Carta the reference to the law of the land was not designed to encompass an oppressive act passed by some satrap with majority control over a provincial legislature.

While on the subject of Magna Carta, I might quote Coke, who emphasized that it was the liberty of the subject and not the authority of government which was unbounded.

As Mr. Justice O'Halloran of the Supreme Court of British Columbia sets forth in an article on inherent human rights:

Few succeeding kings failed to try in some way to place themselves above the law. Complacent Parliaments not infrequently encouraged them to do so.

He again quotes Coke who said:

Magna Carta is such a fellow that he will have "no sovereign."

Or, to put it another way:

The divine rights of kings was not ejected in order to put in its place a doctrine of the divine right of Parliament denied by the ancient law affirmed time and again over six centuries.

The American colonists fought a war for these principles, and the ablest men in England, such as Coke, Pitt and Blackstone, upheld them.

Are we to believe that the Canadian Fathers of Confederation considered these rights forfeited to Canadians? Not on your life. But we are in danger, through repeated federal government inaction, of falling between two stools and having neither the protection of the due process provisions of the American constitution nor the common law protection of England, for this will be the result if we try to live by the British North America Act without employing one of its fundamental tools, namely, the right of disallowance.

Even the continental system, which developed quite differently from the English Common Law, recognizes fundamental rights of individuals and that famous document of France, *The Rights of Man and of Citizens* of 1789, specifically included the right to property with liberty, security, and the right to resist oppression. In particular, the 17th and last article of that famous declaration of "the natural inalienable and sacred rights of man" reads:

As the right of property is sacred and inviolable no man may be deprived of it save by evident public necessity lawfully determined and on condition that a just indemnity be paid.

The provinces have proven themselves wanting time and again. They cannot be relied upon to maintain the rights of the citizen. Time and again they have been thieves of property, liberty and due process. Democracy and the rule of law are surely strong flowers growing in the garden, but, like any other flower, they must be nur-