

barons that there was an existing bill of rights which could be used as the basis of the charter. He showed them the bill of rights which had been granted by King Henry at the instance of "good Queen Mold." This was the foundation of Magna Carta—another evidence of the great influence of women.

We like to talk about the liberty of the subject, and I think it is a matter which in these days can well occupy our attention. Even in this country, I believe, a bill of rights is needed. I think it should be drawn up in a broad way, with a national objective. Admittedly there are provincial rights to be guarded: indeed, most of the instances of invasions of rights which were cited before the committee were drawn from the provincial field. There was, for example, the Prince Edward Island labour law; there was the padlock law in Quebec; also certain Alberta legislation which has been declared *ultra vires*. So in practice we were not referred solely to matters within federal jurisdiction. The subject presents a challenge to all our citizens to come to some agreement.

It is a provision of Magna Charta that a man shall not be imprisoned or punished unless he has been found guilty upon evidence. I have been in the legislatures and the parliaments of Canada for over thirty years, and I have noticed the tendency to seek legislation which can be easily enforced. The civil servant is interested in his task and the results, and the safety of the subject is not so much his concern. I recall that some years ago we Liberals attacked the government of the Right Honourable R. B. Bennett and talked much about "blank cheques", the use of orders in council, and the invasion of the rights of parliament. These criticisms made quite an impression upon the people of the country. But we found that as time went on the same objectionable methods continued, and to a degree necessarily so, because as time passes the world changes, and government of a country entirely through laws passed by parliament and inscribed in the statute books is too slow to control things nowadays. The government needs orders in council. What may be good law today may be bad law tomorrow; and there must be flexibility in this regard.

We are told that parliament makes the law. My experience is that parliament makes very few laws; usually it approves what has already been done or has become a policy of the government. A bill must be very bad to be rejected by parliament after it has been officially introduced and sponsored. When the government brings in legislation it expects to have it passed. With changing conditions, a bill of rights would be a constant safeguard of fundamental freedoms,

because violations could be referred to the courts who could say, thus far and no further may you go.

Today the machinery of government is so complex that it needs many technically-trained civil servants, to prepare legislation and pilot it through the committees of parliament. We know what happens. These experts come before us and we hear what they have to say; but the hearing is really *ex parte* because, while we act as a jury, a member must be especially well-informed on a subject to be able to cope with trained experts. If the subject-matter affects some big corporation which sends agents here to protect its interests, then we may see a real battle between the experts of both sides.

It seems to me that in the process of legislation serious encroachments have been made on the liberties of the subject. Recently I saw an example of this tendency in relation to so simple a matter as the inspection of fish. By the terms of the law, if a man is "presumed" to have committed an offence, the inspector may go so far as to arrest that man and put him in jail. A fundamental freedom is that guilt must be proven by witnesses.

Hon. Mr. Bouffard: The same thing is done in the United States.

Hon. Mr. Kinley: I am not talking about the United States. The United States can look after its own affairs. If Canada had a bill of rights we would be able to warn our ever-increasing and ever more powerful civil service: "You shall go thus far and no further. You must prove your case; every citizen is presumed to be innocent until he is proven guilty". This aspect of the proposed charter appeals to me more, I think, than anything else, because it affects the people.

A bill of rights would be a step forward. It would be a natural accompaniment to our own constitution. We have gone no further than to make a recommendation after hearing witnesses from all parts of the country. But it is a function of the Senate to assist and advise. I was impressed with the thought that most witnesses had but one object in mind—the welfare of the people of Canada. Of course some of those who attended represented special interests, but that is to be expected.

All this does not mean that the right to liberty should be abused. I would not give anyone freedom to destroy freedom. The nation must be protected from organized crime. But surely we can deal with that menace without affecting the rights of the ordinary citizen. I was impressed with the way the government dealt with the spy trial. People who engage in organized