

*Hate Propaganda*

when one considers the name of the fellow and the fact that he was charged with being drunk; his bones must have been pretty dry! This is what the court said. It was held by Ritchie, Fauteux, Martland, Judson, Spence and Hall that there was no dispute about the facts. They went on to say:

—the words of sec. 2 of the Canadian Bill of Rights afforded the clearest indication that they were intended to mean—

what they did mean. Judges would never accept that they meant what they said. They did not have the imagination or the creative capacity of the Supreme Court of Canada in respect of the Aberhart case, as I call it, to apply the preamble of the BNA Act to all the rights we inherited from the mother country when Canada became a country. These people had imagination and creatibility. Thank God we have men of knowledge and their creativeness.

I do not get tied up emotionally on this at all. I get tied up legally. The Supreme Court of Canada has made the law clear. In my opinion, in view of the decision on the Bill of Rights, this legal monstrosity would be declared to be a lot of nonsense, and unconstitutional. I listened with great interest to my friend from Hillsborough who paid me a great compliment. He is an historian and a man of great knowledge. Maybe I see it too clearly; perhaps I am too close to the forest to see the trees. This is what the majority of the Supreme Court of Canada held in the Dry-bones Case."

—if a law of Canada could not be "sensibly construed and applied" so that it did not abrogate, abridge or infringe one of the rights and freedoms recognized and declared by the Bill, then such law was inoperative unless it was expressly declared by an Act of the parliament of Canada that it should operate notwithstanding the Canadian Bill of Rights.

Now, what is the duty of the Minister of Justice (Mr. Turner)? Well, I appeared before a judge for whom I have a good deal of respect, Mr. Justice Riley of Calgary. He is a liberal with a small "l". He was a Liberal who was a Liberal. I do not mean the new brand of liberalism. He believes the Bill of Rights, must be applied. What is the duty of the minister if this bill is passed? This is found at page 110 of Tarnopolsky's "The Canadian Bill of Rights". If the minister finds that this bill is contrary to the Bill of Rights, then he must get these officers of the Crown who are opposed to the Bill of Rights to prepare a certificate saying that the hate bill

is contrary to the Bill of Rights. That is his function. Let us read what is said here:

Another criticism arose over a private member's amendment to the old Fisheries Act. This amendment purported to re-enact the old Act, and then it included a clause at the end to the effect that the Act should be brought into conformity with the Bill of Rights. The Minister of Justice was charged with failing in his duty as he had not certified or reported that the Bill was consistent or inconsistent with the Bill of Rights. He replied that he had discussed the proposed amendment with the Speaker and they had decided that it was not yet properly before the House for second reading, and that until that time there was nothing upon which he could report. The time for the report, he said, was when a Bill is called for second reading and is ruled by the Chair to be properly before the House for second reading.

Now, of course, we are considering third reading because the principle of the bill is discussed at the third reading stage.

In the debate on the Fisheries Act and the Narcotic Control Act it became clear that all members of the House might not agree with the Minister's advice that a proposed Bill was or was not inconsistent with the Bill of Rights.

Then, he pauses there and says if that conclusion is arrived at—and it is important to the inalienable rights of Canadians—then isn't it the duty of the Minister of Justice to refer that bill to the highest court of the land to find out. We are not supposed to speak here as constitutional lawyers. We speak here as parliamentarians. The hon. member for Vegreville (Mr. Mazankowski) made a very intelligent speech on this subject. It is not necessary to quote all the constitutional cases he referred to this afternoon. They should give him a law degree.

I shall continue the quotation:

In the debate on the Fisheries Act at least two members of the Opposition, Mr. Howard—

for whom I have a lot of respect.

—of the New Democratic Party, and Mr. Carter of the Liberal Party, stated that the new Act was still not in conformity with the Bill of Rights because, *inter alia*, the burden of proof of innocence rests with the accused—

Let us pause here for a few moments, because I shall quote a great legal mind. This is a person who used to be known as our wheat expert. He has gone to the other place.

In the debate on the Narcotic Control Act, Mr. Martin of the Liberals stated that the denial of the presumption of innocence in it was a violation of the Bill of Rights. Since that time every session has heard allegations that some Bills or proposed regulations are not in accordance with the Bill of Rights, and that the Minister has not exercised his responsibilities—