Parliament where matters of fundamental liberties are concerned, but England is not a federal state with statutory powers given to the provinces, and so long as this theory, hanging as it does on a few words in the preamble to our Constitution, remains unclear and undeveloped, the federal government must perform its duty under the power of disallowance.

● (1510)

Let us look at some examples of provincial acts or proposed provincial acts, which infringe on the basic and fundamental human rights of Canadians. Before doing so, I might be permitted to observe that it is a very non-partisan list. Between the federal governments that have refused to act under the powers of disallowance when, in my opinion, they should have, and the provincial governments enacting the legislation, we have had Conservatives, Liberals, Social Creditors, NDPers, and the Union Nationale, all with their hands in the cookie jar.

The following is by no means an exhaustive list and is meant only to constitute a representative random sample of legislation abrogating basic human rights, passed or attempted by provincial governments during the past number of years when federal governments have, generally speaking, discontinued exercising the power of disallowance.

Let us first look at the infamous Quebec "padlock law" to which I referred a moment ago. As honourable senators will recall, this was an attempt to curb communism or bolshevism. Those two words, "communism" and "bolshevism," were used, but nowhere were they defined. That law made it illegal for an occupant of a house to allow any person to use that house to propagate communism or bolshevism, the penalty for such an offence being that the house would be padlocked for a period of one year and the tenant dispossessed, with no redress whatsoever for the tenant.

I suggest, honourable senators, that that law should have been disallowed by the federal government. The federal government was petitioned, I believe by Senator Forsey, to disallow it, but refused to do so. Some 15 or 20 years later it was declared unconstitutional by the Supreme Court of Canada. However, that certainly was no reason for it not to be disallowed in the first instance. The federal government, of course, now has the right to make a reference to the Supreme Court of Canada any time it wishes to do so.

Next, let us look at Premier Smallwood's legislation permitting labour unions to be outlawed at the whim of the premier. This was a 1959 provincial statute which provided, inter alia, that the Cabinet could dissolve any trade union where it appeared to the Cabinet that superior officers of the union or any affiliate had been convicted of a crime. It did not matter that they served their full sentence and paid their debt to society. The Cabinet did not even have to have proof; it just had to appear so.

There are other examples outside my own province of British Columbia, but let us go now to British Columbia, where most people would expect me to seize upon the takeover of B.C. Electric by Premier Bennett, when he arbitrarily set the price to be paid for the shares. Unlike Mr. Barrett, at least he was going to pay something for them. But then, when the shareholders had the temerity to go to court, he had the legislature pass a second statute saying that no court should entertain any action relative to the first statute. To its great credit, the Supreme Court of British Columbia simply ignored the second monstrosity.

I am not going to use the *B.C. Electric* case as an example. Rather, I am going to refer to an instance of common theft by threatened legislation known as the Parkford Estate. The facts are very simple: In August, 1956 land was quite properly expropriated by the provincial government for a freeway near the Dease Island Tunnel south of Vancouver, at which time compensation—again some compensation was offered—in the amount of $280,000 was offered by the provincial Crown, which offer was not acceptable to the several owners of the land in question. That was perfectly proper.

After some four years of inaction by the government, the owners eventually succeeded in bringing the matter to arbitration, as provided for in the provincial statute, and on October 28, 1960, a duly constituted board of arbitration awarded the owners $442,000, together with interest at 5 per cent per annum from the date of expropriation, for a total award of approximately $550,000. This award of the arbitration board was subsequently made into an order of the Supreme Court of British Columbia.

However, this award was not to the liking of the government. I do not quarrel with that, but what I do quarrel with is that the government then did not pay the amount of the award and did not avail itself of the right of appeal to the courts which was open to it, and, as the former owners of the land could not issue execution against the Crown, they sat with their judgment and no money, and without any appeal on the part of the Crown.

In 1961, at the spring session of the legislature, Mr. Bennett introduced Bill 77, which simply decreed that the payment for the taking of this land would be settled in full on payment of the sum of $350,000, that being $200,000 less than the award plus interest. This bill was brought into the legislature by stealth, without notice to any of the parties concerned, on the last day of the session. It made no reference to the award of the arbitration board, but it did purport to erase any judgment or other action by any court relative to the land in question. The bill was disguised to look like a munificent settlement for the former owners of the land. This happened in Canada, honourable senators.

That bill never became law as an all-night negotiation session in Victoria—with the then Attorney General as, I would suspect, a rather chagrined intermediary between the owners and the premier—resulted in the provincial government increasing the amount it was willing to pay by some $80,000. The amount for which the parties settled was only $120,000 less rather than $200,000 less than the amount which the arbitration board awarded. So this common theft was reduced from the intended purloining of $200,000 down to only $120,000.

You might ask why the owners settled. Well, this whole event occurred on the last day and night of the sitting of the British Columbia Legislature for that session, and consequently the lawyers advising the owners hardly had time to weigh all of the factors involved in seeking redress