

The Address—Mr. Diefenbaker

on the subject of fundamental freedoms. At the end of its sessions it made a report, which in part read as follows:

At the outset, it was apparent that at the present session only preparations could be made for a subsequent detailed study of human rights and fundamental freedoms. Consequently, your committee has invited the attorneys general of the provinces and the heads of Canadian law schools to furnish views and opinions on the question of the power of the parliament of Canada to enact a comprehensive bill of rights applicable to all Canada.

In the 1948 session the committee was again set up. It dealt in the main with an international bill of rights for the preservation of fundamental freedoms everywhere in the world. Among other things it said in its report:

The power of the dominion parliament to enact a comprehensive bill of rights is disputed. . . .

Clarification of the extent of the dominion's powers by reference of questions to the Supreme Court of Canada has been suggested.

In view of the fact that decisions by the Supreme Court of Canada in individual cases would be far more satisfactory than upon a general reference in determining the powers of parliament and the legislatures, your committee gave some consideration to the question whether the jurisdiction of the Supreme Court of Canada should not be enlarged so that by leave of that court appeals would lie on questions of law in some instances in which there is now no appeal. Your committee is of opinion that the government should give consideration to such an enlargement, and so recommends.

At this session of parliament I should like to see a committee on fundamental freedoms again set up, designed to place the subject before the people of Canada and make them conscious of any invasions of freedoms that take place. I believe there should be a submission to the Supreme Court of Canada for the purpose of ascertaining the delineation between dominion and provincial jurisdiction on the enactment of a bill or declaration of rights for the maintenance and protection of fundamental freedoms in Canada.

Through you, Mr. Speaker, I should like to bring to the attention of the Minister of Justice (Mr. Garson) the recommendation of the committee to which I have referred, so that the government may give consideration to the inclusion of the right of appeal in respect of invasions or infringements of the fundamental freedoms in the amendments that are to be made to the Supreme Court Act. The committee was presided over by the predecessor of the Minister of Justice, Right Hon. J. L. Ilesley. The committee unanimously reported as follows:

Your committee is of opinion that the government should give consideration to such an enlargement, and so recommends.

If the supreme court is to be the final court of appeal for all matters arising within our country, surely something should be done so to enlarge the powers of the supreme

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court as to assure the preservation of the freedoms. When one's fundamental freedoms, which everyone who lives under the British tradition has by reason of his inheritance, are interfered with, there is no right of appeal to the Supreme Court of Canada. I suggest that the Minister of Justice give consideration to the inclusion in the Supreme Court Act of the power of appeal with leave of the court against unjust infringement and abrogation of civil liberties. Is it not a strange thing that when dollars are at stake you can appeal to the Supreme Court of Canada, but when civil liberties are at stake there is no appeal to that body which the Minister of Justice said the other day would assure equality of rights everywhere in this dominion? I trust that the minister will, even if opposed to a national bill of rights, while accepting the need of an international bill of rights, at least give accord to those whose rights and fundamental liberties have been invaded, the right of appeal to the Supreme Court of Canada.

I pass now to one other matter, and then I shall have finished. This session will be known as the constitutional session. There seems to be great haste in providing for all kinds of changes in the constitution. Let me read from the speech from the throne:

You will be asked at the present session to approve measures designed to facilitate the attainment of the constitutional limits of our nationhood.

We have not been denied that right at any time within a period of thirty or forty years.

You will also be asked to approve addresses praying the parliament of the United Kingdom to vest in the parliament of Canada the right to amend the constitution of Canada in relation to matters not coming within the jurisdiction of the legislatures of the provinces nor affecting the constitutional rights and privileges of the provinces or existing rights and privileges with respect to education or the use of the English and French languages.

I do not quite understand that, Mr. Speaker. We are to secure absolute autonomy; we are to assert our independence. How are we to do it? By bifurcated methods of amendment. At this session we are to pass an address to the imperial parliament on certain matters. In other words we are to ask the imperial parliament for the power to amend our own constitution on matters in respect to which the provinces have never been consulted during the years.

As to other subjects the address reads:

My ministers will seek to arrange for early consultation with the provincial governments with a view to agreeing upon an appropriate procedure for making within Canada such other amendments to the constitution as may from time to time be required.

Are we to be half autonomous, or half independent, Mr. Speaker, when these things are