

Application of Federal Laws

Some jurisdictions in the United States have tried this. They have imposed with some considerable success guidelines which restrict the police, the prosecution, the nature of the sentence and the nature of the correctional institutions. While there may be a great deal to be said about the need to subject the exercise of discretion to such guidelines—and I understand considerable attention is being paid to this in Canada now and has been in recent months and years—I am not certain we would wish to endorse without restraint this type of rigidity in criminal justice in Canada. This has not been the traditional stance of governments or of Canadians since 1867. I think we must respect growth in criminal justice because it was built on true trial and error.

On the other hand, if you look at the new Constitution and the consistency and uniformity of rights that will be applied, I think you will see that many of the things the hon. member for Vaudreuil has suggested will be incorporated. For instance, if this Constitution is passed there will be certain uniformity because no province or federal government can on its own take away certain basic rights. We are talking about legal rights specifically and most of them are in the proposed sections starting with Section 7.

I will briefly give some examples. In Section 7 there is a right to life, liberty and security of a person, and this right is to be applied uniformly across the country. By Section 8 there is a right of security against unreasonable search and seizure, and this is also applied uniformly across the country. Under Section 9 the legislatures are prohibited from passing laws that would provide for arbitrary detention or imprisonment. Under Section 10, on arrest or detention there is a right to be informed promptly, given the reason, the right to retain and instruct counsel, the right to be informed of that right, and the right of habeas corpus. Section 11 involves the uniform right across the country to be informed properly of an offence, the right not to self-incriminate and the right to be presumed innocent. Section 12 deals with cruel and unusual treatment or punishment, about which the hon. member is talking. Section 13 deals with self-incrimination and the protection of witnesses. Section 14 provides a uniform right across the country to assistance through interpreters. Section 15 basically is a leveller; it gives uniform rights across the country. It says in essence there cannot be a provincial or federal law that will discriminate because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disabilities.

Later on there is a right to have a jury. That is not to suggest that there is a provincial right or a federal right to a jury; rather, there is a Canadian right to a jury.

Let me take this opportunity to remind some of the opposition members that these particular rights are included in this proposed Constitution. Maybe they have not read it and maybe they are not aware of them, but, as the saying goes, if a lack of knowledge will not hurt you, the Progressive Conservative Party is practically invulnerable. Members of that party say we should wait for the decision of the Manitoba Court of Appeal and the Newfoundland Court of Appeal; wait for this premier and that premier. They are waiting for their ship to

come in. They have waited so long I suggest their pier has collapsed.

What have we heard from them? We heard one hon. member raise a point of order on the tabling of documents, another hon. member on the use of the initials "MP", another hon. member on misleading answers, another hon. member on unparliamentary remarks, another hon. member—

The Acting Speaker (Mr. Corbin): Order, please. I would like to remind the Hon. Parliamentary Secretary to the Minister of Justice (Mr. Irwin) that we are debating a motion which reads as follows:

That an Order of the House do issue for copies of all correspondence, minutes of meetings, studies and other communications of the Department of Justice relating to the comparison of the application by the various provincial courts of federal law.

I would ask the hon. parliamentary secretary to relate his remarks to the motion.

Some hon. Members: Hear, hear!

● (1730)

Mr. Irwin: It is good to hear the opposition wake up, all four of them. They sit there unloved and unneeded, like a Greek chorus wanting to foretell doom.

Mr. Hawkes: I think sometimes the Parliamentary Secretary to the Minister of Justice is carried away. He has insulted the Greek people of this and other nations and I wonder if he might like to withdraw those remarks.

The Acting Speaker (Mr. Corbin): Order, please. May I ask hon. members to come back to the motion at present before the House and relate their remarks to that motion.

Mr. Irwin: The point I wish to make is that the entrenchment of the rights is being proposed by the government and yet—

An hon. Member: They are already there.

Mr. Irwin: The hon. member has said they are already there. These rights are not already there, they are not enshrined, and I am surprised that he does not realize that.

An hon. Member: We already have them; you are giving us nothing.

Mr. Irwin: We want to achieve a uniformity that would protect all Canadians in these specific areas, and yet we are prevented from doing so by debate about whether we should have bells ringing in the West Block.

In 1976, the provincial attorneys general established a national task force on the administration of justice and they were asked:

1. To examine existing justice services in Canada;
2. To gather data relating to the cost of the delivery of these services including both operating and projected and capital costs; and