

*Hate Propaganda*

without freedom of thought and freedom of communication? I will have something to say about that. The Supreme Court also said there was the right of freedom of the press.

So, the first decision that came from the Supreme Court of Canada found that the BNA act was not a dry old document, but included all the inalienable rights I have talked about which are found now in the Bill of Rights and are now part of the statutes of Canada by interpretation. I will have something to say about the Drybones case in a few minutes because it shows the development in chronological order of our freedoms and the fact that the constitution is subject to the Bill of Rights. These freedoms are written into our statutes.

Let me make the point now with emphasis that I am convinced in my own mind, if we have the kind of judges we believe we have on the judiciary in Canada with imagination and creative ability, this monstrous legal document will be declared to be ultra vires and thrown out of our society. I repeat, it will do nothing for minorities. There will be nothing in it for minorities on the basis of religion, race, colour, creed, individual or group. It does not even mention class, as I said earlier. I say it is unconstitutional in view of the Provisions of the BNA act, and the Bill of Rights.

I say this is the point to which we should direct our attention when voting. Before I go on to discuss the question of law, let me suggest to the minister that he should take this out of our hands right now. He should not again make the mistake he made in proclaiming the breathalyzer law. He should request the Supreme Court of Canada to determine whether the opposition in this regard is right or wrong. I am getting tired of these ministers who stand in their places and say they have talked to the legal officers and know what the certain law is.

● (4:40 p.m.)

In the Lake Louise case the law officers were wrong: They were wrong then and they have been often wrong throughout the legal development in this country. As the right hon. gentleman from Prince Albert said, the very men who were drafting the Bill of Rights, according to instructions, argued against the Bill of Rights in the Supreme Court of Canada. Well, lawyers are lawyers and law is not an exact science. I am making this point: take this legal monstrosity and find out whether it is constitutional. However,

[Mr. Woolliams.]

but do not stand up please and tell me that it is constitutional because you have spoken to somebody.

We found out how good the legal officers were today when we wanted to ascertain whether or not the Auditor General had exceeded his jurisdiction. The minister said it was a bad question. He meant to say it was an embarrassing question when the Prime Minister (Mr. Trudeau) acts frivolously as he does. The minister is never frivolous; he accepts his job with responsibility. Naturally, I put him on the spot. I wanted to find out what he meant when he said it was illegal. So, naturally when the minister tells me this bill will be constitutional—and I can guess that argument—I say let us get on with it. I say this bill is unconstitutional because of the Bill of Rights. What did the Supreme Court of Canada say about the Bill of Rights? As a lawyer I was always bothered when the Bill of Rights was before the House. I could see how it would affect legislation already enacted by Parliament. What concerned me was the effect it would have in respect of legislation not yet passed. That is where I had a legal hangup in respect to the Bill of Rights.

I spoke to various people about the Bill of Rights. The Supreme Court of Canada went a long way. The Chief Justice, who has now retired, has answered my problem. What a great Chief Justice he was! He is now retired and therefore I may speak of him. When I was a very young man I appeared before him and was as nervous as a church mouse. I did not need a better counsel because he assisted me when I was weak in argument. He was understanding. Here is a former Chief Justice of Canada who, in respect of the Drybones case, actually disagreed with his brother judges in his Court. When he stepped down he said that now the majority of the court of Canada has found it is the Bill of Rights which determines whether this legal monstrosity is constitutional or not. The Chief Justice said to the other courts that they now have to carry out the rules as set out in the Drybones case. I spoke to one judge, in Calgary whom the right hon. member for Prince Albert (Mr. Diefenbaker) appointed. He just laughed me out of the office before the Supreme Court of Canada decision on the application of the Bill of Rights.

The highest court in the land now has told the district courts, the trial courts and the courts of appeal they are bound by the Bill of Rights. That is really what the Drybones case is about. I repeat, what a great name for it