

Defence Production Act

I know the minister does not like to go back into distant, ancient history, but there are certain provisions that should be borne in mind. I know that Magna Carta was signed a very long time ago, but hon. members should realize that Magna Carta is the foundation of our law. There are many things included in it that were only of the period and dealt with unhappy events of a time long past. But there were certain fundamental principles that are still pleaded in court today, and that are still an essential, fundamental part of our law.

Section 9 of Magna Carta has a very direct bearing on these wide powers that are conferred on the minister alone, not on the government. These would have been held invalid under section 9 of Magna Carta without some overriding provision. Section 9 reads as follows:

Neither we nor our bailiffs shall seize any land or rent for any debt so long as the debtor's chattels are sufficient to discharge the same; nor shall the debtor's sureties be distrained so long as the chief debtor hath sufficient to pay the debt, and if he fail in payment thereof, not having wherewithal to discharge it, then the sureties shall answer it, and, if they will, shall hold the debtor's lands and rents until satisfaction of the debt which they have paid for him be made them, unless the chief debtor can show himself to be quit thereof against them.

Compare that with the power over debtors or over individuals conferred by this act. Then going on to some of the later sections, I find that section 39 is one that is perhaps the very cornerstone of the modern concept of individual rights. Section 39 reads:

No freeman shall be taken, imprisoned, disseised, outlawed, banished, or in any way destroyed, nor will we proceed against or prosecute him except by lawful judgment of his peers or the law of the land.

Then section 40 reads:

To no one will we sell, to none will we deny or defer, right or justice.

Reading those two sections of Magna Carta—

Mr. Howe (Port Arthur): Read them to hydro.

Mr. Fleming: Read them to Howe.

Mr. Drew: Even after I have read the sections of the hydroelectric act the minister does not yet understand them.

Mr. Howe (Port Arthur): I understand that you cannot go to court against hydro.

Mr. Drew: I pointed out before, and I point out again what I had hoped the minister would understand, that in the case of the hydroelectric provision, it was one which dealt in most explicit terms with cases in

which there was difficulty about the distribution of power which resulted from the failure of the previous Liberal government in Ontario to provide the power that was necessary under those circumstances.

Section 45 of Magna Carta reads as follows:

We will only appoint such men to be justiciaries, constables, sheriffs, or bailiffs as know the law of the land and will keep it well.

But oh, this minister does not bother about that. He wants power to appoint controllers, and inspectors who do not know anything about the law, and that is in direct contravention of the fundamental principle of Magna Carta. I know that is an ancient document, but it was regarded as of sufficient importance by the people of the United States that when they obtained a copy of it they sent it across the United States on what was called the freedom train so the people could see the fundamental charter of American as well as of our freedom. In case any hon. members think Magna Carta is an ancient, dusty document of no application, may I point out that there was a very recent decision in our own courts which came to its conclusion on the basis of the provisions of Magna Carta.

Then it will be recalled that over the years some of the provisions of Magna Carta were forgotten, as they have been forgotten today. The Bill of Rights was passed in 1689. Once again there were difficulties of an immediate nature which have passed into history, and which have nothing to do with the fundamental principles of the responsibility of parliament that were the main concern of those who drafted the Bill of Rights. Let us read some of the provisions of the Bill of Rights, the other great cornerstone of our concept of parliamentary responsibility and freedom. I quote, starting at the second paragraph:

And thereupon the said lords spiritual and temporal, and commons, pursuant to their respective letters and elections, being now assembled in a full and free representation of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid, do in the first place (as their ancestors in like case have usually done) for the vindicating and asserting their ancient rights and liberties, declare:

1. That the pretended power of suspending of laws, or the execution of laws, by regal authority without consent of parliament is illegal.
2. That the pretended power of dispensing with laws, or the execution of laws, by legal authority, as it hath been assumed and exercised of late, is illegal.

Then I pass on to No. 4:

4. That levying money for or to the use of the Crown by pretence of prerogative, without grant of parliament, for longer time or in other manner than the same is or shall be granted, is illegal.

Read those provisions, and then without in any way clouding your judgment by your