

Supreme Court Act

profession does so for reasons of jealousy or otherwise.

Twenty-two years ago this month the late Hon. Hugh Guthrie was discussing in this house a similar proposition. He set forth the difficulty of explaining the federal system, under which we have our constitution, to the privy council. At that time it was his opinion, expressed both in and out of the house, that there would be difficulty in having the constitutional difficulties of a federal system properly appreciated by a body of men who trained under a central government parliament, learned though they might be in the law. I think that has been demonstrated to be correct. I think that the history of the last quarter of a century has shown that decisions have been made by the privy council which indicated that possibly they did not appreciate the peculiar system of the Canadian federal constitution. That being so, there is strong reason for some revision in the status of the court of final appeal, but there are also great difficulties involved.

As I see it, the danger is not that of colonialism, but it is the danger, if, as and when we establish a court of final and absolute appeal, of the imposition of a one-party state. Hon. members may think that is perhaps remote, but I should like to remind them that there is grave danger of that happening during the life of the twenty-first parliament of Canada. If I were Minister of Justice one of the reasons why I would proceed slowly with this measure would be because of the overwhelming majority of the present administration. When there is an overwhelming majority it is a very simple and short step to a feeling of omnipotence. We have an indication of that on this continent in the example of what happened in the United States supreme court. You may say that the impact of the United States system has nothing to do with us because the constitution of the United States is not the same as the constitution of Canada. That is so, but nevertheless it is a federal constitution and its impact upon Canada, both economically and politically, is great.

Speaking as a layman, there is a great danger of the court of last resort being appointed by one political party. There is also the danger of the changing position of government in the state. There is also the danger and the possibility of a party being elected to power whose ideology is not that in which the vast majority of the members of the present house believe. That leads to the possibility, not now but should such a change take place in the composition of this house, of the appointment to the Supreme Court of Canada of politically sympathetic

[Mr. Adamson.]

justices. You may say that cannot happen. It certainly has happened in the United States, and in that connection I want to quote just one paragraph from the *United States News*:

Supreme court is expected to shift sharply to the right in decisions to be made during the approaching term.

Justice Tom Clark is likely to add his weight to the non-radical contingent of justices on the nation's highest bench.

Radical bloc of four promises to be reduced to a minority of two active justices at the session that begins in October.

Mr. Cruickshank: What are you quoting from?

Mr. Speaker: Order.

Mr. Cruickshank: He has to say what he is quoting from.

Mr. Adamson: If the hon. member were able to listen as well as he is able to interrupt—though perhaps at the moment whether or not he can hear is something only he can determine—he would have heard me say that I was quoting from the *United States News*.

Having said that, Mr. Speaker, having seen what has happened in the United States, where we see a court that admittedly swings to the left or to the right, while we are operating under the federal system there is the danger that some time in the future we may face the same problems and difficulties that have arisen in the United States. I do not say there would ever be a packed court, but I do say there is the danger in future of having a court representing the political views of the administration in power rather than administering the laws as this supreme court of parliament wrote them. That was thought to be impossible in the United States, but it happened. All the Roosevelt appointees have contributed to a revision of constitutional law which shifts the protection of constitutional guarantees, speaking broadly, from the individual entrepreneur to organized collectivist associations. This has resulted in the enlargement of the discretion of legislative assemblies and more particularly of administrative agencies. Thus the trend toward the eclipse of the due process of law in the economic field, the alteration of the federal system by commercial and taxing powers, the decline of judicial review and the growth of absolutism have been fostered.

If this did not so closely fit the apparent over-all direction of the central government in Canada it would not be so alarming. Unfortunately, however, it quite accurately describes what the apparent policy of our government is and has been for some time. For this reason I believe in caution in dealing