

*J. M. Beck*

## ONE BILL OF RIGHTS OR TWO

FOR BETTER OR WORSE, it now seems certain that Canadians will receive a bill of right by act of Parliament in 1959. What is more remarkable is the possibility of their getting the equivalent of a second bill of rights by judicial decision, although perhaps not in the immediate future. But if eventually it does come, it could serve as a supplement to Mr. Diefenbaker's legislative bill of rights and might even render it superfluous. Neither of these eventualities should be too displeasing to the critics of the Diefenbaker bill, since they contend among other things that it is a snare and a delusion; that it adds little or nothing to the protection which is presently accorded to civil liberties; that it guarantees only those rights which are subject to the federal jurisdiction; and that it is too restrictive in the rights which it safeguards.

Some of these critics would, of course, like to write part of the apparatus of the welfare state, including the right to be employed, into a bill of rights. Just how the Supreme Court of Canada would enforce such guarantees has never been made clear. For whatever the talents of its members, it is inconceivable that they could function efficiently as an employment agency. Yet some of these judges have been pursuing an equally novel, even revolutionary, course of their own in reading into the British North America Act the right of the Dominion Parliament alone to legislate in the field of civil liberties. One judge has said that not even Parliament itself may legislate to abrogate such liberties.

These judges are straying far from the dictum that Lord Hobhouse pronounced on behalf of the Judicial Committee of the Privy Council in 1887 when it was our court of final resort. The courts, he said, would treat the B.N.A. Act by "the same methods of construction and exposition which they apply to other statutes",—in other words, give it a purely literal treatment.<sup>1</sup> The Canadian judges in question seem to have rejected Lord Hobhouse in favour of Viscount Sankey, a member of the Judicial Committee in the early 1930's when for once it was attempting to give the Dominion Parliament sufficient power to meet the needs of the modern state in

time of peace. The B.N.A. Act, said Sankey, planted in Canada a living tree capable of growth and expansion within its natural limits; hence the courts ought not to "cut down [its] provisions by a narrow and technical construction, but rather to give it a larger and liberal interpretation . . ." <sup>2</sup>

The irony of the situation is that the Canadian judge who initiated the new vogue, Sir Lyman P. Duff, buttressed his position by reference to the opinion of a judge who would have deplored it. In the judgment of Viscount Haldane in the *Fort Frances* case (1923), <sup>3</sup> Duff found some passages which he used to contradict the general position that Haldane had adopted in an extensive series of judgments on Canadian cases between 1912 and 1928. Indeed, so far-reaching were the effects of Haldane's work that he and one of his predecessors, Lord Watson, are often labelled "the stepfathers" of the Canadian federation. The implication is that they have distorted the intent of the Fathers of Confederation beyond all recognition by enhancing the provincial legislative power at the expense of the federal power.

Haldane's claim to judicial notoriety results from his treatment of the "peace, order, and good government" and the "property and civil rights" clauses of the B.N.A. Act. Section 91 permits the Dominion Parliament to legislate for the peace, order, and good government of Canada in relation to all classes of subjects not placed under the exclusive control of the provincial legislatures, and it indicates twenty-nine specific classes of subjects that always fall within the federal legislative field. Section 92 lists sixteen classes of subjects upon which the province may legislate exclusively, the thirteenth being "property and civil rights in the province." Exactly what this clause was intended to and does include is disputed by students, but Viscount Haldane had no doubt at all. For him it meant practically every class of subject not explicitly mentioned in sections 91 and 92, and certainly most of the new subjects upon which the modern positive state legislates.

There is no denying that such legislation affects property and civil rights, as does in fact almost any legislation. However, it is quite another thing to say that in its pith and substance it is legislation in relation to property and civil rights in the province. Chief Justice Duff of the Supreme Court of Canada once warned of the danger of failing to distinguish between "affecting" and "in relation to" in this context, <sup>4</sup> but he failed to divert Viscount Haldane from the course upon which he had embarked. Yet, as will be shown later, the Chief Justice may still have the last word in one aspect of the problem. In any case the outcome was to make the property and civil rights clause the real residuum of legislative power in Canada, and to reduce the peace, order and good government clause practically to a nullity in normal

times, even though its position in sections 91 and 92 seems to indicate that it is paramount.

Nevertheless, Viscount Haldane did find a use for the peace, order, and good government clause. During the First World War the Dominion Parliament itself legislated, or permitted the Governor-General-in-Council to do so under the War Measures Act, on a host of subjects that normally fell within the provincial jurisdiction and particularly within property and civil rights. Canadians generally accepted this abnormal use of power as necessary for the effective prosecution of the war, and none questioned its constitutionality. But after 1918, when the Dominion Parliament and government sought to carry on in the same way, they encountered opposition, and it was Viscount Haldane who set the matter at rest in the Fort Frances case.

Assuming the garb of Imperial statesman, Haldane found no difficulty in justifying the Dominion's intrusion into the provincial legislative field both during and after the war. Furthermore, he was willing to give the Dominion government practically a free hand in deciding how long an emergency arising out of the war persisted. For justification, he could turn to his master and hero, Lord Watson, who much earlier had said that under abnormal conditions "some matters, in their origin local and provincial, might attain such dimensions as to affect the body politic of the Dominion," and to justify legislation by Parliament under the peace, order, and good government clause.<sup>5</sup> But Haldane elaborated much more fully upon this point.

In the event of war, he said, very exceptional means may be required to preserve the national life. Section 91 will therefore have to be interpreted in such a way as to ensure the peace, order and good government of the country during the emergency, even if it means subordinating the interests of individuals to those of the community. Under these circumstances proprietary and civil rights may appear in new aspects which they do not present in normal times. Since they now concern Canada as a whole, they will fall of necessity within section 91, because they extend beyond what section 92 can really cover. "The kind of power adequate for dealing with them is only to be found in that part of the constitution which establishes power in the State as a whole."

Several reasons might be adduced, he continued, for construing the B.N.A. Act so as to provide for such centralized power in an emergency. The language of the Act itself seemed to manifest the principle that it was intended to "provide for the State regarded as a whole, and for the expression and influence of its public opinion as such." An interpretation favouring centralized power was to be looked for all the more because the Act conferred the residuary power (i.e., the power to

legislate for peace, order, and good government) upon Parliament, and because its preamble declared the intention to provide a constitution similar in principle to that of the United Kingdom.

Viscount Haldane had perhaps said more than was necessary to make his point. Certainly, it was all the ammunition that two judges of the Supreme Court of Canada required for their marked departure from the ordinary in the *Alberta Reference* case in 1938.

Annoyed at the unfavourable reception of its activities and policies in the newspapers, the Aberhart government pressed through the Legislative Assembly of Alberta in 1937 a bill euphemistically described as "An Act to ensure the Publication of Accurate News and Information." Among other things, it required Alberta newspapers to publish any statement furnished by the Chairman of the Alberta Social Credit Board which was designed to correct or amplify any comments of the newspapers upon the policies of the provincial government. In addition, it obliged the newspapers to divulge the source of their information upon the request of the same Chairman. Thus the bill contemplated considerable regulation of the provincial press. The Lieutenant-Governor of Alberta, on his own initiative, declined to sign it and two accompanying bills, reserving all three for the pleasure of the Governor-General-in-Council. Prime Minister King and his cabinet thereupon referred the bills to the courts for an opinion upon their constitutionality.

Chief Justice Duff, speaking for himself and Mr. Justice Davis,<sup>6</sup> first demonstrated that the B.N.A. Act contemplated a parliament working through public opinion and public discussion; indeed it was axiomatic that free public discussion of public affairs was the breath of life for parliamentary institutions. Next he showed that the Parliament of Canada alone possessed the authority to legislate for the protection of this right. His justification was the *Fort Frances* case, in which the principle had been established that the B.N.A. Act, by necessary implication, contained within itself the power required for protecting the constitution. Since the matter to be safeguarded here was not exclusively a provincial matter, it was necessarily vested in Parliament.

But this did not exhaust the question. Any attempt by the legislatures to abrogate public discussion was repugnant to the actual provisions of the B.N.A. Act, because the subject matter of such legislation could not be described as purely a local or private matter, or exclusively a matter of property and civil rights within the province. While there was undoubtedly a wide field in which a province might exercise control over newspapers, the limitation was reached when its legislation so

curtailed the right of public discussion that it interfered substantially with the working of the parliamentary institutions of Canada as contemplated by the B.N.A. Act.

Mr. Justice Cannon reached the same conclusions somewhat more directly. The preamble of the B.N.A. Act stated that the Canadian constitution was to be similar in principle to that of the United Kingdom. But in 1867 Britain was a democracy (judges do not have to be strictly accurate from the historical point of view), and democracy cannot be maintained without free discussion throughout the nation. Every citizen of Alberta was also a citizen of Canada, and "the province [could not] interfere with his status as a Canadian citizen and his fundamental right to express freely his untrammelled opinion about government policies and discuss matters of public concern." The Press Bill, he therefore concluded, was *ultra vires*, because it interfered with the free working of the political organization of the Dominion.

One might question whether the Bill was as far-reaching in its effect as the two judges suggested, but that is irrelevant here. What is relevant is that both judges agreed that freedom of discussion as such was beyond the scope of provincial legislation. On the power of the federal Parliament to deal with this freedom the judges were much less explicit. Mr. Justice Cannon felt it could abrogate the right if it deemed such action to be in the public interest; the Chief Justice contented himself with saying that Parliament alone could legislate for the protection of the right.

How would Viscount Haldane have regarded these opinions? Because of his all-encompassing view of "property and civil rights in the province," it seems certain that he would have brought the impugned provisions of the Press Bill under this heading in much the same way as three judges of the Supreme Court of Canada have done in the 1950's; he would probably have permitted the intrusion of Parliament into the field of civil liberties only to protect the nation from some extraordinary peril. As it was, the opinions of Duff, Davis, and Cannon did not become the law of the land. The Judicial Committee declared the Press Bill to be *ultra vires*, but solely because it was dependent for its operation upon another bill which had become inoperative. No further elaboration of its contents was therefore necessary.

Actually the law of the land on civil liberties is little better defined today than it was in 1938. It is true that Canadian "civil righters" can have little complaint about the practical results of the judgments of the Supreme Court of Canada, which has been acting as our court of final resort since 1949. For an unpopular sect like the Jehovah's Witnesses it has become the strongest of bulwarks. Yet a definitive statement of what the written constitution guarantees in the way of civil liberties may still be far away.

To date, the Supreme Court has had to consider the abstract question of what authority, if any, can legislate for the restriction or abrogation of such liberties in only three cases. In the first, *Saumur v. The City of Quebec*,<sup>7</sup> the validity of city by-law 184 was in question. Did Laurier Saumur of the Jehovah's Witnesses require permission from the police chief of Quebec before he could distribute pamphlets on the city's streets? Here, as in no other case, all the judges of the Supreme Court found themselves compelled to state how civil liberties were to be treated in interpreting the B.N.A. Act. However, the divisions within the court were such that no definitive conclusion was possible.

In the second case, *Birks & Sons v. the City of Montreal*,<sup>8</sup> the problem was: Could a legislature authorize a municipality to enforce the closing of stores on days which the religious majority observed as holy days? All the judges agreed it could not, since this type of legislation clearly fell within the criminal law power of Parliament. Only three judges resorted, in addition, to their opinion in the *Saumur* case, that the legislatures are debarred from enacting laws in relation to religion or freedom of religion.

The third case, *Switzman v. Elbling and the Attorney-General for Quebec*,<sup>9</sup> determined the validity of Quebec's Padlock Law, which made it illegal to use a house to propagate communism or to publish or distribute literature designed to propagate communism. As penalties, the provincial Attorney-General might order the house to be padlocked for a period of one year and the literature to be destroyed, all without resort to a court of law. Five judges declared the act to be *ultra vires* as legislation in respect of the criminal law. Only three found it an interference with freedom of speech and expression, and therefore incompatible with the working of parliamentary institutions.

Yet these cases have at least brought into bold relief the threefold division of opinion within the Supreme Court. First, there is the difference between those who hold that civil liberties have what Professor Bora Laskin calls an "independent constitutional value" and can therefore be the subject of legislation as such,<sup>10</sup> and those who do not. Those who adhere to the former point of view are further divided between those who consider the provincial legislatures to be the proper author of legislation in relation to civil liberties, and those who do not. In the discussion which follows a distinction is sometimes made between freedom of religion on the one hand, and the freedoms required for the working of parliamentary institutions, such as freedom of the press and freedom of discussion, on the other. It is admitted that such a clear-cut division does not in practice exist, and that where the first is denied the others are in peril. Yet to the extent that they are guaranteed in Canada, there

are sound grounds for arguing that they rest on a different legal and constitutional basis.

Only two judges of the Supreme Court, Justices Cartwright and Fauteux, have ever denied that the fundamental freedoms have an independent constitutional value. In the *Birks* and *Switzman* cases they both joined the majority and simply declared that the impugned legislation related in its pith and substance to the criminal law. For their special viewpoint one must turn, therefore, to their common judgment in the *Saumur* case. There they stated unequivocally that freedom of the press was "not a subject matter committed exclusively to either Parliament or the Legislatures." In some respects Parliament might legislate on it under its criminal law power; in other respects the legislatures might deal with it under the various heading of section 92. The inference was that all the other fundamental freedoms were to be treated similarly. Professor Laskin has disagreed strongly with this position. He considers it "unthinkable that freedom of the press or of religion should not be independently capable of being the 'matter', in the constitutional sense, of legislation, and thus requiring assignment to a head of power under [section 91 or 92 of] the British North America Act.<sup>11</sup> Yet it may well be that Justices Cartwright and Fauteux are expressing the true intent of the Fathers of Confederation; after all, the latter were so little interested in the protection of civil liberties that they failed even to mention them during their deliberations.

However, Professor Laskin is certainly correct in saying that, once the fundamental freedoms are denied an independent constitutional existence, it is far easier to accept legislation designed to suppress them as legislation in relation to some other matter. Thus Justices Cartwright and Fauteux found no trouble at all in placing by-law 184 under the provincial power to legislate in relation to the use of the streets and the maintenance of public order. Mr. F. A. Brewin takes the position that these judges have not closed the door to the argument that provincial legislation designed to restrict the fundamental freedoms is *ultra vires*<sup>42</sup>. But this proposition has little practical meaning if provincial legislatures, allegedly acting under the headings of section 92, are permitted to make substantial abridgment of these freedoms.

The second wing of the Supreme Court, which ascribes an independent constitutional value to civil liberties and puts them under the property and civil rights clause of section 92, consisted of three members until Chief Justice Rinfret retired in 1954; its present members are Chief Justice Kerwin and Mr. Justice Taschereau. The justification of this point of view appears to rest on slender grounds. In the *Saumur* case Chief Justice Rinfret, with the concurrence of Mr. Justice Taschereau, stated categorically that the practice of religion was a civil right within the province, but



his supporting evidence was confined to pointing out that the Legislatures of Saskatchewan and Alberta felt the same way when they enacted civil rights bills in 1947, and that the Judicial Committee, in an insurance case dating back to 1881,<sup>13</sup> held that the words "civil rights" were used in their largest sense in section 92.

Mr. (now Chief) Justice Kerwin contended that the right to practise one's religion and freedom of the press are civil rights in the province just the same as the right to strike or lock-out. Professor Laskin calls this "attribution of civil liberties to the provincial 'civil rights' power based on an analogy to disruption of relations between employees and employers . . . a novelty in judicial reason."<sup>14</sup> His comments on the general mode of argument of all three judges are even more critical: "The [ir] position . . . was not so obvious as to entitle them to make bare assertions. In fact, if anything was obvious, it was that both reason and authority were against them."<sup>15</sup>

In dealing specifically with freedom of religion, the three judges had to discuss the status of The Freedom of Worship Act,<sup>16</sup> which was enacted by the Parliament of the United Province of Canada in 1851 and confirmed in Britain the following year. It guaranteed "the free exercise and enjoyment of Religious Profession and Worship, without discrimination or preference," but only so long as "the same not be made an excuse for acts of licentiousness, or a justification of practices inconsistent with the peace and safety of the Province." Section 129 of the B.N.A. Act had the effect of keeping these provisions in effect until they were repealed or modified by the appropriate legislative authority. The Rinfret-Taschereau-Kerwin wing, by including civil liberties in the property and civil rights clause of section 92, made the provincial legislatures the appropriate authority for amending The Freedom of Worship Act. So the pertinent statute was chapter 307 of the Revised Statutes of Quebec (1941), which repeated the earlier Act without alteration.

Interestingly enough, however, adherents of this wing could not agree among themselves on the application of chapter 307 to by-law 184. Chief Justice Rinfret, in a judgment bristling with distaste for the Witnesses, found that they were not a religion and hence unable to claim the free exercise of religious worship; that, even if they were, their attacks on other religions were both "licentious" and "inconsistent with the peace and safety of the province;" and that in any case the by-law in its pith and substance was simply designed to regulate the use of the streets. Mr. Justice Kerwin's more moderate judgment found that the Witnesses were entitled to the protection of chapter 307, that the free exercise of one's religion included the right to distribute religious pamphlets, and that by-law 184 could therefore not be enforced with respect to religious literature.



The latter judgment became the deciding opinion in a badly-divided court. But it was an empty victory for the Witnesses, for it left the Quebec Legislature free to amend The Freedom of Worship Act, i.e., chapter 307, as it pleased. And it acted at its next session to deprive them of their newly-won gain.

The third wing—that which considers civil liberties to have an independent constitutional value but denies that they are included in civil rights in the province—consisted of four members in the *Saumur* case, Justices Rand, Kellock, Estey, and Locke. Mr. Justice Estey has since died and Mr. Justice Kellock has resigned, but Mr. Justice Abbott is now associated with Justices Rand and Locke.

Basically these judges accept wholeheartedly the views of Chief Justice Duff and Mr. Justice Cannon in the *Alberta Reference* case. Copious extracts of the former's opinion are quoted in their judgments, and the overtones recall the *Fort Frances* case as well. What is new is the painstaking attempt of Justices Kellock and Rand to show that freedom of the press, freedom of religion, and similar "freedoms" cannot be regarded as civil rights, and certainly not as civil rights in the province. Mr. Justice Kellock reviews the legislative history of the term "civil rights" to show that in strict law it does not include the basic freedoms, even though it is used interchangeably with "civil liberties" in common parlance. He emphasizes particularly an opinion expressed by Mr. Justice P. B. Mignault in his nine-volume work on *Le Droit Civil Canadien*,<sup>17</sup> that the freedoms of discussion, religion, and the press are not civil rights, because they do not constitute relations between one individual and another; nor are they true political rights, since they can be exercised without taking part in government; rather, they belong to a special class of their own—public rights.

Mr. Justice Rand points out that freedom of speech, freedom of religion, and the inviolability of the person are "original freedoms," which, according to a basic principle of our society, remain unimpaired to the extent that they are not limited by law. The positive law circumscribes them, especially in the sanctions of the criminal law, and in the creation of civil rights (such as those against defamation, assault, and false imprisonment) in persons who may be injured by their exercise. The operative field of the original freedoms (now civil liberties) is the residue within this periphery. Thus civil rights, in contrast with the basic freedoms, arise from positive law. In legislating in relation to civil rights and other matters in section 92, the provinces may incidentally limit the basic freedoms, but they cannot legislate on these freedoms as such. Since by-law 184 was designed to establish a censorship without limitations of any kind rather than to regulate the use of the streets, it was clearly *ultra vires*.

With respect to freedom of religion, Justices Rand and Kellock showed that from the Articles of Capitulation in 1760, through the Treaty of Paris, the Quebec Act, the Constitutional Act, down to the Union Act of 1840, there had been a parallel enactment of special provisions relating to religious belief and observance alongside a provision relating to property and civil rights. They contended, therefore, that the right to the exercise of religious freedom was not meant to be included within "the later collocation of powers." The fact that section 93 of the B.N.A. Act gave the Governor-General-in-Council and Parliament the power to prevent the educational rights of religious minorities from being abridged by the provinces confirmed this position. For of what use was this protection if the provincial legislatures, by virtue of the property and civil rights clause, could abolish the religious freedom of minorities, and "so, in legal contemplation, the minorities themselves"?

Similarly, legislation in relation to religion and its profession could not be regarded as a local or private matter. "It appertains," said Mr. Justice Rand, "to a boundless field of ideas, beliefs and faiths with the deepest roots and loyalties; a religious incident reverberates from one end of the country to the other, and there is nothing to which the 'body politic' of the Dominion is more sensitive." Mr. Justice Estey concurred, and placed legislation on this subject among those matters upon which Parliament may legislate for the peace, order and good government of Canada. The conclusion of this wing was that provincial legislatures could neither amend nor repeal the Freedom of Worship Act of 1852. Mr. Justice Locke even wondered whether the preamble to the B.N.A. Act did not place similar strictures on Parliament itself, but expressed no firm opinion on the matter.

This problem may be broadened: If the B.N.A. Act, by implication, postulates the basic freedoms which are required for the working of parliamentary institutions, can Parliament itself legislate so as to abrogate them? The answer would appear to be no, if Chief Justice Duff's reasoning is carried to its logical conclusion. In the *Saumur* case Justices Rand, Kellock, and Locke apparently left the question open. Mr. Justice Estey, however, seems to have given unrestricted power to the Dominion under peace, order, and good government. In the *Switzman* case Mr. Justice Abbott took the opposing view that, "as our constitutional Act now stands, Parliament itself could not abrogate this right of discussion and debate."

There the matter rests. It could be argued that Mr. Abbott's position is not suited to those extraordinary times when the safeguarding of parliamentary institutions necessitates some restriction of fundamental freedoms. But perhaps we too could have "a clear and present danger" doctrine to restrict the bill of rights implicit in the B.N.A. Act just as the American Supreme Court employs one to limit the

guarantees of their explicit bill of rights. Should Mr. Abbott's views be adopted, there is the further problem posed by Mr. Justice Cartwright in the *Saumur* case: If, as the courts have found repeatedly, the whole range of legislative power is committed either to Parliament or the legislatures, how can Canadians possess rights which cannot be modified or abrogated by either Parliament or the legislatures?

In summary, what may be said of the foregoing three viewpoints? Justices Kerwin and Taschereau are guilty, it seems to this writer, of compounding one of the Judicial Committee's most serious errors; they are extending the civil rights clause to a new matter without facts or logic to support them. The choice between the other two viewpoints depends upon one's attitude towards judicial review in general. Those who prefer a literal interpretation of a constitution will more probably support the Cartwright-Fauteux position, while those who accept the living-tree doctrine will look upon the opinions of Justices Rand, Locke, and Abbott with favour.

How then ought Mr. Diefenbaker's bill to be regarded? It is, of course, limited to guaranteeing those liberties that are subject to the federal jurisdiction. Hence, if either the Kerwin-Taschereau wing or the Cartwright-Fauteux wing prevailed, its scope would be severely restricted. At the most it would mean that Parliament, in enacting laws in normal times within its own legislative field—and that would not include civil liberties as such—could not incidentally deprive Canadians of a number of specific human rights and fundamental freedoms. If the third wing prevailed, the result would be uncertain unless a majority of the court held either that Parliament alone may legislate for the protection and abrogation of civil liberties, or that no authority in Canada may deliberately legislate to restrict such liberties. In the former case the Diefenbaker bill could come close to being what it calls itself, "the Canadian Bill of Rights," for the only authority having the power to abrogate fundamental freedoms has voluntarily limited itself. In the latter case the Diefenbaker bill might well be redundant.

What view of civil liberties is likely to prevail? Prophesying is dangerous. But if their positions in the *Roncarelli* case are an indication, Mr. Diefenbaker's two appointees to the court in 1958, Justices Martland and Judson, may well associate themselves with the Rand-Locke-Abbott wing. Since Mr. Justice Rand will shortly reach the age of retirement, the next appointment to the court could be crucial. For in one vital respect the Canadian constitution now resembles the American; it is what five out of nine judges of the Supreme Court say it is. Perhaps charges of "packing" the Court will come next.

When will the basic questions with respect to civil liberties be answered? No one can tell, because no one can anticipate an action like the *Saumur* Case, in which all the judges had to come to grips with fundamentals. That is why the Civil Liberties Committee of the Canadian Bar Association suggested in January 1959 that the Canadian government get an opinion from the Supreme Court on who has jurisdiction over civil liberties—the provinces or the Dominion. If the past affords a clue, our cautious politicians will prefer a resort to judicial view in this matter rather than to formal constitutional amendment.

## NOTES

1. *Bank of Toronto v. Lambe* (1887), 12 A.C. 575.
2. *Edwards v. A.—G. Canada* (1930), A.C. 124.
3. *Fort Frances Pulp & Power Co. v. Manitoba Free Press* (1923), A.C. 695.
4. *Gold Seal Ltd. v. Dominion Express Co.* (1921), 62 S.C.R. 424.
5. *A.—G. Ont. v. A.—G. Can.* (1896), A.C. 348.
6. *Reference re Alberta Statutes* (1938), S.C.R. 100.
7. (1953), 2 S.C.R. 299.
8. (1955), S.C.R. 799.
9. (1957), S.C.R. 285.
10. Bora Laskin, "Our Civil Liberties", *Queen's Quarterly*, LXI (Winter, 1954), p. 469.
11. *Ibid.*
12. F. A. Brewin, "Religious and Constitutional Freedom", *C.B.R.*, XXXIV (January, 1956), pp. 85-6.
13. *Citizens Insurance Co. v. Parsons* (1881), 7 A.C. 96.
14. Laskin, *op. cit.*, 470.
15. *Ibid.*, 471.
16. 14-15 Vic, c. 175.
17. Vol. 1, p. 131.