A HALF-CENTURY ENCOUNTER WITH CIVIL LIBERTIES[1]

Mr. Chief Justice, Ladies and Gentlemen:

I am very deeply touched by the introduction just given to me by one of the great jurists of our day and generation.[2] His capacity to convey his meaning and to make his declaration on the laws of our country and their interpretation has earned for him the approval of all Canadians. He has, in addition to his profound knowledge of law and a true humanitarianism, that marks a great jurist, namely, a courtesy and firm gentleness.

I am sure I will not have the experience of a certain lawyer, who will not be identified, when he moved onto the platform, about twenty-five years ago, at a meeting not too far from Winnipeg, and the chairman said, "Our guest has just arrived with his two accomplices." You and I have here, Mr. Chief Justice, our two accomplices![3]

I find myself rather overwhelmed by being given the honour and opportunity of giving the Annual Manitoba Law School Foundation Lecture. When I read the record of those who have preceeded me, including among some of the great lawyers and judges, the former Lord Chancellor of the United Kingdom and a judge of the United States Supreme Court, I recall a story that was told by Lord Alverstone, former Chief Justice of England. He made a name for himself at the Bar as R. Webster, Q.C. After his appointment to the Bench as Chief Justice, he continued to sing in the choir of a small parish church outside London. A visitor called at the church one Sunday and, after giving the verger a tip, asked him, "Which is the Judge in the choir who had quite a record as a lawyer?" The verger said, "The vicar and I have a good reputation, and that's all that matters. So long as the members of the choir behave themselves, we don't inquire too closely about their past."

When I think of some of the introductions I have received as a politician over the years, Mr. Chief Justice, I realize that lawyers have not always been too popular, especially in rural constituencies. I recall very well an election campaign when there was a strong attack made on me because I was a lawyer. Supporters tried to offset that criticism and defended me on the basis that it was a great opportunity to have me in Parliament because there I could take the farmer's brief for nothing.

1. Text of the Manitoba Law School Foundation Lecture, delivered March, 1973, in the Playhouse Theatre, Winnipeg.
2. Mr. Diefenbaker was presented to the audience by the Honourable Samuel Freedman, Chief Justice of Manitoba, Chairman of the Manitoba Law School Foundation.
3. The lecturer and the Chief Justice were accompanied on the platform by Mr. Peter S. Morse, Q.C., President of the Law Society of Manitoba, and Dean C. H. C. Edwards of the Faculty of Law.

He went on to say, "This is a nasty kind of campaign that is being waged against Mr. Diefenbaker. I have known him for the past twenty years and my own experience has convinced me that there is no reason for criticism for he's not much of a lawyer anyway!"

On another occasion I was introduced by a French-Canadian. As you know, the word "Simple" has a slightly different connotation in French than it has in English. This man said that he was glad to introduce me as he had known me for thirty years and, he added "I tell you, ladies and gentlemen, he is just as simple today as the first day I met him."

Of these are the things, after all, that make public life worthwhile!

The Chief Justice, in his very generous words, has referred to the fact that the topic chosen for me is "Civil Liberties", a subject that through the years has commanded my allegiance. The definition of freedom that I gave when I was in second year in University was "To me, freedom is the right to be wrong, and not the right to do wrong."

And it is of Freedom that I am going to speak.

The popular emergence of the phrase "human rights" had its modern beginnings in 1945 in San Francisco at the United Nations. I was there in a very humble capacity. The free nations meeting there determined that they would establish a system of international rights that would collectively embrace the whole series of individual claims and protections. Their concepts were set out in the Charter of the United Nations. It was followed by the Universal Declaration of Human Rights in 1948; by the covenants on civil and political rights and, in 1965, by the Convention on Racial Discrimination. San Francisco brought about new hopes for Peace for all mankind of a world in which nations would agree to abide by standards of fairness and equality for all.

Its principles were not new. They were based on generations of law, religion, and philosophic thought, and were in harmony with our Judaic and Christian traditions. The Old and New Testaments, Plato, Aristotle, St. Thomas, Maimonides, contributed to modern concepts of human dignity and human freedom. The institutions that we inherited, having to do with Human Rights, ring of British History; Magna Carta, the Crown *and* Parliament, the Crown *in* Parliament, the Common Law, the Petition of Right, the Bill of Rights, Habeas Corpus, and above all, the impartiality of the judiciary. A decade after Confederation, Mr. Justice Taschereau of the Supreme Court of Canada, in speaking of the Canadian heritage of Freedom, said, "We have borrowed from England institutions which, with regard to civil and religious liberty, leave to Canadians nothing to envy in other countries."

The attainment of fairness and restraint, without which no modern

system of representative and democratic government can live, and the balancing of security and stability with growth and responsiveness, owe much not only to principles inherent in our British tradition but also to ideas that stemmed from the American and French Revolutions.

The British North America Act is a rather cold Act. It was prepared by politicians and drafted by parliamentary draftsmen. It has none of the grandeur of the American Declaration of Rights. It was intended to reflect, in ordinary language, the principles of peace, order and good government and, in another sense, the overall good for which government exists.

As everyone knows, our Constitution is in part written and in part inherited and unwritten. The written portion, however, is broader than most people realize because it is based in part on Magna Carta, the Bill of Rights, and the Habeas Corpus Act. Perhaps more important is the fact that within the British North America Act itself were planted the seeds of a whole series of rights in the classical sense. Our freedoms were protected until recent years within the purview of those celebrated words in the B.N.A. Act that the Canadian constitution is "similar in principle to that of the United Kingdom."[4] Although the Act gave little more than a hint as to the direction freedom would take, the Supreme Court of Canada did not fail to find and locate the Federal jurisdiction over Freedom of the Press in the Alberta Press Reference case, and to declare it to be beyond the power of the provinces to place under provincial control.[5] In the nineteen-fifties, the Supreme Court in several cases protected Jehovah's Witnesses who, while disclaiming allegiance to constitutional principles and denying the authority of government over their membership, at the same time relied on the law that gave, in a series of decisions, all Canadians Freedom of Religion.[6]

Anti-discrimination provisions in Federal and Provincial employment policies appeared from time to time. Fair accommodation legislation was enacted, beginning in the Province of Ontario. The courts, without legislation, began to ask questions about racial discrimination in covenants restricting the sale of land. We have reason to be thankful today that we shall never again have a judgment that was made in the Supreme Court of Canada in 1940 in *Christie* v. *York*,[7] that judgment that a head bartender who refused to serve a Negro customer could do so if he chose.

Since the Second World War, the Courts have built up and reshaped general principles that today are of an abiding nature – aside altogether

4. The British North America Act, 1867, 30 & 31 Vict., c.3, preamble.
5. **Re Alberta Statutes** (1938) S.C.R. 100.
6. See **Saumur v. City of Quebec** (1953) 2 S.C.R. 299; D. A. Schmeiser, **Civil Liberties in Canada**, Oxford Press, 1964, at pp. 71-87, 196-204.
7. **Christie v. York Corporation** (1940) S.C.R. 139.

from the Bill of Rights, now again before the Supreme Court in connection with the *Lavell* case.[8] (Incidentally, and as an aside, it appears from the newspaper accounts of the argument that one of the Judges noted today that the French language version of the Bill of Rights does not include the word "discrimination".)

First, what of Canada's record in the past, before the fifty-year period of which I am principally speaking? I mention, because it is sometimes forgotten, that slavery, the cruelest form of a denial of human rights, once existed in Canada and was virtually abolished in Upper Canada (and, for the first time, in the British Empire of that day and the Commonwealth of today). It was declared by Statute in 1792 by the Legislature that, insofar as the day of slavery was over, its abolition was highly expedient. There was no such legislation in Lower Canada, but the judges in the courts in their judgments preferred the rights of slaves to those of slaveowners. The Nova Scotia legislature, in 1787, refused to deal with a Bill regulating servants on the grounds that slavery did not exist in the Colony. In the courts of New Brunswick and Prince Edward Island, and of the colony of Newfoundland, the judges refused to enforce laws in respect of slavery.

I turn now to more recent events.

At the beginning of the Second World War the Canadian government immediately declared the *War Measures Act*[9] of 1914 in effect. The Defence of Canada Regulations came into being in 1939 and, under their provisions, some 2,000 Canadians, as well as enemy aliens, were interned. The Minister of Justice had the power to make an order directing the detention of any person whom he believed to be acting in a manner prejudicial to the State. Mistakes in judgment were bound to happen. People were interned who ought not to have been. I was made a member of a Committee set up by the House of Commons. All its members were lawyers except Mr. M. J. Coldwell. Manitoba supplied one of the finest parliamentarians of my time, Ralph Maybank, afterwards a Justice in this Province. The Committee met in earnest and tried to carry out our responsibilities as Canadians, first to the state and then to the individual. We recommended, and it was accepted by the Mackenzie King government, that a Board of Review, consisting of persons of high judicial office, should be set up to look into these cases. The Parliamentary Committee could recommend that internment of an individual should end, and although the Minister was not bound, in general he acted accordingly.

8. Re Lavell and Attorney-General of Canada (1971) F.C. 347; (1972) 22 D.L.R. (3d) 188; (Fed. C.A.); (1972) 22 D.L.R. 182 (Ont. Cty. Ct.) (This case was before the Supreme Court at the time the lecture was being given.)
9. R.S.C. 1970 c. W-2.

In 1945 I saw the setting up of a Royal Commission into Espionage made necessary by the revelations of Ivor Gouzenko. There were some who were afraid to speak. I did not belong to that group. I have found in the House of Commons that if a Member speaks out, and if the people know it is a matter of conscience, then, whether the membership of the House agree with him or not, he is never subject to condemnation. I took the strongest objection to what happended in that Royal Commission, as it held incommunicado persons taken into custody, denied them Habeas Corpus, and subjected them to treatment that should not have been tolerated.

I shall not refer to the Spence Commission, which made evidence of hearsay piled on hearsay. In other words I shall "dis-spence" with discussing that, for very obvious reasons!

Since the Second World War, there have been many examples of interference with the individual's right of appeal to the courts. I opposed such denials with all the force that I could muster. One example is the Foreign Exchange Legislation.[10]

As provided for by the Statute, anyone who suffered damage would have no right to redress in the courts, however wrong the action of the civil servant or bureaucrat making an order. This was fought and opposed by a few Members of the House, including myself. The Statute itself was amended after some years so as to permit a person, when charged with an offence under the Act, to have recourse to the courts. It was not much used, because regardless of the actual loss one suffered, the Plaintiff who had been wronged was restricted to one dollar damages and no costs! At most it was a step forward, giving the individual his right at least to access before the courts.

While I do not like to make personal references, from my earliest days I knew the meaning of discrimination. My maternal ancestors came here, to the Red River, with Lord Selkirk in 1812. If I had borne my mother's name, it would have been more comfortable; Bannerman sounds better. Many Canadians were second-class citizens in Canada, on the basis of names and racial origin. Indeed, it seemed that the only first-class Canadians were those of English or French descent. As a youth I determined to devote myself to making it possible for all Canadians, whatever their racial origin, to enjoy equality within this nation, under law. There were the sceptics who said my proposal to have a Bill of Rights was ridiculous; that it was an ideal that meant nothing; that principles of substance could not be codified, and the attempt would only render Fundamental Freedom even more obscure and uncertain.

10. Foreign Exchange Control Act, Stats. Can. 1946, c.53; Repealed R.S.C. 1952, c.315, s.30.

In 1960, I introduced in Parliament the Bill of Rights, which finally became a Statute of Parliament. I do not think it could have been passed twenty years earlier. I had kept coming back to it regularly from 1944 on, and there were originally perhaps a dozen members in the House of Commons of like view. But by 1960 Freedom's time had come in the public consciousness, and nothing can stop an idea that has come of age.

Then came the period of interpretation. No one ever appeared more like a pariah than he who supported the effectiveness of the Bill of Rights. There were some judges and academics who pronounced it worthless. They decided that it was a grandiloquent declaration of Human Rights, but could not protect any individual who might take action thereunder.

Then Joe Drybones, an Indian from a reserve in the Northwest Territories, stepped in, and became immortal. He was convicted of being drunk – not disorderly, but drunk – contrary to the provisions of the Indian Act. He pleaded guilty. The magistrate said he ought to change his plea; he did, but was convicted. An appeal by the accused was taken. Mr. Justice Morrow allowed the appeal. The Federal Department of Justice appealed this judgment to the Supreme Court of Canada. Counsel for the Crown argued long and strenuously that the Bill of Rights was nothing more than a declaration of idealism.

The Supreme Court, three Justices dissenting, decided otherwise.[11] In so doing, the Court took the major stance against the invasion of civil liberties and gave judicial acceptance to the concepts of human dignity and freedom under law as set out in the Bill of Rights. I do not more than refer to excerpts from two judgments. Mr. Justice Ritchie said:

> "In my view under the provisions of S. 1 of the Bill of Rights 'the right of the individual to equality before the law' 'without discrimination by reason of race' is recognized as a right which exists in Canada and by ss. 2 and 5 of that Bill it is provided that every law of Canada enacted before or after the coming into force of the Bill, unless Parliament makes an express declaration to the contrary, is to be 'so construed and applied as not to abrogate, abridge or infringe, or to authorize the abrogation, abridgement or infringement 'of any of the rights so recognized and declared."[12]

He concluded that the applicable section of the Indian Act disclosed laws of Canada which did so.[13]

Mr. Justice Emmett Hall expressed himself in these words:

> "The Canadian Bill of Rights is not fulfilled if it merely equates Indians with Indians in terms of equality before the law . . ."[14]

11. **R. v. Drybones** (1970) S.C.R. 282.
12. **Ibid**, at 298.
13. **Ibid**, at 300.
14. **Ibid**, at 299.

During the argument, Counsel for the Federal Department of Justice argued that, if all Indians are treated alike, there would be no infraction of the principles of the Bill of Rights.

Mr. Justice Hall said, in effect, such a contention repudiates the basic principles of the Bill of Rights.

It is of interest that another case on the Bill of Rights (the Lavell case) is before the Supreme Court of Canada.

It is worthy to be noted that, when the Judicial Committee of the Privy Council was the final court of appeal for our country, there was criticism that it was too literal; it was so bogged down by precedents as to be unable to meet changing social concepts. When Prime Minister St. Laurent brought in the legislation to make the Supreme Court of Canada the final court of appeal, I argued that the Supreme Court should be bound by Privy Council precedents. In the light of subsequent events, I was wrong. When the Privy Council was the final Court of Appeal for Canada, judicial activism seemed taboo. Indeed, with few exceptions, the Supreme Court failed to examine alleged invasions of civil liberties unless they contravened one or other specific constitutional provisions or exceeded the powers of the Federal Parliament or Provincial Legislatures which had enacted the legislation under consideration.

The late Mr. Justice Rand was one Judge who gave a lead to judicial activism. He had the unusual ability to recognize and protect the communicative freedoms, not on the basis of whether specific provisions as to provincial or federal jurisdiction had been exceeded, but on the broader and simpler foundation of the preamble to the British North America Act, whereby Canada was given a constitution similar in principle to that of the United Kingdom. Without freedom of speech, freedom of the press, and freedom of religion, he said, parliamentary government could not exist, and gradually he moved along with the other judges in the direction of so interpreting the British North America Act.

It is sometimes alleged that, as a result of the passage of the Bill of Rights, the supremacy of Parliament may no longer be as fundamental as it was when, in 1701, Chief Justice Holt stated that "an Act of Parliament can do no wrong, although it may do several things that look pretty odd".[15] There are some jurists and parliamentarians who suggest that, since the Bill of Rights became the law, parliamentary sovereignty has been diminished. I am not going to enter into that question and, while not accepting that contention, the views of Professor Schmeiser of the University of Saskatchewan, in his book on civil liberties, seems to me to be valid.

15. **City of London v. Wood** (1701) 12 Mod. 669 at 687-688; 88 E.R. 1602 (K.B.).

> "Courts do not exist in a vacuum; their personnel reflect popular ideals and trends. They certainly cannot for long interpret a Bill of Rights in a manner which thwarts the desires of the majority of the people. They can protect society from hasty and thoughtless legislation which does not represent the view of a substantial majority of the people. They can stop the bureaucrat or the petty official from acting arbitrarily. They can lay down rules governing their own conduct in dealing with accused persons. But they cannot do these things if they are opposed by a determined legislature backed by a majority of the people."[16]

Now, for a moment, I want to deal with human freedom within the Commonwealth. It is recognized that any and all members of the Commonwealth have the right to establish republics. Until 1959, it was more or less automatic that, if a nation did so, it could remain within the Commonwealth. Admission followed as a matter of course. At the Prime Ministers' Conference in 1960, I raised the question as to whether a nation, having decided to become a republic and having withdrawn from the Commonwealth should be required to make application to rejoin. Within the year, the Union of South Africa decided to withdraw and establish a republic. I was and still am tremendously impressed by the Union of South Africa's contribution to the Commonwealth and to freedom in two World Wars. But my unalterable view was that, as nine out of ten people in the Commonwealth were of races that are not white, there could be no survival for the Commonwealth unless it was "colour-blind".

That view I strongly pressed. All the Prime Ministers representing the white members of the Commonwealth were on one side, except for Canada. To begin with, all the other Prime Ministers at the Conference were on the other. I maintained that it was unjust and not in keeping with the basic principles of the Commonwealth that twelve and one-half million black or coloured people should be denied any representation in the House of Representatives of South Africa. I implored Prime Minister Verwoerd to grant as a beginning to the blacks and other coloured citizens three members in the House of Representatives, as they had had under General Botha and Field Marshall Jan Smuts. The Prime Minister of South Africa and his Foreign Minister, Mr. Louw, were adamant in their refusal. Discussion continued for a couple of days. The arguments were frank and forceful. One afternoon, Prime Minister Macmillan, who was Chairman, said: "Let's adjourn for tea". (Tea in Britain helps to solve as many problems as cricket!) In about twenty minutes, he came over to me and said: "South Africa has withdrawn its application to join the Commonwealth." I emphasize that South Africa was not pushed out of the Commonwealth but left by its own decision.

Businessmen of the City of London argued that I pushed South Africa out of the Commonwealth, and some politicians shared that view. But

16. D. A. Schmeiser, **Civil Liberties in Canada**, (1964), Oxford Press, p. 31.

things change, and heresy sometimes becomes orthodox with the passage of time, or even sometimes orthodoxy becomes heresy. Two years later, when the true facts became understood, I received the highly restricted honour of being made an Honourary Freeman of the City of London, the two hundred and sixty-first recipient in history. Today it is no longer arguable what might have happened to the Commonwealth had a different stand then been taken on discrimination.

And now, in this survey of fifty years of civil liberties, I come to the international situation.

It was a memorable experience for me, as a backbencher at the founding meeting of the United Nations, to see the great of all the free nations assembled there.

Under the Charter, the determination of the people of the United Nations was "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small"[17] and to achieve international co-operation in promoting and encouraging "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion".[18] Then the Commission on Human Rights under the chairmanship of that great woman, Mrs. Franklin Roosevelt, agreed that the objective for all nations and all peoples must be to provide a basic standard of liberty. Since then, of course, there has been the adoption by the Assembly of the Covenants, and the International Convention on the Elimination of All Forms of Racial Discrimination.[19] If the principles of the United Nations were translated into actuality and reality by all member nations, liberty to all mankind would result. Regretfully, several nations have not upheld the principles.

Over the years, I have met leaders of the USSR. I was one who was impressed by Khrushchev. Cruel and ruthless as he was, he had a sense of humour which convinced me at all times that unless an error was made, there would not be an atomic war launched as long as he was Chairman of the Supreme Soviet. I think of him at the United Nations in September, 1960. He became greatly annoyed when the Prime Minister of Canada told him a few facts concerning the failure of the USSR to live up to its pledged word when its leaders undertook when joining the United Nations in 1945 to grant the right of self-determination to all peoples, as did all member nations. In his speech, he condemned the refusal of the USSR to give that right to the peoples in the Ukraine, the

17. **Charter of the United Nations**, signed at U.N. Conference on International Organization, San Francisco, June 26th, 1945; Preamble — second para.
18. **Ibid.**, Article 55C.
19. Adopted by The United Nations General Assembly, December 21st, 1965. Entered into force March 13th, 1969.

Baltic countries and other nations. When Canada's Prime Minister was followed by Prime Minister Macmillan, Khruschev took off his shoe and pounded it on the desk in order to emphasize his contempt for what was taking place. When it was all over, as he came out of the Assembly room, he was obviously very annoyed still. I, along with two others, walked out by the east entrance. He came out with a group of guards and went toward the west. I was fifty feet away from him when he saw me, and he reversed his direction. I can tell you that if Winnipeg wanted a bruiser for its football team, it should have had Khrushchev! He walked into me and hit me so hard that he nearly overturned me. There was no conversation on the part of either, although in the thoughts of one, I can say that there was language that would be regarded as profane in Parliament; that is, until recent years!

He faced a press conference during his visit to the United States, and displayed his techniques of dealing with the Press. You have seen it in court, I am sure, Mr. Chief Justice, where an interpreter is used, yet the witness knows enough English to understand what is being asked. He has a double chance; he hears the question asked, and then the interpretation. Then he argues with the interpreter and the interpreter reasks the question. By that time the witness is prepared to answer in a way sometimes in keeping with everything but the truth. Rumour had it that one pressman said to Khrushchev: "You have no freedom in the USSR." The Chairman replied through the interpreter; "You don't know what you are talking about." The questioner added: "Nobody can criticize you." Khrushchev replied: "They can't? Everybody does. Why, I'll give you an example. Only recently there was a man walking up and down in front of Red Square yelling at the top of his voice: 'Khrushchev is a fool!' What would happen if that took place in the United States? What would happen if somebody said things like that about the President of the United States, and created a disturbance? He would be arrested! Well, that is what happened. After putting up with it for two hours, the police finally had to arrest him." One of the reporters immediately asked: "What sentence did he get?" "Huh, sentence!" replied Khrushchev, "He got six months for creating a disturbance —" Khruschev paused, and then added "and then he got an additional nineteen and a half years more for revealing a state secret!" Don't let anyone tell me that he wouldn't have made a good politician in any country!

Now, what of the United Nations and the USSR? There are covenants and declarations to provide international protection for a far-ranging catalogue of human rights and freedoms. Why have these declarations not been enforced against the USSR, either by the Security Council or by the General Assembly? Little has been done in the United Nations to protect human rights, except for some declarations concerning South

Africa, Rhodesia, and the Portuguese territories of Africa. I am amazed that the USSR is apparently immune in the United Nations from action when it flagrantly denies rights and refuses to consider, much less allow to be decided, the question of self-determination by captive peoples in the Ukraine, the Baltic States, and other countries with self-determination being basic to the U.N. Charter.

A couple of years ago I visited the USSR and the Ukraine. I cannot complain of the treatment I received. I could see anything I wanted to; I was not interfered with. I annoyed some of the lesser officials somewhat by having the CBC take pictures of those thatch-covered roofs and white-washed walls of the homes in Ukrainian villages. One of the pressmen said to me, in annoyed tones: "Why do you do that? Are you trying to pretend there is no improvement here since the migrations to Canada?" And I said: "No, but I should like to show these things over here to the old people of Ukrainian birth in Canada and the United States so that they in nostalgic memory may look back on their early days in their homeland."

What of today in the USSR? The intellectuals are being hounded into concentration camps, or being sentenced to mental institutions. Christians and Jews are being persecuted in increasing numbers. Yet there has not been one vestige of action, effective action, in the United Nations against such tyrannical conduct. I am concerned that our own country has not launched a motion in the U.N. Assembly to condemn what is being done. Indeed, not since September of 1960 has any Canadian chief representative or national leader spoken out in the United Nations regarding these and other violations of the Charter. Some contend that public opinion has no effect in those countries behind the Iron Curtain. Ask the people of the Ukraine what happened following the United Nations Assembly in September 1960 and they will tell you that the focus of world opinion on the USSR had a deterrent effect and brought about an improvement in conditions.

Human rights in Canada, over fifty years! With all our heritage, there have been things done that ought not to have been done. Many of those things cannot be done since the enactment of the Bill of Rights. It protects from discrimination. It denies the right to refuse counsel. It assures the individual of the right against self-incrimination. It denies the power of the bureaucrat to push around any person in Canada.

Within the Commonwealth, there is today and has been since 1961, the acceptance of the principle that the Commonwealth must be "colour-blind". Yet the immigration regulations recently passed in the United Kingdom were of such a nature that, while admitting the right of each Commonwealth nation to follow its own course, I could not refrain from

speaking out in criticism while in London last November to attend the first meeting ever held in its long history of the Queen's Privy Counsellors. I said that the Commonwealth means more to me than any world institution, much as I appreciate what the United Nations has done. But if we dare to allow the building of walls within this Commonwealth, based on race or colour, we shall bring about the degradation of the immortal principles of justice and equity that make possible the greatness of parliamentary government.

Mr. Chief Justice, I have spoken longer than I had intended. My wife, because of illness, regrettably isn't here, but I must tell you that by gestures she usually warns me when she feels that my speech should end. Indeed, I tell this story about my wife to indicate how she directs things. We have grace in our home which I normally say. One morning some time ago, I asked Olive to say grace. She bowed her head and said something. When she raised her head, I said to her, "I didn't hear what you said." Her reply was, "I wasn't speaking to you." If she had been here, I'm sure that my speaking time would be up.

I do not know how to express my appreciation to you, Chief Justice Freedman, and to all who for eight years have sponsored in the City of Winnipeg this unusual series of lectures. As one deeply honoured within the past few years by the Manitoba Bar Association in being made an honorary member, I am proud to say that, in bringing about these annual lectures, a contribution has been made in your day and generation to the furtherance of human rights and, above all, to justice under law.

I conclude by saying that, while statutes and declarations regarding fundamental freedoms will always continue to play a large part in the preservation of civil liberties with the caution that history shows that the ultimate protector of these liberties is public opinion, which when aroused in a democracy possesses invincible powers to end wrongs and protect the rights of the individual.

I am fond of the poetry of Rabindranath Tagore. He was a poetical tribune of freedom, his philosophy epitomized in the poem:

> FREEDOM from fear is the freedom I claim for you, my Motherland!
> Fear, the phantom demon, shaped by your own distorted dreams;
> Freedom from the burden of ages, bending your head, breaking your back, blinding your eyes to the beckoning call of the future;
> Freedom from shackles of slumber wherewith you fasten yourself to night's stillness, mistrusting the star that speaks of truth's adventurous path;

> Freedom from the anarchy of a destiny, whose sails are weakly yielded to blind uncertain winds, and the helm to a hand ever rigid and cold as Death;
>
> Freedom from the insult of dwelling in a puppet's world, where movements are started through brainless wires, repeated through mindless habits; where figures wait with patient obedience for a master of show to be stirred into a moment's mimicry of life.[20]

Men and women of the Manitoba Bench and Bar, each of us has the custody of these rights of human dignity without which life would be meaningless.

THE RIGHT HONOURABLE JOHN G. DIEFENBAKER*

20. "Collected Poems and Plays" by Rabindranath Tagore. (1936) London, McMillan & Co. Ltd., at pp. 454, 455.

* The Right Honourable John George Diefenbaker, P.C., Q.C., M.P., former Prime Minister of Canada.