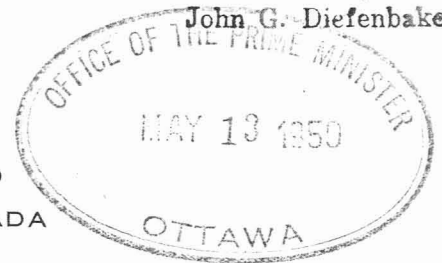




MINISTER OF JUSTICE AND
ATTORNEY GENERAL OF CANADA



Confidential

OTTAWA, May 11, 1959.

The Right Honourable
John G. Diefenbaker, P.C., Q.C., M.P.,
Prime Minister of Canada,
Ottawa, Ontario.

Dear Prime Minister:

I have examined, and discussed with my officials, the Briefs, letters and other submissions received by me on the Bill of Rights subsequent to my letter to you of January 27, 1959, and in particular the Resolution of the Council of the Canadian Bar Association dated March 3, 1959, together with the memorandum that accompanied it, and the letter dated April 29, 1959 and submitted to you by a delegation representing a number of organizations in Canada.

In the result, I would recommend the following additional amendments:

1. That a new paragraph (a) be inserted in clause 3 of the bill in the following terms:

"(a) authorize or effect the arbitrary detention, imprisonment or exile of any person;"

The remaining paragraphs now lettered (a) to (e) would, of course, have to be re-lettered as paragraphs (b) to (f).

2. That the words "protection against self crimination" be inserted after the word "counsel" in the present paragraph (c) of clause 3 of the bill, so that the whole paragraph would read as follows:

"(c) authorize a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel, protection against self crimination or other constitutional safeguards;"

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3. That the words "to ensure that the purposes and provisions of this Part in relation thereto are fully carried out" in clause 4 be deleted and that in place thereof there be inserted the words "in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this Part", so that the whole clause would read as follows:

"4. The Minister of Justice shall, in accordance with such regulations as may be prescribed by the Governor in Council, examine every proposed regulation submitted in draft form to the Clerk of the Privy Council pursuant to the Regulations Act and every Bill introduced in the House of Commons, in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this Part."

The foregoing recommendations are, of course, additions to the change recommended in my letter of January 27, 1959.

I am enclosing herewith a print of Bill C-60 as introduced at the last session of Parliament, in which all of the foregoing amendments have been incorporated. If a revised bill in these terms meets with your approval, I would recommend that the enclosed revised bill be transmitted to the Law Clerk of the House of Commons for printing and submission to the Cabinet.

I have considered also the suggestion made by Mr. Edwin Goodman for including a provision in the bill to aid in its enforcement against officers or agents of the Crown. My view is that with a Bill of Rights on the statute books it would necessarily be observed by and enforced against Crown servants and agents and that an express provision in the bill would not be needed. Moreover, a provision going as far as has been suggested would undoubtedly require additional staff. However, if it were considered desirable to include a provision along the lines suggested, I submit for consideration a provision along the lines of the attached draft.

Yours sincerely,

Davis

The foregoing suggested amendments are taken, in part from suggestions made in Dr. Schevanitch's brief, and in part from the submission presented on April 29th.