

Navigable Waters Protection Act

penalties for people who break regulations respecting such employment. I repeat, Mr. Chairman, that what we are voting on at this time is not order in council P.C. 2306; what we are voting on is the clause which I have just read, which gives extremely wide and undefined powers to the government in this field.

In this connection may I remind the government that this is not the first time the house has had to deal with a situation where emergency powers were expiring, and where the government wished to continue in effect some of the regulations that had been passed under those emergency powers. I have in mind what happened in 1946 or 1947 when the Continuation of Transitional Measures Act, or whatever that long name was, was expiring and the government was not yet ready to get along without all the regulations that had been passed under that act. I believe, if my memory serves me right, there were 57 of them which the government wished to continue in the "Heinz 57 varieties" bill.

But in that instance, even though there were some of those 57 regulations which members of the house objected to, at least what the government did was to bring in a bill continuing in effect those specific regulations, further providing in that legislation that none of those regulations could be altered. It was provided that the government by order in council could repeal any of them, but any regulations that were repealed could not be reinstated by the government afterwards. Whether we liked what was in those 57 regulations or not, at least we knew what we were talking about.

I submit, even though we might have disagreed with some of the sections of the regulations which the government might have asked us to vote on, it would have been better in this case to bring this matter before us, certainly not in the Navigable Waters Protection Act but in a bill properly named, and that it might have been brought before us in that form so that we would know exactly what we were voting on, rather than be asked to grant these wide powers without any restrictive definition as to what the government can do. We feel very strongly that the government's proposal in connection with this matter should be reconsidered even at this late date.

Mr. Garson: My hon. friends of the opposition who have just spoken, the Leader of the Opposition and the hon. member for Winnipeg North Centre, seem to be under the impression that we have created now or are attempting to create in the present bill a sort

of supplementary Criminal Code with some new crimes and severe fines and penalties that have not heretofore existed.

As my hon. friend said, the Minister of Labour has stated that an order in council has been passed which we propose to continue. That order in council is not in any sense secret. It was tabled back in 1951. It has been a matter of public record ever since. It might be pointed out in reply to the point which the Leader of the Opposition made, that he wanted a law which was open to the public and offences under which would come before the courts and before a jury of the accused's peers, so that the person accused would have a fair trial and the like—in reply to this argument it might be relevant to point out that in any prosecutions under this order in council the prosecutor would have to invoke it. The order in council would have to be produced in court, would have to be proven, and then the crown would have to prove that an offence took place under it; and the only reason why there could not be a trial by a jury of the accused's peers is that the only offence provided for under the order in council is an offence punishable upon summary conviction by a fine or by a maximum imprisonment of three months. Therefore, the only reason why a man could not get a jury trial is not because the order in council was secret or a prosecution under it did not come before the court, but because the penalty is so small that it would be punishable on summary conviction and would not therefore get before a jury.

I would like to point out in addition to that that the order in council does not define any new series of crime. All that it provides is that it is an offence under the order in council to knowingly furnish false information, or to contravene or fail to comply with any provisions of the regulations. In other words, the only offences created by the order in council are those offences which it is necessary to create in order to carry out the administration of the order in council.

Mr. Knowles: But we are not voting on that order in council.

Mr. Garson: I will deal with that point in a moment if my hon. friend will give me time. Under the order in council we are not creating any new series of serious offences such as sabotage nor are we dealing with the prosecution or penalty for sabotage. Such provisions, as the hon. members of the opposition have correctly pointed out, will remain in the Criminal Code. But the purpose of this bill and of any order in council passed under it is not to set up a supplementary Criminal Code. That is not