

it would be necessary to rely upon the peace, order and good government clause. As we know, this is a clause which has been used to take over matters which normally are under the exclusive legislative jurisdiction of the provincial legislatures.

Would it be possible under clause 40(1) to forbid provincial borrowing in foreign money markets?

**Mr. Beatty:** The advice I receive is that it may be.

**Senator Stewart (Antigonish-Guysborough):** Can we get a definitive answer? I ask that question because that was an important constitutional question in the fall of 1939.

**Mr. Beatty:** I suppose if one were to look at hard cases, and if a province wanted to borrow money from a country with which Canada was at war—

**Senator Stewart (Antigonish-Guysborough):** Something of worry to the Government of Canada would be the matter of foreign exchange controls. It might want to intervene to prevent Nova Scotia, for example, from disrupting its emergency planning with regard to the control of foreign exchange.

I am asking if the Governor in Council could intervene under this provision to say that a provincial government could not borrow U.S. dollars or British pounds.

**Mr. Beatty:** I will seek legal counsel on that, senator.

**Senator Stewart (Antigonish-Guysborough):** I think it would be helpful if we had an answer to that question.

Let me ask you this—

**Mr. Beatty:** I can convey that advice to you rapidly. The advice I have received is that it would be possible.

**Senator Stewart (Antigonish-Guysborough):** Thank you for that answer.

You say that you have examined all of the possibilities. You assert that you believe that this bill would be adequate to permit the Government of Canada to do what would be necessary in the case of an international emergency or a war emergency. You have extolled planning. Does the government have an emergencies book? Have you starting drafting orders in council under this bill?

**Mr. Beatty:** Work in this area, senator, has been in place for the last 20 or 25 years.

**Senator Stewart (Antigonish-Guysborough):** So, in a sense, you do have a war book or an international emergencies book?

**Mr. Beatty:** Yes, senator, we do have the elements of it, I gather.

**Senator Stewart (Antigonish-Guysborough):** That is why you are convinced that this bill provides you with an adequate foundation for any order or regulation that you might need.

**Mr. Beatty:** I am convinced, because my advisers from the Department of National Defence and Emergency Preparedness Canada have looked at what the needs would be in a time of crisis and have satisfied themselves that powers that would be essential to them to carry out their responsibilities would be there.

**Senator Stewart (Antigonish-Guysborough):** When he was speaking to us on April 28, Senator Kelly made reference to what he called "the 1970 incident," and he said:

I think the best that can be said of the events in 1970 is that when the government went to the cupboard, the only thing available was the War Measures Act, a very blunt instrument designed, as its name suggests, for wartime use.

You have just told us that you tried to anticipate every requirement. Do you have draft orders or regulations for the kind of situations to which Senator Kelly referred?

**Mr. Beatty:** You are referring to a situation analogous to the October 1970 crisis?

**Senator Stewart (Antigonish-Guysborough):** I am referring to whatever the situation was about which Senator Kelly spoke when he moved second reading.

**Mr. Beatty:** One would like to be privy to all of the information that the Government of Canada then had at hand. On the strength of what I have seen, senator, it was the usual criminal processes that were used that were helpful in terms of dealing with the killers of Pierre Laporte and the kidnapers of James Cross. I think the invocation of the War Measures Act in that instance was unjustifiable. I agree with the late Don Jamieson that, on the strength of anything that I have seen, the justification for the invocation was not there. I believe that in a similar circumstance the ordinary provisions under the Criminal Code and ordinary police procedures would have been adequate to deal with such a crisis.

**Senator Stewart (Antigonish-Guysborough):** You are saying, therefore, that this bill really would not apply in a case of insurrection, real or apprehended. Do you think that this bill would not apply to a genuine case of insurrection, real or apprehended?

**Mr. Beatty:** I am saying that, if there were a public order emergency, the bill specifically applies such that essential services could be restored or restrictions could be placed upon freedom of assembly. We could provide protection for vital points in cases where there was civil disorder. The question you asked previously related to the October 1970 crisis. I cannot comment on what information was available to the government at the time. Mr. Turner then said he hoped that one day all Canadians would know the basis on which the government took the decision it did. I do, too, but, on the strength of what I have seen to date, I could not have justified to cabinet or to the Canadian people the invocation of the War Measures Act.

**Senator Stewart (Antigonish-Guysborough):** We talked earlier about the delegation in an emergency to the Governor in Council of matters that normally fall under the jurisdiction of provincial legislatures. Have you consulted with the government of the province of Quebec, for example, on the matter of censorship or control of provincial borrowing?

**Mr. Beatty:** Throughout the whole of the writing of the bill, which literally extended over a period of years, there was close consultation with all of the provinces. Indeed, we received