

Emergency Powers Act

absence, I am not going to use except for one which indicates an attitude of the government. I refer to what happened in Winnipeg in connection with Mr. Pitt, the manager of the Fort Garry hotel. Because a complaint was raised in the house over his transfer the minister said he could say that he knew enough about the management of the C.N.R. to know that the remarks made by my hon. friend were not going to help Mr. Pitt very much. That is a dangerous statement. This outstanding Canadian, Mr. Pitt, was transferred because he did not show to ministers of the crown that vocal subservience they thought was necessary.

Mr. Chairman, the past indicates the future. The granting of these powers to a government that has openly shown its contemptuous disregard of parliament in so many cases is going to be opposed by the opposition. The opposition is going to be maintained against it; for we intend to assure, if this legislation does go through, that the Canadian people know the danger in these wide powers, which was so well summarized in an article in the *Family Herald and Weekly Star* of November 20, 1952. The editorial is entitled "Canadians Have No 'Rights'" and it reads in part as follows:

But the truth is that while we have such rights at this moment, we have not got the right to keep them.

That is, the fundamental freedoms of the individual.

The fact is—and it is necessary that all of us should realize it—that Canadians have no fundamental, authoritative law which could protect them from parliament. They are well protected from the tyranny of the Queen, if that is any comfort! They are well protected from the tyranny of a cabinet minister or a policeman, but they are not protected at all from an angry or fanatical majority in parliament.

One of the judges in the province of Quebec, Mr. Justice Smith, said this; and these words are as applicable to the present statute as they were to the statute to which he referred. He said:

It was within its competence—

That is, within the legislative competence of the legislature.

—to fix the conditions governing the acquisition of the shares and the price to be paid for them. There would seem to be no doubt that it could even have confiscated them entirely without compensation, had it so enacted.

Then he goes on to say this, and I think it is completely applicable to extraordinary powers legislation which the Prime Minister said in November, 1945, was to be merely momentary, for a period of one year. Mr. Justice Smith says:

In short the legislature within its jurisdiction—

I apply those words to the government of Canada provided these powers are granted to it under this bill; powers to set at naught the constitution and to override provincial rights, property and civil rights.

—can do anything that is not naturally impossible and is restrained by no rule human or divine. If a plaintiff had acquired any right the legislature had the power to take it away. The prohibition "Thou shall not steal" has no legal force upon the sovereign body. And there would be no necessity for compensation to be given.

Mr. Garson: I rise on a point of order, Mr. Chairman.

Mr. Diefenbaker: Yes?

Mr. Garson: I am familiar with this quotation to which my hon. friend is referring because I read it with interest some time ago. But it has nothing whatever to do with what we are talking about here. The point that is being made by the editor of the *Family Herald and Weekly Star* is a very simple one that I am sure my hon. friend is aware of; it is that where the parliament of Canada acts within its jurisdiction, its powers are unlimited and not in any way restricted; and that where the provincial legislature—as in that case which was under discussion—acts within its jurisdiction, its powers also are unlimited. But that has nothing to do with the Emergency Powers Act. The quotation is very interesting but it is completely irrelevant.

Mr. Diefenbaker: Mr. Chairman, I do not know whether my hon. friend's mind is confined to one line. The applicability of this quotation to the present bill is that under the present bill absolute power is given to the dominion government within the ambit of the provisions of this bill, when they exercise the power granted. The Nolan case decided that it is an absolute power that cannot be interfered with because the courts are not permitted to determine whether there is in fact an emergency once parliament has so declared. Once parliament has so declared you place in the hands of the executive—as is placed under the constitution in provincial legislatures under property and civil rights—a right so absolute that it denies the individual protection against tyranny. That is the danger of this legislation.

If my hon. friend would only appreciate that fact, I am sure that his apparent desire to push this bill through would cause him to step back and say, "Why abrogate our constitution? Why tread on every principle, constitutional and otherwise, for the purpose of securing powers which we have not used as yet to any extent and as to which only our benevolence is your guarantee that it will not be extensively used?"