

*Emergency Powers Act*

of question my hon. friend has just asked should not be discussing this subject at all.

**An hon. Member:** He wants it for election propaganda.

**Mr. Garson:** Yes, I think my hon. friend asked it to see if I was simple enough—but the answer is that I am not.

Now, Mr. Speaker, in view of these facts and in view of the fact that we have curtailed our own powers, that we have subjected them to a much greater and closer scrutiny in parliament than they would receive under the War Measures Act, at a time when we have to face an indeterminate period of cold war, this legislation is the proper course to follow in the interests of the civil liberties of the people of Canada. We think we are entitled to support from every member of this house on second reading of this bill.

**Mr. Fleming:** The minister said he would answer a question which I sought to ask at an earlier stage when he was speaking about arrest. We will all agree with him about the importance of that provision, but I would like to ask him, in the light of the importance which he attaches to the exclusion of that power from the bill: why did the government in the first instance bring down in this Emergency Powers Act a measure which gives them unlimited power of arrest? What then did he have to say about Magna Carta?

**Mr. Garson:** I do not know what my hon. friend is trying to do unless he is attempting to embed in *Hansard* some gag which he can drag out on a later occasion for political purposes. My hon. friend knows perfectly well I have answered that question twice already.

**Mr. Fleming:** No.

**Mr. Garson:** I simply refer him back to *Hansard* of two days ago for one of those occasions, and I just cannot at the moment closely identify the previous occasion. However, it was my hon. friend who raised this point, and properly so, when the bill was before the house. He, the Prime Minister (Mr. St. Laurent) and I worked on the section of the bill as it reads at the present time in order to meet the point which he raised then and, as well, the point that we had to have protected.

There is no sinister reason whatever for the omission of the word "arrest". It was because we were informed by the law officers of the crown that if we did not omit the word "arrest" we would not even have any way of enforcing orders in council which we passed under the Emergency Powers Act. I told my hon. friend when the bill was going through

the house; I told him two days ago, and I will tell him again if it will serve any purpose, that the power of arbitrary arrest is not of much value to a tyrant without the power of arbitrary detention. Under the laws we have in this free country, if you arrest a man arbitrarily and put him in jail, his lawyer goes down and takes out a writ of habeas corpus and obtains the man's release.

**Mr. Fleming:** How can you have detention without arrest?

**Mr. Garson:** You cannot have detention without arrest. All the provincial statutes, and the Criminal Code, provide for arrest. The only arrest that is contemplated under this act is the ordinary arrest that takes place all the time where a man is taken and put into a cell, and his lawyer comes along if necessary with a habeas corpus application. He does not need that in most cases as he just goes down to the jail, provides bail and the man gets out. All this pother that my friend has created certainly has no point to it at all.

**Mr. Fleming:** It has a great deal of point. You know it does, and that is why it troubles you.

**Mr. George A. Drew (Leader of the Opposition):** Mr. Speaker, if there had at any time been any uncertainty in the mind of any hon. member about the danger of passing legislation of this kind, then that doubt should have been removed by the extraordinary argument made in this house by the minister who will be primarily charged with the responsibility of the enforcement of this act. I have only been in this house a few years compared with a number of the hon. members here, but I doubt if at any time since confederation there has been an argument by a supposedly responsible minister of the crown which has borne so little relation to the reality of the case.

**Mr. Garson:** I was quoting you a lot of the time.

**Mr. Drew:** The minister has said he was quoting me on a number of occasions. He did, but in a manner that is unfortunately becoming too habitual with him. He left exactly the opposite impression to what the facts actually were. The words he quoted concerning what I said on this act were at the stage when we were called upon to consider a resolution that it was expedient to introduce a measure to empower the Governor General to do and authorize such acts and things as would be provided for under an emergency measure. The act was not before us.