

*Emergency Powers Act*

when passed, and in consequence of the criticism of the opposition to which the Prime Minister has paid tribute on occasion, parliament does not know what orders in council are passed, which is going a considerable distance. All of us know that orders in council must be used. But all of us know, too, that when secret orders in council are passed, power is abused. There is nothing more dangerous for a democratic country than for a government to pass orders in council in the secrecy of the council chamber, and then reveal that a secret order has been passed that will determine the rights of individuals, while even in days of peace that order in council remains enshrouded in the mystery of the council chamber. That is dangerous, and no one can defend the passing of secret orders in council in a British country unless the emergency situation is such that the overwhelming fear for our security requires the abdication of the ordinary principles of democracy.

When we find a government passing a secret order in council—whether or not it was passed under the Emergency Powers Act does not matter—behind closed doors, I believe we have opened the door to possible injustices and probable denials of democracy.

We on this side of the chamber fear this trend, and we are not the only ones. No one has forgotten the great speech made by the hon. member for Quebec South (Mr. Power) on the occasion of the Liberal convention when he pointed out the dangers of the continued marching forward of the powers of absolutism in a government that maintains the formal outward appearance of democracy. All of us realize that there will be occasions when orders in council will have to be passed. I was glad to have today the assurance of the Leader of the Opposition (Mr. Drew) and of the leader of the C.C.F. party (Mr. Coldwell) that they do not know the content of that order in council and, not knowing it, are able to take their stand against what is the most dangerous interlude in the history of this country since the war.

My hon. friend says we exaggerate the powers asked for. A mere reading of those powers is a sufficient answer to anyone who would say that any further powers would be necessary in order to establish the utmost dictatorship in this country. Here they are. Section 2 of the act reads:

The governor in council may do and authorize such acts and things, and make from time to time such orders and regulations, as he may by reason of the existing international emergency deem necessary or advisable for the security, defence, peace, order and welfare of Canada;—

[Mr. Diefenbaker.]

Those powers are as widespread and as comprehensive as it is possible to make them. The answer given on one occasion by the Prime Minister (Mr. St. Laurent) as to the reason they were so wide was that otherwise they might be challengeable in the courts. The section continues:

—and for greater certainty, but not so as to restrict the generality of the foregoing terms, it is hereby declared that the powers of the governor in council shall extend to all matters coming within the classes of subjects hereinafter enumerated,—

Excluding certain ones mentioned in paragraph 2.

—that is to say:

(a) control and suppression of maps, plans and photographs;

(b) control of communications and means of communication;—

That means every transportation company in Canada, every radio company and every telegraph company. The section continues:

—(c) control of the harbours, ports and territorial waters of Canada and the movements of vessels;

(d) transportation by land, air or water—

What greater powers than these could anyone have dreamed of in the secrecy of the council chamber?

—and the control of the transport of persons and things;

(e) trading, exportation, importation, production and manufacture; . . .

When my hon. friend says we exaggerate those powers and what they mean to this country, may I say that a layman reading them knows, after the Nolan case, that they confer upon the governor in council the power to shut down parliament, to close it up except to vote supply. They have not yet got the right, under order in council, to vote themselves supply; although our memory goes back, Mr. Chairman, to 1947 when taxation was imposed by a radio speech.

I have nothing more to say at this time except this. The problem facing parliament today is connected with the survival of parliament. Certainly there is no writer of Canadian constitutional history and development within the last five or seven years who has not pointed out the danger to parliament in the degree to which parliament supinely abdicates some of its most precious privileges and grants them to the government in power, depending only upon the restraint of that government. All history shows that when nations or peoples give up their powers to a government, however benign or of however amiable men it may be composed—whose concept is, as Keeton says, "Trust mother and everything will turn out all right"—they have found ultimately that they have in fact given up something that cannot be retrieved.