

*Validity of Quebec Statute*

The other proceedings under the act have taken the form of raids, seizures and confiscations.

Among the property not returned on the date when this bulletin was issued are The Vancouver Province (magazine section); the New Commonwealth (official organ of the Ontario C.C.F.); the Canadian Forum; Photo-History; Sales Tax By-Law Information (city of Montreal); copies of *Le Jour* and *Le Canada*; speeches of Mr. Lloyd George; copies of the *Labour World* (published by Gustave Francq until recently chairman of the Quebec Women's Minimum Wage Commission); posters of the Spanish war; books by Dickens and Sydney and Beatrice Webb.

This is a partial list of the books that have been seized, confiscated and not yet returned.

One of the minor comedies relating to the "padlock" act is that one victim had the greatest difficulty in preventing the police from seizing a copy of the *Land of the Free* on the ground that a book with such a title could refer only to Russia—certainly not to Canada.

According to an official statement by the attorney general's department, raids under the "padlock" act between November 9, 1937, and May 10, 1938, numbered 124; communist—or so-called communist—books seized, 532; copies of *Clarté* seized, 5,000; copies of the *Clarion* seized, 1,500.

When it is remembered that not one of the persons or organizations affected has yet been even charged with any offence, let alone convicted, these are formidable totals. Twice every three days, for six months, the provincial police have carried out execution without judgment, dispossession without due process of law; twenty times a month they have trampled on liberties as old as *Magna Charta*.

On March 30, the Minister of Justice heard counsel for the Canadian Civil Liberties Union (Charlemagne Rodier, K.C., Warwick Chipman, K.C., and J. K. Mergler) in support of the Canadian Civil Liberties Union petition for disallowance of the "padlock" act or its reference to the supreme court.

I should like to read two or three passages from the petition which they submitted because, thinking over the matter, I decided that I could not use language anything like so concise or forceful as they have used. This petition comes from the Canadian Civil Liberties Union, Montreal branch, and says in part:

This act violates fundamental principles of the Canadian constitution. The preamble to the British North America Act states that Canada is to have a "constitution similar in principle to that of Great Britain." This phrase is based on Quebec resolution No. 3,

[Mr. Woodsworth.]

which speaks of following "the model of the British constitution." Elementary principles of British constitutional government are freedom of speech, of the press and of public meeting subject to the limitations of the criminal law; the right of a man to a fair trial in open court if charged with an offence; a presumption of innocence in the accused until he is proven guilty; and freedom of the home from arbitrary search and interference by executive officers acting without judicial warrant. Every one of these principles, which were part of the compact of confederation, is overthrown by the act in question. Freedom of speech is taken away by the prohibition against the undefined crime of "propagating communism or bolshevism" (section 3). Freedom of the press is destroyed by the prohibition against printing, publishing or distributing any newspaper which commits this undefined offence (section 12). Freedom of association is attacked by the power given to the attorney general to padlock, without judicial warrant or investigation, any building or house he chooses upon his being satisfied that the undefined "communism or bolshevism" has been propagated in it (sections 3-4). The right to trial in open court is taken away because the executive and police officers can padlock a house or confiscate and destroy newspapers, books, periodicals, circulars and other writings without laying charge against anyone in open court. The presumption of innocence of Canadian criminal law is turned into a presumption of guilt because the owner of a padlocked house has the burden of proving his good faith or the non-user of the house for the aforesaid purposes if the padlock is to be removed (section 6); and there is no appeal from the decision of a single judge in this matter (section 9). As for the tenant of the house, who is alleged to have himself committed the offence, he is shorn of all recourse to prevent the execution without judgment decreed against him; and by consequence he may be rendered homeless, and deprived of his ability to earn a living, in his community. Freedom of the home is violated by the extension in practice of the statutory power given to any constable, upon the mere instruction of the attorney general, "of his substitute or of a person authorized by him for the purpose," to seize and destroy any books and papers (section 14); so that all persons in the province are liable to have, and many in fact had, their houses entered and ransacked by police constables, and books and periodicals of every description seized and confiscated, without search warrant and without effective redress being left to the individual whose home is thus invaded. Such a power in the police is contrary to principles of British law as ancient as *Magna Carta*. It is no exaggeration to say that the padlock act reintroduces execution without judgment, punishment without trial, and dispossession of property without due process of law.

I pause to ask if, when I bring such an indictment against the law that works such a hardship upon the people of Canada, there is anyone who can say that I am out of order in so doing. Further, I think I may challenge the Minister of Justice to remain silent in the face of an indictment of that kind.