

Agricultural Products Act

not want to set myself up as being too honest, but I know that if any discrimination has been shown I shall have to pay heavily for it when my estimates are up.

Mr. Lockhart: I still ask the minister to indicate what applications have been refused.

Mr. Bertrand (Laurier): I would have no objection to that.

Section agreed to.

Bill reported, read the third time and passed.

AGRICULTURAL PRODUCTS ACT**EXTENSION OF OPERATION FOR A PERIOD OF ONE YEAR**

The house resumed consideration in committee of the following resolution—Mr. Gardiner—Mr. Golding in the chair.

That it is expedient to present a bill to amend the Agricultural Products Act to extend the operation of the act for a period of one year.

Mr. Diefenbaker: Mr. Chairman, I intend to refer to the speech made this morning by the Minister of Justice in which he enunciated in regard to the emergency theory what I believe to be the most unusual proposition of law that has been advanced in this house throughout the years since confederation. Before doing that I want to say a word as to the necessity for marketing legislation. The attitude taken by this party has been consistent throughout the years. In 1934 the government of Mr. Bennett placed upon the statute books a Natural Products Marketing Act as demanded by the farmers of Canada. That legislation was laudable in its aim, and commendable in its purpose; but as soon as the present government came into power it was submitted to the courts, and declared to be unconstitutional.

The attitude taken by this party in regard to the question of providing a marketing act is set forth in the declaration of Progressive Conservative policy made on the occasion of our last convention. It is that we will enact an agricultural products marketing act enabling producers to market their products in a democratic and orderly manner in the best interests of both the producer and the consumer. The legislation now before the committee has no direct relation to the question of orderly marketing.

In opening his remarks, the leader of the opposition pointed out that the legality of the bill was dependent on the existence of an emergency in Canada and that, consequently, it was necessary for every member in the house to come to a personal conclusion that a national emergency existed before he would

be discharging his responsibility in voting in favour of the bill. As for the bill, it is not a marketing measure. It is simply a bill designed to continue in the minister the power to take over any agricultural product in Canada, other than wheat. It not only applies to contracts already made, but in its result places parliament in the position where it would in effect be a rubber stamp to approve in advance all future contracts entered into by the Minister of Agriculture irrespective of price or other consideration.

The Minister of Justice enunciated a new proposition of law which has no basis in the authorities either of the privy council or of the supreme court, and represents the farthest advance ever made by any minister of this government in endeavouring to establish the right of the parliament of Canada to invade and entrench upon provincial rights. He dealt at some length with the question, and gave the house a lecture on what he called fundamental principles. He stated that there were three functions of government, legislative, executive and judicial. He enunciated the dangerous, if not iniquitous, doctrine that all that parliament has to do at any time in order to invade the constitutional powers of the provinces is to have behind it a majority that will declare that there is in fact an emergency, and having so declared, whether by whim or by caprice, the right of the federal authority to invade property and civil rights under the provinces is established.

He contended that, because legislation might be beneficial, that was a justification for the federal parliament to invade the jurisdiction of the provinces. He argued that it must be assumed that the law officers of the crown must presumably have agreed that this legislation is within the power of parliament. They have been wrong on other occasions. They were wrong in the opinion that they gave as to the order in council covering the taking over of barley; for under the Hallet and Carey case it was declared unconstitutional.

I repeat the Minister of Justice enunciated a new doctrine which is dangerous in the extreme to the maintenance of the Canadian constitution. In the past the government has gone only so far as to declare that necessity in the form of an emergency knows no constitutional limitations. His argument indicated that at any time the federal parliament would be justified in passing unconstitutional legislation relying on the fact that, if it is unconstitutional, it will ultimately find its way into the courts. He declared in effect that, if the legislation be beneficial, then parliament is justified in passing that legislation irrespective of its constitutionality.

[Mr. Bertrand (Laurier).]