

*Emergency Powers Act*

present legislation which they expected would be carried by such a narrow margin that the life of the government would subsequently rest upon the attitude of parliament toward that legislation.

We know from the point of view of practical circumstances that if this legislation is passed it will remain on the statute books until the government decides it is to come off, and that would mean as long as this government is able to command the support of parliament and wishes to continue this legislation. True, this is to be extended for a year only; but we have seen where this has been continued for eight years after the war, following the exercise of emergency powers of a similar nature during the war itself.

What we actually see here is the extension of emergency powers into the fifteenth year, because we have been carrying on with emergency powers in varying degrees since 1939. But the Emergency Powers Act that is now before us grants powers only less powerful than those exercised in 1939 to the extent that there are limitations under subsection 2 of section 2. I have pointed out before that those limitations are largely illusory.

In the first place in the case of arrest, the only arrest in which the government presumably would be interested under the emergency act would be an arrest in relation to regulations passed under the act. Under the act they could carry out an arrest in relation to penalties arising under the regulations which had been adopted under the provisions of section 3.

So far as censorship is concerned and the suppression of publications, the wide powers conferred here would make it possible for the government to exercise full control over any production, over any publishing house, or over any communication in a way that would not make censorship in the ordinary meaning of that word necessary, but which would achieve the same result.

The only other exception is in paragraph (c) which reads:

(c) expenditure of moneys otherwise than in accordance with an appropriation by parliament except expenditure of moneys from any fund or account established by order or regulation in connection with a scheme of control for the purposes of that scheme of control.

A scheme of control under this act could be related to any type of production, to the Canadian Pacific Railway, to the aluminum production, to the iron ore production and so on. It would be possible to exercise a plan of control for the taking over of that production and to raise moneys in relation to that

plan which would not be subject to any restriction under this act. Therefore the limitations are illusory and very narrow in any event.

I think the Prime Minister has stated clearly what every lawyer in this house knows, that no matter how wise any member of this government may think the government will be in exercising powers conferred upon it, the powers that are conferred go so far as to permit the government to do anything by order in council that might be done at any time by this parliament. Yes; it could go further and do something—this is very important—or do anything that ordinarily could be done by any provincial legislature in this country.

Where is there a single limitation that would prevent this government invading the whole field of provincial jurisdiction? There is not a single reservation in this act, except those to which I have referred and which are largely illusory in effect. So far as the provincial governments are concerned, this government could also invade their authority. But remember that the provincial governments and the members of the provincial legislature would not have the imaginary protection that we have, because they would not be able to do anything about it.

We have the imaginary protection in that there is a tabling of these orders within a certain time if the house is sitting, and if we are not sitting within a certain time after we reconvene. But the provincial legislatures can be deprived of all their powers and have no recourse of any kind. Under the Nolan judgment the courts would have to declare that if the government in its judgment had decided there was an emergency which called for the exercise of the powers in the order in council which was passed, it would not be open to them to canvass the circumstances under which that order was adopted.

I know some hon. members may be impatient at the persistence with which we are putting forward this argument, but I repeat with the utmost emphasis that the Minister of Justice need not refer to the fact that I did not hear him give an explanation. I have read it in *Hansard*, and I agree with him that it would be quite useless to repeat it because not a word in what he said gives an explanation of any kind as to why this act is necessary.

We have placed before us in the name of the Prime Minister an act which delegates to the government, subject to the terms of publication and otherwise in this act, every power that could be exercised by this parliament or by any provincial legislature. We are asked to adopt that simply because we like