

of the prisoner, depend upon those laws, and that which has been rightly done under them; I mean, especially, the Law Measures Act, 1914, and the orders in council and proclamations made under it.

Under that enactment great authority has been conferred not only upon the Governor in Council but also upon the Minister of Justice.

The 6th section of the Act gives to the Governor in Council power to do, and to authorise, such acts and things, and to make from time to time such orders and regulations, as he may, by reason of the existence of actual or apprehended war, invasion, or insurrection, deem necessary or advisable for the security, defence, peace, order, and welfare of Canada, including expressly, among other things, "arrest, detention, exclusion, and deportation."

And, under the 11th section, no person who is under arrest or detention as an alien enemy, or upon suspicion that he is an alien enemy, shall be released upon bail or otherwise discharged or tried, without the consent of the Minister of Justice.

So that, in the very case made for the prisoner, upon the application for the writ, there is not only a prohibition against release, but a prohibition against even a trial—a trial, for instance, of the question whether he is or is not an alien enemy—without that which he has not only not obtained but not applied for, the consent of the Minister of Justice.

In these circumstances, after conferring with the learned Judge who granted the writ, I am unable to change, or modify, the view expressed by me upon the argument of this motion, for the discharge of the prisoner from custody, that the motion should be refused.

It is quite true that soldier and sailor as well as civilian, Cabinet Minister as well as cabman, all are amenable to the process of this Court; but it is equally true that, where the law of the land confers upon Court or person any power, this Court has no right to interfere with the exercise, in good faith, of that power; it is only when the power so conferred is exceeded that this Court can interfere; unless some right of appeal to it is also conferred.

It is also, as a matter of law, quite immaterial what the opinion of any Judge, or other person, may be, respecting the wisdom or unwisdom of conferring such powers, or of the wisdom or unwisdom of the way in which the power is exercised, provided it is exercised in good faith: but it should be plain to