

Emergency Powers Act

Mr. Diefenbaker: Mr. Chairman, I intend to deal at some length with the views expressed yesterday and on the previous day by the Minister of Justice (Mr. Garson), in particular regarding the necessity of legislation such as this, as well as the views expressed by him that after all the handing of extraordinary powers to this government would have no dangerous possibilities because this government would not exercise them unfairly or unjustly. It is on that basis that I intend to speak on this occasion and to refer in particular to the powers asked for. Then I shall deal with some of the attitudes displayed by a number of ministers in this government which in my opinion are not indicative of an attitude of mind deserving in any case of powers such as are asked for by this bill to be continued.

The resolution provides for the continuance of an act passed in 1951. I am not going to quote the various sections of the act but I intend to point out a little later the comprehensive nature of the powers asked for which in effect would result in parliament becoming a shadow of itself, would perpetuate power in the hands of the executive beyond the control of parliament except with the narrow confines contained in the act, and would in effect establish in this country, were these powers continued year by year, control over every business and person in Canada which could be exercised dictatorially and without the protection of the courts being available to the individual.

The powers are so wide, sir, that they cover all such orders and regulations as the governor in council may, by reason of the existing international emergency, deem necessary or advisable for the security, defence, peace, order and welfare of Canada. Powers such as these mean the denial of every constitutional safeguard that democracy ordinarily preserves under parliamentary government. Without restricting the generality of those words, the governor in council shall have the power to control and suppress maps, plans and photographs, control communications and means of communication, control harbours, ports and territorial waters of Canada and the movements of vessels, and control trading, exportation, importation, production and manufacture of goods. The only restrictions on absolute powers are with respect to arrest in cases where arrest is based upon the taking into custody for other than an offence against the act, censorship, and one or two other minor matters.

I can understand the attitude of this legislation for it indicates why over the years the government and the minister in particular have been averse to bringing in a bill

of rights for Canadians. In effect this legislation will deny freedom in the British tradition. It abridges the heritage of parliamentary freedom. It denies every individual in this country a defence against the arbitrary power of the state, for there is no appeal against a decision made under the legislation, provided, as the preamble of the act sets out, the interests of Canada demand it and there is an emergency.

The resolution, when translated into legislation, once more will, in the words of Sir Alan Herbert, make the individual "as rightless as a straw upon the sea." It will permit of a monstrous perversion of the constitution, of a concentration of power in the hands of a central authority, and will in fact rewrite the constitution making our land into a unitary state by a simple declaration of the majority in parliament. It will deny the supremacy of the individual against the arbitrary power of the state.

I remember that when the first of these bills came before parliament in 1945 the then minister of justice and now Prime Minister pointed out the dangers at that time, and certainly gave parliament no idea of the fact that the pathways of war were to become the highways of peace in this regard. On November 23, 1945, he said, as found at page 2453 of *Hansard*:

I submit to the house that without in any way departing from its attachments to the traditional constitutional practices of a free parliament, there is a situation which requires to be dealt with in an extraordinary way, and for that purpose there is required the extension of some emergency powers. This bill provides that it shall be in operation for no more than one year, unless before its expiry the houses of parliament by an address request that it be extended for a further period.

Year after year it has been extended until today the passage of such legislation is looked upon almost as though it should be automatic. The government asks parliament to transfer to the government the conduct of the lives of Canadians. In effect this legislation, if carried on, will in the long run imperil and endanger the basic foundations of freedom. That is one of the reasons that I am encouraged by what happened yesterday when for the first time in this parliament or any of its predecessors over the last few years members of the other opposition parties joined with the official opposition in our expressed and voiced antagonism to such legislation.

Parliament cannot afford to take holidays from vigilance when the government continues year by year under the guise of its own benevolence to pass such legislation unless there is a strong and abiding reason for the necessity of that legislation. Certainly there has been nothing to indicate that a