

Emergency Powers Act

it to hon. members to compare this measure with the War Measures Act, and they will see that, with the exception of arrest, detention, deportation and censorship, there is no difference in the measures. The powers, with those exceptions, conferred by this bill upon the governor in council are just as sweeping and just as absolute as the virtually unlimited powers conferred upon the governor in council by the War Measures Act, and which were exercised by the government during the second world war.

We say to this parliament that nothing in the present situation could possibly justify such an abdication by this sovereign parliament of its powers in favour of a group of people we call the government. We say the whole approach to this matter has been unparliamentary. The Prime Minister this afternoon, again in soothing terms, asked us to believe that, after all, the government was preserving, as he said, the forms of parliament; and he said no one would suggest at all that our parliamentary institutions in Canada are in danger, or that there is any danger to the constitution.

Well, it is unfortunate that the Prime Minister was not following the course of the debate more closely, because that is precisely what we in the opposition have been saying about the measure; that it is of a kind that strikes at the very foundation of our whole parliamentary system. We say this measure is of a kind that strikes at the foundations of the constitution of this country, because if you accept the fact that an emergency exists, then under the Nolan decision by the privy council a year ago it follows that all parliament needs to do is to say that a national emergency exists, and then it remains for parliament to take over virtually all powers, regardless of whether they are of the provinces or of the dominion. Then, with a measure like this, those powers virtually flow to the governor in council.

So if we give legislative sanction to this bill in its present form we are saying for another year that this government may enjoy virtually untrammelled powers, powers that cannot be challenged in the courts, powers that will be beyond challenge by parliament—certainly beyond challenge by parliament until it meets in 1954—and beyond challenge by the provinces, regardless of the extent to which the government, in the exercise of these powers, may trespass upon the constitutional rights and prerogatives of the provinces.

All those things are possible under the bill. It is not enough to have a statement by the Prime Minister saying, "Oh, these things are not likely to happen unless circumstances arise which we cannot adequately foresee and cannot sufficiently define now". Well,

we need not worry about the coming of some supreme emergency, because that situation could be taken care of in the same way the situation was met in September, 1939. We therefore need not have any fear about that supreme peril arising while parliament is not in session. We say again, and say with all possible emphasis, that we do not believe in vesting these powers in the government, at the expense of the powers of parliament and at the expense of the powers of the provinces under the constitution.

We do not believe powers should be given to the government to legislate by order in council, even while parliament is in session. That is what it has been doing from the time of the enactment of this measure two years ago. It mattered not whether parliament was in session; the government went ahead and legislated by order in council.

The essence of the parliamentary system is surely this, that the elected representatives of the people make laws that are to be binding upon the people, and make them in public so the public may see how those laws are made and may criticize them. It is surely the very antithesis of the parliamentary method that laws should be made in secret and, in cases such as the one referred to, and admitted this afternoon by the Prime Minister, have these secret laws binding upon the people of this country, who are expected to know the laws. Yet even the House of Commons does not know what that law is, a law that is just as binding upon us and upon all the people of Canada as any measure enacted in parliament in the proper constitutional and parliamentary manner.

The Prime Minister this afternoon asked us to believe that this was necessary. He pointed to NATO, as though that were some precedent that should lead this parliament into the vesting of these untrammelled powers in the government. That is no precedent for this measure of parliamentary suicide.

On the contrary, whatever is necessary to be done in that respect can be done by parliament. The day is long past when it can be said that the summoning of parliament is a slow process. When a national emergency arose in connection with the railway strike two years ago it was found possible, even when there was not a train running in this country, to bring parliament together within 48 hours. So it cannot be said any longer in Canada that there need be delay in summoning parliament, if it is necessary that laws be enacted to meet any situation.

Mr. Boisvert: It does not take long to sabotage the railways.

Mr. Fleming: The hon. member for Nicolet-Yamaska (Mr. Boisvert) has touched upon