

Defence Production Act

Mr. Deputy Speaker: Order. I am sorry to interrupt the hon. member, but it is my duty to advise him that his time has expired.

Mr. Tucker: I just wish to say in conclusion—

Mr. Deputy Speaker: Has the hon. member unanimous consent?

Some hon. Members: Agreed.

Mr. Tucker: I thank the house very much. I shall not take more than a minute. There is one point I wish to make in conclusion. I should like to draw to the attention of hon. members of the opposition section 37. While it provides that the people carrying out their duties under this act cannot be proceeded against, it definitely provides as follows:

Nothing in this section limits or restricts the rights of any person against the crown.

Thus rights are fully preserved, to go to court and to protect the interests of the citizens against the crown.

In conclusion, Mr. Speaker, I submit that for anything done by the government under this act in the realm of interfering with individual liberties they must answer to the courts on the grounds of particular action. For anything that may be done along the lines of general policy they must answer to this parliament and the elected representatives of the people of Canada. I submit that in no way are the rights of the individual diminished or infringed upon except as is necessary to protect our country in these times undoubtedly of great crisis.

Mr. Fleming: Will the hon. member permit a question? Will he say how he can square section 28 of the act with the statement he has just made, to the effect that there is no trespass on the rights of the individual or on the constitutional position of the provinces?

Mr. Howe (Port Arthur): People with short memories should not ask that question, because it has been invoked for a purpose that my hon. friend should recall.

Mr. Fleming: I am asking the question for the benefit and the information of the minister.

Mr. Tucker: I have been asked a question with regard to section 28, which reads as follows:

28 (1) The governor in council may, by order, direct that a person shall not be bound by any obligation, restriction or limitation imposed on that person by or under any statute, order, rule, regulation, by-law, or contract with respect to such matters as may be specified in the order affecting the entry into or performance of a defence contract by that person or the carrying out of an order made by the minister under this act.

[Mr. Tucker.]

Mr. Fleming: And subsection 2.

Mr. Tucker: It goes on to state:

(2) Where the failure to fulfil any contract, whether entered into before or after the 1st day of April, 1951, is due to the compliance on the part of any person with any provision of this act or any order or regulation, proof of that fact shall be a good defence to any action or proceeding in respect of the failure.

With regard to that section, I was asked whether I said that did not entrench upon the powers of a province. My answer to that question is this. If any action is taken under this section that in any way infringes upon the rights of a province under the constitution, all they have to do is go to the courts about it and that action, if actually such an infringement, will be ruled to be ultra vires.

Mr. Drew: If the hon. member thinks this would be ultra vires, why is he supporting sections that are themselves ultra vires, in his opinion?

Mr. Tucker: I am saying this, and I do not know whether the Leader of the Opposition was in the chamber when I was speaking—

Mr. Drew: I have not been out of it.

Mr. Tucker: This is to be a permanent act now. I suggest to the Leader of the Opposition that conditions might arise which would be different from those of today. Whereas today certain sections of the act might be ruled by the courts to be ultra vires, conditions might arise during the life of this act, which is indefinite, whereby without any doubt these powers would be regarded as intra vires of the government of Canada. For example, a declaration of national emergency would bring all these powers into full force and effect without any question, and there is nothing to prevent that declaration being made if conditions so warranted.

Mr. Fleming: But lacking that declaration now in this legislation are we to understand the hon. gentleman to say that under existing circumstances if any order is made—

An hon. Member: We are not in committee.

Mr. Deputy Speaker: Order. I am afraid I shall have to point out to hon. members that we are not in committee, and that the hon. member had extended time by unanimous consent.

Mr. Ray Thomas (Wetaskiwin): Mr. Speaker, in spite of all the charges and counter-charges that have been flung back and forward across this chamber today, it would appear that all the groups in this house are in agreement on one thing, namely that the Department of Defence Production should be continued. What the disagreement seems to be about is the continuation of the unusual