

Defence Production Act

authority than that of hydroelectric development, whether by public or private enterprise. Also by the *ejusdem generis* rule of law, where reference is made to activities or enterprises including hydroelectric development, this applies to all other developments such as gas, oil, coal and other power and the transmission and distribution of those things.

Then, of course, we have the fact that it does not apply just to those things but that it applies to individuals; and there it brings you right within property and civil rights. In the defining section of the act which interprets the words, we find section 2 (i) which reads as follows:

(i) "essential service" means the carrying on of any commercial activity including the generation or distribution of electrical energy, designated by the governor in council under section 30 as an essential service;

There you have a warning that this legislation not only applies to this great enterprise under provincial authority but any commercial service, large or small, which would fall strictly within the limitations of property or civil rights.

I have emphasized this matter, Mr. Speaker, because we should be examining this law with due consideration to what can be done and then finding out what the effect would be if someone proceeded to exceed the power. I am not overstating the case when I say that what we have before us now would be exactly like the situation which would confront us if the Minister of Justice (Mr. Garson) came before this house saying: "I want to throw a little bit of a scare into some people. We have been having too much crime of a rather severe type and the ordinary threats are not enough. I think it would be well if we turn back the clock in form at any rate and introduced a section in the Criminal Code that those who do certain kinds of acts should be hanged, drawn and quartered." I know the minister would smile and say: "But of course you can count on me. This would never be enforced". But I am now quoting what the minister might well say as a parallel to this. He would say: "You have no idea how effective it would be in dealing with the narcotic traffic or some of these things if I had a law which will not be enforced but which I could point out might be enforced if they did not behave themselves." Of course every hon. member would say we would never have any such silly proposition put before us, but the fact remains that is the proposition that is put forward here—continue these immense powers indefinitely, put them permanently on our statute books, and then rely on us not to

put them into effect but just to use them as a club behind our backs so that if anybody shows himself a little reluctant to obey what we order him to do we can then remind him that the law contains a provision of this kind.

That is exactly what the minister has told us. He has told us it is very helpful to have these powers and that the real use of the act is not something that is seen in orders but is actually more of a hidden nature. So these powers are real, and when the minister now tells us that they are only for the life of the government which passes them, without at the moment again referring to the incorrectness of that statement may I point out that we have examples in other countries of the long-range damage that can result from intervention in this field, long-range damage that cannot be repaired once the damage is done.

I come back now to the point I had reached at the time the minister made this remark and I proceed with the argument I was making. There are two extremely important sections of the act with respect to which no similar provisions can be found anywhere. As I was pointing out at the time the minister made his comment which I found it necessary to deal with, not only is there the acquisition of resources and supplies but the minister may then, with the approval of the government, set up a crown corporation in respect of which he does all the appointing and all the hiring and firing. What immense power in the hands of a single minister without even having to come back to the government for approval of the course he is following!

Then there is another section of tremendous consequence to many hon. members because there are hon. members who still attach some importance to fundamental legal principles. In section 32, subsection 5, we find a provision which should not be overlooked by any hon. member opposite or on this side of the house. That subsection reads as follows:

Where a corporation is guilty of an offence under this act, any officer or director of the corporation is a party to and guilty of the offence if it was committed with his knowledge unless he exercised all due diligence to prevent the commission of the offence; and in any proceeding against a person who was a director or officer of a corporation when the corporation committed an offence under this act for being a party to and guilty of such offence, the burden of proving his absence of such knowledge or the exercise of such due diligence by him is upon the accused.

There is no similar provision, Mr. Speaker, in either the British act or the act in the United States. There is nothing that even mildly resembles this in the United States.