

*Defence Production Act*

seeks the renewal of these powers and is not prepared to wait until the next session to draft its legislation in the light of events as they then are.

It therefore becomes necessary to emphasize the fact that this is not emergency legislation. The Minister of Defence Production (Mr. Howe) over and over again has referred to the emergency. This act does not imply emergency, let alone use the word. I would point out that far from this act just being another act in the continuity of emergency legislation, as the Minister of Defence Production said in his speech to the house on June 28, this act is an entirely different one. The other legislation of a similar nature did recite the emergency. For instance, during the early part of the war the government decided that it was desirable that it should not rely entirely upon the wide-open and almost unlimited powers of the War Measures Act which it was employing and did employ over a wide field. It decided that there should also be an act known as the Emergency Powers Act. That act spelled out in fairly detailed terms some of the things that the government could do by way of emergency under order in council to meet the situation. May I emphasize that it was by order in council, not by the act of any individual minister; and even in that case the whole act was governed by the reference to the emergency.

I know that hon. members opposite want to have the facts clearly in their mind in dealing with this subject. Let me therefore remind them that the statement that this is simply another act in the continuity of emergency legislation is one that is without foundation. The emergency powers act of 1951—which was chapter 96, R.S.C., 1952,—was described as an act conferring certain emergency powers upon the governor in council. This is the way in which the preamble read:

Whereas an international emergency exists that threatens the security of Canada;

And whereas it is essential that emergency powers be conferred to enable measures to be taken as urgently required from time to time to carry out adequate defence preparations, to regulate the economy of Canada to meet the needs of defence and to stabilize the economy and to safeguard it from disruption that may result from defence preparations in Canada or from emergency measures taken in other countries, in order that defence preparations may not be impeded;

And whereas it is preferable that the necessary emergency powers be exercised under special authority from parliament rather than that the War Measures Act be brought into force so long as present efforts to avert war are continuing and, moreover, it is not desirable that the wide powers conferred by that act to interfere with the fundamental liberties of the individual should now be brought into operation:

[Mr. Drew.]

Then the act proceeds to deal with the powers of the government by order in council. But may I point out, Mr. Speaker, that it recites, first, that there was an emergency and, second, that this emergency was of a nature which called for this special legislation.

In 1945 an act was passed in succession to the War Measures Act. That act was known as the National Emergency Transitional Powers Act, 1945, which was assented to on December 18, 1945. The preamble of that act read as follows. I believe it is appropriate that this be on the record to show how completely different this legislation is because any court dealing with the powers conferred upon the government by the act itself must of necessity examine not only the circumstances under which the law came into existence but also the declaration by the members of parliament who are presumed to have expressed their convictions and their opinions in regard to legislation which they supported. The preamble to the National Emergency Transitional Powers Act, 1945, reads as follows:

Whereas the War Measures Act provides that the governor in council may do and authorize such acts and things, and make from time to time such orders and regulations, as he may by reason of the existence of real or apprehended war deem necessary or advisable for the security, defence, peace, order and welfare of Canada;

And whereas during the national emergency arising by reason of the war against Germany and Japan measures have been adopted under the War Measures Act for the military requirements and security of Canada and the maintenance of economic stability;

And whereas the national emergency arising out of the war has continued since the unconditional surrender of Germany and Japan and is still continuing;

And whereas it is essential in the national interest that certain transitional powers continue to be exercisable by the governor in council during the continuation of the exceptional conditions brought about by the war and it is preferable that such transitional powers be exercised hereafter under special authority in that behalf conferred by parliament instead of being exercised under the War Measures Act;

And whereas in the existing circumstances it may be necessary that certain acts and things done and authorized and certain orders and regulations made under the War Measures Act be continued in force and that it is essential that the governor in council be authorized to do and authorize such further acts and things and make such further orders and regulations as he may deem necessary or advisable by reason of the emergency and for the purpose of the discontinuance, in an orderly manner as the emergency permits, of measures adopted during and by reason of the emergency:

Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

There in that preamble is the clear reference to an emergency. So it was with the other legislation that was dealt with. It