

*Defence Production Act*

provided that there was an emergency any time the hydro commission ruled there was an emergency. In other words, the legislation denied suppliers the right to take action in the courts against Ontario hydro in time of emergency and leaves it to hydro to say what are times of emergency. Talk about delegating the powers of government! Here there is first a denial of the courts and then a delegation of the power to declare an emergency.

However, that was not strong enough. In 1948 the matter was straightened out properly. The Leader of the Opposition, who was then premier of Ontario, brought in legislation which for all time denied access to the courts of the land to anyone dealing with Ontario hydro.

I think hon. members, particularly hon. members opposite, are entitled to assume that the minister was not joking when he said that. I think hon. members opposite are entitled to measure his other assurances on the basis of the reliability of his statement in a case of that kind. Either that was an utterly senseless interjection, or it was actually used as an argument to convince members opposite, and presumably some members on this side, that these powers now asked for are not excessive, and that in fact even wider powers are exercised in certain other jurisdictions. For that reason, and regretting that it will take some time to do so, I find it necessary to explain exactly what did take place. I do so, of course, assuming that the minister put this forward with the expectation that he was being taken seriously by his own members.

The legislation of 1947, to which he referred, can be found in the Ontario statutes of that year, particularly at page 305 where an amendment to the Power Commission Act is set out. I would point out that what happened there was precisely what we have been saying should be done here—that if, in fact, there is anything in the nature of an emergency at any time, or if, in fact, there is anything that carries legislation out of the ordinary realm of legislation that respects fully the authority of parliament, then the circumstances should be declared under which that can be done. That has been our argument, and this offers an example of exactly the kind of situation that would be produced by an appropriate re-wording of this act.

The section to which the minister was referring was section 2 of an act to amend the Power Commission Act, and it reads as follows:

2. The Power Commission Act is amended by adding thereto the following section:

58a.—(1) Notwithstanding anything in this act or in any general or special act or in any contract heretofore or hereafter entered into by the commission or by any municipal corporation for which the commission supplies electrical power, pursuant to section 71, where at any time the commission is of opinion that a state of emergency exists by

reason of damage to or destruction, failure or breakdown of any of its works, wastage of power, power demand in excess of its power resources or other matters restricting its ability to deliver power, and the commission so declares, the commission may, during the state of emergency,—

(a) allocate and distribute its available power amongst the customers under such contracts and interrupt or decrease delivery of power under any contract during the continuance of the emergency; and

(b) with the approval of the Lieutenant-Governor in Council, regulate, restrict, prohibit and control the generation, transformation, transmission, distribution, supply and use of electrical power supplied by it,

in order to effect what is in its opinion the most economical, efficient and equitable use and distribution of such electrical power.

Now, that is a clearly stated, clearly defined exercise of the power, and it was in relation to a shortage of power in the province of Ontario at that time, as the right hon. minister well knows. Then I go back to what he said about the fact that in 1948, not satisfied with these wide powers which were clearly defined in their purpose and scope, as he said, we ended for all time access to the courts. I am afraid the only way to deal with this is to read the whole section. Therefore, I would read section 5 of the Power Commission Act, 1948, to which the right hon. minister referred. Section 5, as found in chapter 69 of the statutes of Ontario for 1948, is as follows:

5. Section 53 of the Power Commission Act, as amended by section 7 of the Power Commission Amendment Act, 1943 and section 1 of the Power Commission Amendment Act, 1947 (No. 2), is repealed and the following substituted therefor:

58. (1) If any agreement heretofore or hereafter entered into by the Commission for the supplying of electrical power or energy by the Commission to a municipal corporation or for any other work or service to be done or supplied by the Commission to a municipal corporation contains any term or condition conflicting with or contrary to this act, the agreement shall be deemed to be amended in such manner and to such extent as to give effect to this act.

(2) Subject to subsection 1, where the Commission has heretofore entered, or shall hereafter enter, into an agreement for the supplying of electrical power or energy by or to the Commission or for any other work or service to be done by or supplied to the Commission and such agreement has been or shall hereafter be approved by the Lieutenant-Governor in Council, it shall thereupon be valid and binding upon the parties thereto.

The following section, section 6, relates to it:

6. Subsection 2 of section 58a of the Power Commission Act, as enacted by section 2 of the Power Commission Amendment Act, 1947 (No. 2), is repealed and the following substituted therefor:

(2) The Commission may at any time modify, restrict, suspend or re-impose any order, regulation, restriction, prohibition or control, heretofore or hereafter given, made or exercised pursuant to subsection 1.

(3) The Commission may interrupt or decrease delivery of electrical power or energy in such manner and to such extent as it sees fit to any of