

Defence Production Act

category of regulations under the Regulations Act or the Emergency Powers Act that had to be tabled automatically. I am inclined to think the great majority would fall in that category, but I do not like to express a sweeping opinion in relation to things that have not come into existence, under an order in council which also has not yet come into existence. These scruples about expressing such an opinion are the scruples of a lawyer who does not like to answer extremely hypothetical questions of that kind.

Mr. Coldwell: The reason for pressing this matter, of course, is that we think parliament should know if in any particular the Combines Investigation Act or any part of it has been set aside by order in council. The minister says the legislative order would be tabled.

Mr. Garson: Certainly.

Mr. Coldwell: That of course would give members of parliament an indication that something had been done and, as the minister says, a member could then ask what had been done. But would it not be wiser, even from the government's point of view, to have it made clear that action taken under such a legislative order in council should be tabled as well? The moment a member on the opposition side of the house, let us say, asks for information of this description, it seems that one is dragging from the government something that ought to be placed before the house and made clear without even a question being asked about it. That was the point I had in mind; in other words I was thinking of protecting the minister.

Mr. Garson: The protection my hon. friend was offering was to ask the minister to give an opinion on this extremely hypothetical question. It seems to me I gave the only honest opinion any lawyer could give; that is, until one sees what the regulation is, one cannot say whether or not it falls within the act. It probably would, but I would want to see it before saying definitely. I do not think you could get any lawyer to tell you whether or not a regulation not in existence, passed pursuant to an order in council also not in existence, fell within a certain statute.

Mr. Coldwell: But the act is in existence.

Mr. Garson: Oh, yes, but with wide general powers. In what direction those powers will be exercised, or what they will provide, or what will be the procedure, is not in anybody's mind as yet. I do not think you could extract from any prudent lawyer in Canada an opinion of that sort, and I am sure my hon. friend is not going to extract it from me.

Mr. Fulton: Then may I ask the minister to give another opinion, which I do not think

[Mr. Garson.]

will involve him in any liability or subsequent embarrassment. When this subject was being discussed Tuesday evening the Minister of Trade and Commerce said at page 987 of *Hansard*:

If and when such a situation arises it should be defined and placed on record under the provisions of the Emergency Powers Act.

That was in relation to a group of industries being called in. Then the minister went on to say:

Any industry before entering into such an arrangement would do well to see to it that its position has been so defined...

In giving his statement the same evening the Minister of Justice said at page 988:

Therefore, in the interests of the proper administration of the Emergency Powers Act on the one hand and the Combines Investigation Act on the other, it is very desirable that any of these arrangements of this kind that are entered into under direction should be covered by a regulation or an order which will be recorded with the combines investigation commission—

And he went on to say:

—and will, I presume, very likely take the form of an order that would be tabled in parliament.

What type of order is it contemplated will be made? Is it merely a record of the fact that a conference has been held, or a specific order providing that the industries named with respect to a certain meeting and the consequences which flow from that meeting are exempt from the provisions of the Combines Investigation Act?

Mr. Garson: I want to be as helpful as I possibly can in replying to questions such as the one just asked, but I would like hon. members to realize that we are discussing the terms of this bill and in that connection really the terms of the Emergency Powers Act. Those are really the only subjects to which the minds of members of the government have been directed. So far as I know—and I am the minister who would be instructed to see to the drafting of these things by the law officers of the department—we have not reached the stage of giving consideration to the provisions of such an order in council, to say nothing of any executive order which might be passed under it. Therefore when we discuss these hypothetical orders in council and regulations we are discussing them in a complete vacuum, and I am being asked to prophesy what will happen, and whether or not things not yet in existence will fall within the Emergency Powers Act. I do not see how any person could possibly express any judgment on that score. What we are concerned with now is, first, whether section 28 of the present bill has any application to