

war, invasion or insurrection, deem necessary or advisable for the security, defence, peace, order and welfare of Canada." More comprehensive language it would be difficult to find. The corresponding terms of the B. N. A. Act, s. 91, are "to make laws for the peace, order and good government of Canada in relation," etc. "Welfare" is substituted for "good government" and "security" and "defence" are added in s. 6 of the War Measures Act. In some constitutional acts, for instance, the N. S. W. Constitution Act, we find the word "welfare" used, with "good government" as a substitute for the word "order."

To introduce such a limitation as that suggested by Mr. Justice Beck and approved of by some of his colleagues would therefore appear to me to be to fly in the teeth of the very words of the Act of Parliament itself. Parliament, by express recital in the Military Service Act, 1917, declares that the Canadian Expeditionary Force is engaged in active service "for the defence and security of Canada," and that it is necessary to provide reinforcements to maintain and support it. The position taken by counsel for the Attorney-General, that the orders in Council fall within the very terms of section 6 of the War Measures Act, as orders made for the security and defence of Canada, therefore has statutory sanction.

Nor does the use of the term "orders and regulations" present any serious difficulty. No doubt "regulations" is a term usually employed to describe provisions of an ancillary or subordinate nature, which the Executive, or a Minister, or some subordinate body, is empowered to make to facilitate the carrying out of a statute. But, coupled with the word "orders" (which, as used here, seems to me clearly to mean orders in Council), and employed to connote provisions to be made "for the security, defence, peace, order and welfare of Canada," it has necessarily and obviously a more comprehensive signification. It was used, no doubt, because the Governor-in-Council usually acts by making orders or regulations. "Ordinances" might have been a more apt expression, but the context leaves no room for doubt that it was intended to confer the power to pass legislative enactments such as should be deemed necessary or advisable by reason of "real or apprehended war, invasion or insurrection," which is declared by a definitive clause of the Military Act to establish an emergency.

No doubt the amendment of a statute or the taking away of privileges enjoyed or acquired under the authority of a statute by order in Council is an extreme exercise of the power of the Governor-in-Council to make orders and regulations of a legislative character, but the very statute, the operation of which is affected by the order now in question, contains a provision, not found, we are told, in the original draft, and apparently inserted for the purpose of expressing the acquiescence of Parliament in such a use being made of the powers which it had conferred on the Governor-