

Mr. JACKMAN: Out of the court only, I think you might say "knowingly".

Mr. TARR: There is this point that under a provision such as you describe anyone could say, I did not know that was the law, and it is absolutely impossible for the crown to establish that a person did know.

Mr. JACKMAN: One could commit a major offence in cases of currency without knowing what the law is.

Mr. TARR: You cannot establish what is in other people's minds.

Mr. JACKMAN: The most important thing you have to remember is the freedom of the subject, not the rights of the board.

Mr. IRVINE: If you do not pass legislation of this kind, you won't have any freedom of the subject.

Mr. JACKMAN: We got along very nicely during the war when conditions were really difficult. We are in a more favored position now yet you want to perpetuate it.

The WITNESS: I would like if I may to say that this is not our board, Mr. Jackman. This is the Canadian Foreign Exchange Control Board operating under it.

The CHAIRMAN: I want it distinctly understood that I have positively no complaint in regard to the operation of this board. I am concerned in cases where offences have been committed unwittingly.

Mr. JACKMAN: If we had a less competent staff of officials operating, it would be a different thing. That is what legislation must bear in mind. Is this Act modelled on the British Act, or is it our own conception of what is necessary?

Mr. TARR: The British have no Act. They are operating under orders in council in the same way as the board is at the present time.

Mr. JACKMAN: Are we trying to establish regulations modelled after their experience or after our own?

Mr. TARR: No. I think it is distinctively Canadian.

The CHAIRMAN: Carried.

Section 61:

Carried.

Mr. JACKMAN: Where is that one about the burden of proof being on the accused?

Mr. MARQUIS: That is finished.

The CHAIRMAN: That is only proof that he has a permit. You are referring to section 58. That is only the burden to prove that he is possessed with the necessary permit.

Mr. JACKMAN: I mean section 61, of course, you have this burden of proof and forfeiture. May I just ask this general question? If a person is accused under this section, is the general burden of proof when charges are made on the accused, or must the Crown prove its case?

Mr. TARR: The only case where the burden of proof is on the accused is as set out in section 58.

Mr. MARQUIS: This is subsection 2 and this refers to the burden of proof in any proceeding of forfeiture. The burden of proof which under section 58 of this Act rests upon the person charged means that it rests upon the defendant.

Mr. JACKMAN: Under the ordinary rule of law an accused person is innocent until he has been proven guilty.

The CHAIRMAN: Is section 62 carried?

Carried.