

Defence Production Act

In the British act there is a provision that where it is proved in court that an officer was an active party to a transaction the onus is on him to disprove his guilty association, but under the English act there must first be proof. But here, if any corporation, large or small, commits any offence, then the onus of proof is upon the individual.

Mr. Fleming: That is the Howe idea of the rule of law.

Mr. Drew: What are these offences? Are these clearly defined offences? Why, no. These are offences such as failure to obey an order of a controller, any Tom, Dick or Harry appointed by the Minister of Defence Production (Mr. Howe), someone without any knowledge of the law. If that person makes an order and it is not carried out it is an offence, and if there is an offence on the part of any company in that respect then the onus for disproving that an individual was aware of that and a party to it rests upon the individual himself. There has been no such breach of the rule of law in the history of this country as is contained in that section. Above all, there is a complete repudiation of the fundamental legal principle of presumption of innocence. I do hope hon. members opposite will pay some attention to these provisions and will simply ask themselves the question: Have we any right to continue indefinitely in the statute law of Canada these broad powers?

There is another very important provision and one which merely shows the extent to which a number of hon. members opposite have doubtless been misled by the statements of the Minister of Defence Production. He tells us that there is no case where the individual is affected. I have pointed out a case where the individual is affected, and it is not only under that subsection but under the whole of section 32 that the individual is affected in regard to laws that are not written, in regard to orders that nobody can anticipate in advance, in regard to orders that may be made by people with no knowledge of the law and probably no knowledge of anything else very much. Yet offences are created here which can result not only in heavy fines but in imprisonment as well. The minister tells us, however, there is no section in the act that affects the individual.

But it is not only that section; it is right through the act that this authority is conferred. I hope no hon. member opposite has overlooked section 15 and the effect of subsection (d) of that section. This is under the heading "Defence Procurement", and it is necessary to remember it is under the heading of "Defence Procurement" because

[Mr. Drew.]

it shows the kind of things that are brought within the enveloping arms of the word "defence". Section 15 reads as follows:

The minister may, on behalf of Her Majesty and subject to the provisions of this act, . . .
(d) arrange for the performance of professional or commercial services.

What a delightfully euphemistic way of saying that the minister may mobilize professional or commercial services under any order he sees fit to issue. That is exactly what it means.

The minister may, on behalf of Her Majesty and subject to the provisions of this act,
(d) arrange for the performance of professional or commercial services;

Surely here is such an interference with the right of the individual, under completely undefined powers and powers unlimited as to time, in such a manner as has not been attempted except in the most severe state of war. When we are told that the government seeks to avoid the application of the War Measures Act, may I point out that we need not be told that the War Measures Act only applies when there is war or apprehended war. That is the only time it could apply. But there was a time when even this government held different views. This morning I read into the record a declaration in the preamble of the emergency powers act, 1951, which made it clear that in certain cases the government did not even wish the wide-open powers of the War Measures Act, and that it felt it was appropriate there should be legislation of another nature. For that reason it introduced the emergency powers act.

Now, Mr. Speaker, when these wide powers are taken in conjunction with the right to set up a crown company, they are certainly not paralleled either in the act of the United Kingdom or in the act of the United States. There is no provision in the act of Great Britain for setting up crown corporations, and no provision in the 600 odd sections of the Defence Production Act in the United States. We alone go that far. The Minister of Defence Production may well repeat, as he has on earlier occasions, that some of these wide powers are contained in the Defence Supplies Act which is suspended by this act. But the Defence Supplies Act has no power so wide as this, and there is no way in the Defence Supplies Act for the government to nationalize industry or set up crown corporations along the lines I have suggested.

When we look at the effect of this act, particularly at the definite declaration that there is a presumption of guilt, then it does become necessary to go back into ancient law. It does become necessary to realize