

they certainly are not in a position of equality with the custodian, since they may want to have access to the courts, and having got into the courts they may want to find themselves in the position of equality before the courts with the custodian.

Mr. BURTON: After listening to Mr. Fleming's presentation of that case and after checking over that section, it appears to me that the only resort that person would have would be, first, to prove that the person acting on behalf of the custodian had not acted in good faith. That is what it says in (b). The whole matter is put in the position that the person who feels aggrieved would first have to prove that the official did not act in good faith. It says: "(b) an act or omission that the person acting in good faith reasonably believed to have been required . . ."

Mr. FLEMING: Mr. Chairman, I think that these clauses in section 7 are disjunctive; the person has no rights or remedies in any of these cases; in other words, a claimant cannot bring an action or cannot succeed in an action if the defendant can prove that he satisfies the requirements of any one of these clauses.

The WITNESS: I think the purpose of (a), to which Mr. Fleming objected, is to protect the debtor to an enemy who had paid over the amount of his debt. He turned over the property which he held for the enemy to the custodian. It is an essential protection for the Canadian debtor or trustee for the enemy. It is not the intention by section 7 to protect—which I think Mr. Burton had in his mind—officials of the custodian's office at all; this is simply a protective measure for the people who have, acting under the regulations, paid over moneys which they have held for enemies. That deals with (a). Clause (b) protects them in a wider way. Perhaps it might be modified. We will be ready to consider any practical suggestion along those lines. Clause (c) is really a part of (a). I do not know why they put in "before or after these regulations came into force," unless there was a consolidation in 1943. Usually it applied back to 1939. There was no property turned over before the war in 1939. If it is agreeable to the committee to allow the matter to stand—Mr. Henry is here—we will be glad to consider the points raised and see what we can do. Would any member of the committee care to make any important suggestion?

Mr. FLEMING: I appreciate Mr. Coleman's willingness to consider this matter. I do not want to anticipate any discussion that we might wish to have on these sections. I think section 27 will have to be considered.

The WITNESS: Yes, I think section 27 will have to be considered along with it; and I confess in section 36—

Mr. CLEAVER: Shall we carry section 7 and deal with Mr. Fleming's point?

Mr. FLEMING: There may be an amendment to 7(b); possibly not to (a), but to (b) or (c).

Mr. CLEAVER: I judge from your remarks that your point could be adequately covered by an addition to section 27.

Mr. FLEMING: That may be; but I think it will be necessary to leave section 7 to be considered by Dr. Coleman and Mr. Henry.

The VICE-CHAIRMAN: Section 7 will stand.

Section 8: "Appointment of inspector."

Mr. BURTON: In (c) I notice the words "the commencement of the present war." You let that one stand before—the one dealing with the commencement of the present war—(k) of the first section.

The WITNESS: That was the definition section.

Mr. BURTON: Consequently, if there should be any change in the other you have to make the necessary change here.