

Defence Production Act

Mr. Higgins: It says: "The investigator *may*", not *shall*". The word *shall* is used after the report has been made.

Mr. Lesage: Read the section.

Mr. Higgins: Read it yourself; it is divided into two.

Mr. Garson: The subsection reads:

An investigator may allow any person whose conduct is being investigated under this act, and shall allow any person against whom a charge is made in the course of such inquiry, to be represented by counsel.

Mr. Low: He has discretion.

Mr. Higgins: There are two separate sections. That particular clause can be divided into two, really.

Mr. Garson: That is quite true. He has a discretionary power, which I would not imagine he would exercise in any other direction but allowing counsel; but in any event if there is any charge to be laid he *shall* allow counsel.

Mr. Higgins: Why cannot he have that right in the first instance?

Mr. Howe: This act was good enough to get us through the last war, and I find it very difficult to believe that the opposition find anything abnormal in a war situation—I really do. The bill before the house has been prepared as the result of experience and in an effort to get an act under which the government could move expeditiously in matters having to do with carrying on its war duties. Why would we come back and change an act that worked well in the last war? For instance, if we suspect that stolen war materials are in a certain place, if we have to wait until a man sends out for his counsel before we can search—

Mr. Higgins: This section does not cover that. But two wrongs do not make a right. This particular section merely speaks of a man who is accused—

Mr. Fournier (Hull): No.

Mr. Higgins: Hold on; it certainly does. Let me read it to you again. It says:

An investigator may allow any person whose conduct is being investigated under this act—

Then we shall forget the next words until we come to these:

—to be represented by counsel.

That is the way you must read it.

Mr. Garson: Yes. My hon. friend as a lawyer knows perfectly well that a man is not accused if he is merely under investigation. Under the act, there is no—

Mr. Higgins: Why do you have it in the act at all?

[Mr. Garson.]

Mr. Garson:—no question of his even being accused.

Mr. Higgins: Why do you have it in the act?

Mr. Garson: Just a minute. But as soon as he is accused then it says the investigator shall allow any person against whom any charge is made in the course of such inquiry to be represented by counsel. I might tell my hon. friend that this is the identical wording of section 22, subsection 3, subparagraph (b), page 18 of the office consolidation of the Department of Reconstruction and Supply Act. It is taken from that act. This is the section under which all necessary proceedings of this sort were taken during the whole of world war II. But if my hon. friend is not satisfied with the fact that it proved to be quite fair and reasonable for this purpose, let him refer to the Inquiries Act, which is of general application, and he will see in section 12 the language is identical. It says:

The commissioners may allow any person whose conduct is being investigated under this act, and shall allow any person against whom any charge is made in the course of such investigation, to be represented by counsel.

Mr. Higgins: I am not satisfied yet, I do not mind telling you.

Mr. Garson: If this provision, which has stood the test of time over all these years, is open to any sort of the abuses which my hon. friend seems to imagine, I should think the likelihood is that we would have heard about them before now.

Mr. Higgins: Has it been tested?

Mr. Garson: Yes; I am sure it has been used. It must have been, because there must have been investigations under it.

Mr. Higgins: Do you know it has been used?

Mr. Garson: I cannot offhand give any specific case, no.

Mr. Howe: It is in the Inquiries Act. That is not wartime legislation. It is civilian, peacetime legislation, and it has been in force for years. Why it should be objectionable when given a wartime application, when it is good enough for peacetime, I cannot imagine.

Mr. Garson: For the hon. member's information, this provision was passed in 1912. I should think, referring to the hon. member's question, that there is a distinct likelihood that during the intervening period it has been used at one time or another.

Mr. Higgins: A few moments ago the Minister of Justice used the expression, "with