

Defence Production Act

Mr. Tucker: I do not admit that at all. If the hon. member will be patient I shall indicate that to him.

Section 2 of the Inquiries Act reads:

The governor in council may, whenever he deems it expedient, cause inquiry to be made into and concerning any matter connected with the good government of Canada or the conduct of any part of the public business thereof.

In other words, under the Inquiries Act, the governor in council can cause an inquiry to be made into any of these questions. It provides that the governor in council may appoint, by a commission, commissioners, and give the commissioners power to summon before them witnesses and require them to give evidence on oath or on solemn affirmation. It goes on to say that the commissioners have the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in any court of record in civil cases.

Then there is provision in part II of the act for departmental investigation. Section 12 reads:

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.

That is exactly the same as in the present Defence Production Act and as stated that has been the law of Canada for years and years. I was very sorry the hon. member for Prince Albert suggested that in some way there was something unusual in this act, at a time when a distinguished member of the government of a commonwealth country was sitting in the gallery. He suggested that in some way parliamentary government was being abrogated in this country by the provision that a person could be appointed to inquire into matters under the Defence Production Act and—

Mr. Fleming: Does the hon. member not appreciate that under the Inquiries Act an inquiry may be instituted only by a decision of the government through an order in council, whereas under section 29 of the Defence Production Act the minister is given power to appoint an investigator who under subsection 2 of section 29 has all the powers conferred on commissioners under the Inquiries Act. In that case he is not receiving them through an order in council passed by the whole government.

Mr. Tucker: In answer to that statement I would suggest that if that is all the criticism the opposition have to offer of this bill, that it is quite all right for the government to set up a commissioner to go into these things by order in council but it is quite wrong for

a responsible minister to do the same thing, then that is not consistent with the opposition attitude that the policy of the government is terribly wrong. Where is the fundamental difference which infringes upon the liberty of the subject? And is this the tremendous far-reaching change outlined by the hon. member for Prince Albert? Is that the only basis for attack, the difference between the cabinet doing it or a minister doing it, a minister who is acting as a member of the government of which he can remain a member only if he is satisfactory to the government as a whole and to the Prime Minister? Do they now say it is quite all right to have these powers to summon somebody in front of a commissioner and not give him counsel, if the commissioner does not wish to do so, until a charge is brought against him; that it is all right if it is done by order in council, but if it is done by a responsible minister then it becomes an infringement upon the liberty of the subject?

Mr. Fleming: Who ever said that?

Mr. Tucker: That was the point made by the hon. member for Eglinton, obviously.

Mr. Fleming: Nonsense.

Mr. Diefenbaker: On a question of privilege, my hon. friend read section 12 of the Inquiries Act which, while it reads as follows:

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—

—is altered in effect by the subsequent provisions of that act in general.

Mr. Tucker: The commissioner has the right to summon a person before him, and if he does not come and answer questions he may be prosecuted. It says that in the Inquiries Act, and I shall read it again:

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.

Let me read the wording of the similar section of the Defence Production Act about which the hon. member for Prince Albert waxed so eloquent this morning. Here is what it says:

29. (1) The minister may, whenever he deems it expedient, cause an inquiry to be made into and concerning any matter relating to or incidental to or arising out of a defence contract or any group or series of defence contracts or any dealings in or with defence supplies, and may appoint a person or persons by whom the inquiry shall be conducted.

(2) An investigator has all the powers conferred on commissioners by sections 4 and 5 of the