

*Defence Production Act*

points out when he is making a comparison between the two legal systems—I must say that ultimately he comes to the conclusion that the administrative law provides many safeguards—it was only under fascism and nazism that this principle was temporarily sustained. It is on all fours with what we have before us, delegated powers such as they had in Italy and Germany. This was the statement made in 1929 by Casabianca, one of the leading lawyers of Italy:

The accused does not enjoy the presumption of innocence; the verdict will attest whether he is guilty or innocent; until then he is simply an accused.

That is what this act says, that the presumption of guilt is on the person to show that he is innocent. For far too long that has been the law to be challenged today, and I do think that we could well bear in mind what it is. I do not know of a country today that pretends to be democratic which is so barbaric as to adopt the practice of assuming guilt. The suggestion by the hon. member, put forward in sincerity and good faith, that there is some similarity between this and the company law in my opinion only emphasizes the danger inherent here; first of all, you confer wide delegated powers, not to the government but to the minister, and then give the minister power to delegate to people we know nothing about. These may be people whose qualifications are in no way tested or examined or known, and yet anybody who disobeys their orders could be presumed guilty if there should be established any offence under such provision against a company of which they are members.

I want to refer to another article in the *Law Times*, in this case volume 212 under date of October 19, 1951. This is entitled "Burdens and Presumptions in Criminal Law" and is by a man well known to most lawyers in this house, Glanville L. Williams. He starts with this proposition:

The topic of the burden of proof and presumptions is one of the most difficult in the law of evidence, and recent cases have done little to clarify it. In particular, considerable confusion has been caused by failing to keep distinct two separate meanings of the term "burden of proof".

This article goes on to point out that burden of proof must rest clearly upon the prosecution because it is the prosecution which takes the responsibility of bringing a person into court and which must take the responsibility of showing the court how that person has broken any law. The very fact that this power is included in this act does indicate the immense danger inherent in a statute of this kind and why we so strongly oppose the continuance of the act in its present form.

Is it not possible for the government to avoid any embarrassment to itself by one very simple device? We are told that the government would lose face if it backed away from this debate at this time. To any hon. member who complains about the fact that we are keeping him here, to any hon. member who complains about the fact we are raising objections to this act over a very extended period of time, may I say there is one way in which the government could deal with this without in any way changing its position at this time. This way would still give the government and hon. members opposite an opportunity to take a second look at the legislation. I would think the statement of the Prime Minister this morning, which indicated his confidence in the immediate future, was contrary to the ominous warnings given us by some others in this house, and contrary to the ominous picture painted by the Minister of Defence Production. I should think that would provide a basis for the most reasonable solution of this situation which could possibly present itself. It seems unnecessary to repeat it, yet apparently it is.

The main act, to which there is simply an amendment before us, an amendment removing the time limit in the original act, remains on the statute books until July 31, 1956. Do not put forward two such contradictory arguments as the suggestion, on the one hand, that the government cannot employ men because of the uncertainty of the continuity of the department, and at the same time expect us to take the assurance that three years hence certain things will be done by the government. They do not go hand in hand. On the one hand the Prime Minister, with great assurance and certainty, talks about what he can assure three years from now, and at the same time the Minister of Defence Production tells us that he has difficulty in obtaining people to perform certain services if the act is not renewed in the usual way in the session immediately before it expires. They do not go hand in hand.

The truth is that the Minister of Defence Production is not putting forward that argument very seriously. He knows perfectly well that whatever assistance he needs is obtainable, and he knows perfectly well that he can get that assistance just as well if this act continues in its present form for another year and is reviewed at the next session of parliament. At that time we all will have seen how far events will have justified some of the confidence that is being expressed. We will have seen exactly what has developed; and with the termination of the act still several months in the future we could meet