

The Committee resumed at 8 o'clock p.m.

The CHAIRMAN: Gentlemen, when we adjourned at 6 o'clock we were discussing section 41. Some members have raised a point as to the inspectors having power to exercise discretion in regard to information required. Would you care to answer that question, Mr. Rasminsky?

The WITNESS: If an inquiry is undertaken it is undertaken by an inspector of the board. It is difficult to see how the inspector could undertake an inquiry effectively if he were in the position where he had to obtain the specific authority of the board for any question that he put or for any information that he sought. The precise question that he put and the precise information that he sought to obtain would in many cases be determined by the course that the inquiry took. That is the reason why this clause is worded in this way authorizing the board or an inspector to conduct an investigation and to require any person to furnish such information as the board or such inspector may deem necessary. If it were not worded in that way it would appear that it would be necessary to adjourn the inquiry from time to time in order to enable the inspector to seek specific authority from the board to request further information.

Mr. MARQUIS: Is that inspector sworn specially for that investigation or is it in the course of his general duties?

Mr. LESAGE: General duties by virtue of section 40.

The WITNESS: That is right. I do not think it would detract from the effectiveness of this section to word it in this way, "The board or any inspector authorized by the board may conduct any inquiry", and so on.

Mr. LESAGE: As a matter of fact, any offence committed against any section of this bill or the orders and regulations is surely less important than a murder. Nobody would ever think of giving to an inspector of police investigating a murder case any power to summon and enforce the attendance of any person at any place and time and the power to examine him and require him to give evidence orally or in writing on oath. Nobody would ever think of giving to any police investigator or police inspector such powers in a murder case.

Mr. TARR: There are provisions practically identical with this in a number of Acts, the Customs Act, the Excise Act.

Mr. LESAGE: Just because those Acts have been passed and such powers have been given in other Acts is no reason why we should proceed that way here.

Mr. BLACKMORE: In what kind of Acts?

Mr. LESAGE: The Customs Act, The Excise Act, the Immigration Act. These provisions are in there, but I am wondering if we should have them here. It would be very easy to say "the board or any member of the board". I do not think we should go further in giving a judicial power to any individual. We are going far enough in giving those powers to any member of the board. Those are powers you give to a coroner.

Mr. MARQUIS: In subsection 6 of section 41 there is a proviso that the board or an inspector shall allow any person against whom any charge is made in the course of the inquiry or investigation to be represented by counsel. I understand that if somebody is charged by the inspector he shall be represented by counsel, but in the first part of that subsection I would suggest that there should be a correction. It has a relation to the first section as to the powers of the inspector. If the person who is questioned is represented by counsel perhaps he would be protected.

Mr. RINFRET: The inspector has the power to over-rule anything counsel says. What is the use of it?

Mr. LESAGE: What is the use of it, and moreover the inspector is the one who will decide if the accused has the right to counsel. After all he is only a customs inspector.