

*Defence Production Act*

the house—and I do this with great respect—to section 82 of the dominion Companies Act which, if I remember correctly, was passed in the year 1934, at a time when Mr. Bennett and Mr. Cahan were in power.

**Mr. Drew:** That was neither a question of privilege nor was it in any way relevant. I do wish the hon. member, instead of interjecting an argument of that kind into the debate in this fashion, would get up and present his argument.

**Mr. Richardson:** I shall be glad to do so.

**Mr. Drew:** No, not at this moment—

**Some hon. Members:** Oh, oh.

**Mr. Drew:**—but after I sit down. The hon. member is going to have lots of time to present his arguments, and I hope that after I have sat down he will get up and do so. When he makes interjections of the kind he has just made, as a lawyer, I would point out that his interjection was wholly irrelevant. What he referred to in the Companies Act was in connection with certain specific acts in relation to clearly defined law. What I pointed out, and what the hon. member will realize if he will reread the section in the bill before us, is that this is a denial of basic rights and is not in relation to some stated responsibility, as in the Companies Act. On the contrary, among other things it is the failure to comply with an order of some controller whose name we may not even know—without any knowledge of law, appointed by the Minister of Defence Production.

There is no similarity at all, no similarity of any kind. Here we have a case where the minister can go out on the street and say, "Bill, here is an order for you to go down to such and such a place. Take them by the scruff of the neck and show them where they get off." And Bill goes down with the order and tells them what to do. If they fail to do it, then under a section of this act there is a penalty. And under that penalty, if a person is an officer of a company then both the company and the individual may be dealt with under these extremely severe provisions.

Of course I do not need to say to the hon. member who has just interrupted that it carries with it imprisonment for a period of up to two years. But I need to point this out because the right hon. minister still keeps on saying that it does not affect any individual.

Now, as to this question of the presumption of guilt and the presumption of innocence.

**An hon. Member:** Longer.

**Mr. Drew:** I hear the hon. member for Winnipeg North Centre laughing when he

sees me take up this book. Well, I will tell him that I have five or six more.

**An hon. Member:** What a man.

**Mr. Drew:** The fact remains that I do not know any member in the House of Commons who has been as free in his use of books as the hon. member for Winnipeg North Centre. If I were to produce 20 books today I still would not have used as many as he uses in any ordinary debate here. However, it so happens that it has become necessary for me to use these books because certain questions are involved. There is the difference between the rule of law and administrative law. The fundamental difference is that between our system and the system applicable in many of the countries of Europe. The whole idea of our law as against administrative law is that individuals will know what they can and cannot do. The bill before us is one that does not create defined laws, but simply creates a number of powers without any definition.

I refer to the *Law Times* of November 3, 1950, volume 210, page 237, and what I am referring to particularly is the presumption of innocence. This deals in fact with the basic difference between our rule of law and the administrative law of France. There are a number of expressions here that clearly show why we should not combine with administrative law the presumption of guilt. To the hon. member, who intervened a short time ago, for whose legal judgment I have respect, I would point out that I believe he has overlooked one very great distinction between the provision in the Companies Act to which he referred and the provision in this act. The provision in the Companies Act, whether it is good or bad, relates to clearly defined law within the concept of the rule of law. In the Companies Act the process is defined, the general procedure is set out, the duties of individuals are proclaimed, and penalties are imposed in relation to those stated obligations. That is the rule of law.

Under certain circumstances, whilst I do not like the removal of the full application of the presumption of innocence, at least there is a very marked and profound difference between that and the combination of presumption of guilt and loose, uncontrolled administrative law. Even if it may be defensible, and I am not arguing that it is, that there could be an assumption of guilt in any case under a clearly defined law such as the Companies Act, I submit that the very reference indicates how impossible it is to justify an abandonment of the presumption of innocence in the case of wide-open and loosely conferred administrative powers.