

Defence Production Act

tell us whether in his opinion that is something affecting the freedom of the individual. If the Minister of Justice were good enough to give the house the benefit of his legal opinion on the sections I have mentioned, it would be interesting and enlightening to members if he would also give a legal opinion on section 29 of the act, which states:

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.

Then subsection 2 says that such person would have the powers conferred under the Inquiries Act. Subsection 3 goes on to say:

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.

I would like to know when it became the law in Canada that an individual appointed by the minister under this act would have the right to say whether or not an individual who is being investigated would have the right to be represented by counsel. We note that the subsection contains the words—

—and shall allow any person against whom a charge is made in the course of such inquiry to be represented by counsel.

It has always been my understanding that that was a right enjoyed by every British subject. Why in the world should it be necessary in this year of 1955 to place in the Defence Production Act a provision stating that an investigator may allow a person to be represented by counsel, or that he shall allow representation if a charge is laid?

After all, the house is entitled to some opinion from the Minister of Justice as to the very drastic provisions of the act. In Ontario, and I presume in other provinces, we have a system today whereby an individual, no matter how poor he may be, through an arrangement with the law society is entitled to free advice from qualified solicitors, whether he be involved in a civil or criminal matter. Yet in this act, in respect of a person being investigated and who may be subject to a fine of \$5,000 or imprisonment up to two years, it is stated that an investigator may permit such person to be represented by counsel.

Surely the time has not come in Canada when we are going to revert to barbarian practices, and when we are not going to uphold the fundamental principles of British justice that were referred to by the Leader of the Opposition when he read Magna Carta.

If you are going to throw Magna Carta and habeas corpus into the wastepaper basket and have sections such as that, how can you expect the Canadian people to have proper respect for law and order?

The Prime Minister in his day was one of the most distinguished counsel at the Canadian bar, a member of the bar who has taken a most active part and interest in the workings of the Canadian Bar Association. I wonder what the Prime Minister thinks of section 29 of the Defence Production Act? During the last two or three years, as we all know, the Minister of Justice has been amending the Criminal Code, and parts of it are still under consideration. Quite properly, it has taken a long time. I notice that time and again before the committee the minister has been so careful in every way to preserve all the rights to which an accused is entitled. It has always been one of our recognized principles that the individual is innocent until he is proved guilty, but not so under this act. Subsection 5 of section 32, which deals with offences and penalties, reads as follows:

Where a corporation is guilty of an offence under this act, any officer or director of the corporation is a party to and guilty of the offence if it was committed with his knowledge unless he exercised all due diligence to prevent the commission of the offence; and in any proceeding against a person who was a director or officer of a corporation when the corporation committed an offence under this act for being a party to and guilty of such an offence, the burden of proving his absence of such knowledge or the exercise of such due diligence by him is upon the accused.

The Leader of the Opposition this afternoon read various articles from well-known and well-recognized journals which dealt with the burden of proof and the right of every citizen to be adjudged innocent until proved guilty. It seems to me that there are many things in this act which are contrary to what we lawyers regard as the usual procedure and the usual rights to which every British citizen is entitled.

Perhaps I might recall that with regard to these people who may be appointed under this act, there is nothing in the act to say what their qualifications shall be. There is nothing to guarantee that any investigator or controller appointed under this act will have a knowledge of the law or anything of that nature. Yet he will have the right to investigate individuals and the right to cross-examine. That investigator would have the right to say whether or not an individual would be represented by counsel. Not only that, but under section 29—whenever the hon. member finishes it will be quite all right.

An hon. Member: Go ahead.