

Financial Administration Act

In other words the cabinet will be the judge, the jury and the executioner. The cabinet will set up regulations under which the man will be tried, will appoint the judge, and after this kangaroo court is carefully set up the man will be dismissed by the government, whose original suspension will be fully vindicated by the quasi court which it has set up.

Mr. Benson: May I ask the hon. member a question? Does he really believe this? This is exactly what Victor Spencer asked for and what the government gave him. He asked for an inquiry conducted by someone appointed by the governor in council. Does the hon. member believe that that inquiry was not carried out fairly in the circumstances, or that the governor in council can make this kind of decision with regard to a dismissal without first obtaining advice from the R.C.M.P., and from the committee on security, etc.?

Under this section a person cannot be dismissed summarily as he was under section 50; he can only be suspended. He is given the right which Victor Spencer had when the inquiry was set up. I am the first to admit that this is not a perfect solution, that it is an interim solution as was understood by the committee at the time when it was passed. It is an interim solution while we are awaiting a report from the committee on security.

Mr. Douglas: Mr. Chairman, to try to refer to the Victor Spencer case in order to gain approval for this subsection is a very weak argument indeed. In the first place Victor Spencer was only given an inquiry after weeks of questioning and protestations in the house. Second, he was granted an inquiry by a person appointed by the cabinet, only because there was no other way of having such an inquiry. Now, if the minister will just possess his soul in patience I can get to the point I am seeking to make.

• (8:50 p.m.)

I suggest that what is required here is not an inquiry. What is required here is the right of appeal to some impartial person or board, and not under regulations set up by the people who want to fire him; not by a person appointed by the people who have already made a decision with respect to his case. First, he ought to have a right of appeal to some impartial person or tribunal. Second, the regulations and the procedures under which that appeal will be conducted should be set out, not by the cabinet but by parliament, or set out under usual judicial procedures. Thirdly, there should be a guarantee

[Mr. Douglas.]

that in the course of that appeal he will be allowed two things; one is to know clearly and distinctly what the charge is and what the evidence is against him, and the other is that he will be allowed counsel and that counsel will be allowed to appear for him, and will be given in advance all the evidence that has been collected against him. These are the basic things that any individual going into court would be entitled to under our system of jurisprudence.

However, since this individual is a civil servant, under the cloak of secrecy he can be denied the basic tenets of justice. He may be dismissed by the governor in council. He may be tried by someone appointed by the governor in council under regulations set up by the governor in council. This, Mr. Chairman, is far from any great improvement over the old section 50 of the Public Service Act. This is not a right of appeal. This is simply a situation in which the cabinet can suspend some person with the intention of firing him, and after they have set up an inquiry under their own appointee, with their own regulations, they can get the approval of that appointee for the dismissal of the individual concerned.

This individual, under this subclause 7, has no guarantees at all that he is going to have a fair hearing, that he is going to have an impartial judgment made of his case, that he is going to be given in advance all the facts and data upon which the charge is based. He has no guarantee he will be brought face to face with his accusers. None of these things is spelled out in this subclause. I think the minister ought to be ashamed to ask this committee to approve a subclause like this. It represents a complete abdication of the ordinary precepts of Canadian justice.

I think the minister ought to give the committee at least some idea of the regulations the governor in council proposes to promulgate for the conduct of such an inquiry. What are the regulations to be? What rights will an individual have who appears before this inquiry? Will he be entitled to have counsel and to have the evidence presented against him? Will his accusers appear and be subjected to cross-examination by counsel for the accused? Will all the ordinary court procedures obtain? We do not know. I for one am not prepared to see this subclause pass until the minister tells us what the regulations are which the governor in council has in mind, and which will constitute the framework within which this inquiry will be conducted.