

I did not take a note of my right honourable friend's statement, but I accept it as it comes from our shorthand writer:—

—such approval to be obtained on ex parte application, the approval to be valid if ex parte, but with the judge having the power to request further evidence or any further hearing he wishes.

I took it for granted that that was an ex parte application where further evidence would be asked for. I am convinced that this would simply eliminate the whole machinery which is in the amendments before us by giving the judge the right to open the inquiry and conduct the trial. Surely this is what the committee had in mind: to have the judge examine the evidence produced with the complaint and declare whether he was satisfied with it or needed further evidence, which would be furnished by the commissioner or the complaint would not be allowed.

Therefore I say this vitiates the whole principle contained in the Act, which allows the commissioner to preside on a preliminary inquiry, but deprives him of the powers of a judge to examine witnesses under oath and compulsorily have them produce documents. Now we are asked to empower the judge to take the whole record, go into the case, and decide for himself. I never understood the proposal that way. I doubt very much whether the committee so understood it. I took it for granted that all the judge had a right to do on that ex parte presentation was to require further evidence from the Minister of Labour or the commissioner. It is a totally different thing to allow the judge to open the investigation and call in the parties to the alleged combine to defend themselves before him. If that is the will of the committee, it will have to be stated plainly, but I am quite sure it will not be accepted by the commissioner.

The CHAIRMAN: Are you prepared, Senator Dandurand, on behalf of the Government to accept this amendment as submitted by the two law officers, one from the Senate and the other from the Justice Department, without this other amendment?

Hon. Mr. DANDURAND: Yes, I am ready to accept the amendment and to state to the Senate that, although it does not appear to the Minister that it will be possible for the Department to apply this legislation satisfactorily, the Government will bow to the opinion expressed by the Senate and see how the amendment will work out.

But we are not prepared to go one step further and allow the judge, when he is seized of the prima facie evidence, to tell the Minister, "Well, I am not quite satisfied, I need to be satisfied on this or that," and so transform the inquiry into a trial. That is not right.

Right Hon. Mr. MEIGHEN: With much of what the senator says I am in agreement. The subject of the judge having power to hear the other side was not argued at all. As to my intention, there is no question in the world, and I think it is pretty clear from the statement. But I do not think it is important enough to fight over. We did argue for a long while on the point of giving the determination of the evidence to the judge rather than to the Minister. I know the leader of the Government was absolutely frank and honest in his interpretation of that, and I know Mr. O'Connor interpreted it the way he did. I am not going to stand here and insist that it must be interpreted in the way I intended, although I did intend it that way.

Hon. Mr. DANDURAND: Then we agree; and with this understanding, that between now and next session the statute will be administered with these amendments, and then we may hear from the Government or from members of this or the other Chamber and make whatever amendments may be considered proper.

Hon. Mr. KING: I do not want to intrude at all if the leaders accept the amendment. Last night I thought Senator Meighen's suggestion was a solution