

The commissioner shall then consider the petition, and . . . if satisfied that a prima facie case has been made out,—

But how can he determine that such a case has been made out unless he hears the evidence? How can he determine that a prima facie case has been made out if he has not read the petition and heard or read the evidence and given it his consideration; in other words, unless he has sat upon the case as a court?

Mr. ROBB: He need not necessarily act as a court.

Mr. STEVENS: Follow me a step further. The section goes on:

—and, if the commissioner is not so satisfied, he may dismiss the petition.

You deny the petitioner the right of appeal if the commissioner says no, but you send the case to the Exchequer Court if he says yes. Why, the thing is really preposterous. The minister says in effect that the commissioner cannot try these cases because he has not the equipment nor the time. But a petition comes before him and he is empowered to say, "You have no case;" and there is no right of appeal, no safeguard at all. But has not the commissioner considered the case if he dismisses it? If he has not, then this law is a travesty on justice; it is only an insult to the intelligence of the people. My hon. friend will certainly have to amend the section because I cannot see how he can escape it. Let us read the clause carefully:

The commissioner shall then consider the petition and, . . . if satisfied that a prima facie case has been made out, shall refer the petition to the exchequer court—

For purposes which are determined in the next section. But, mark you, he must determine first whether a prima facie case has been made out.

—and, if the commissioner is not so satisfied, he may dismiss the petition.

If the commissioner is not satisfied, after having given due consideration to the matter, he may say to the petitioners, "You have no case, go away," and that ends it. They have no right of appeal. Now, that is a dangerous power to put into the hands of the commissioner. We do not ask that; we say, let the petition go before the commissioner; and we ask him to do what you are asking him to do here, namely, to consider it. We say that if he considers a prima facie case has been made out he shall refer the matter to the Exchequer Court; and if, on the other hand, he considers that no prima facie case has been established, then we ask that, if the

petitioners, or either party, are not satisfied, they be given the right to appeal to the court.

Mr. ROBB: That is not what the amendment says.

Mr. STEVENS: Virtually it is; that is exactly what we mean.

Mr. BOYS: It does say that.

Mr. STEVENS: As far as I know it does; that is what we are asking. I think I have made that point perfectly clear, and there can be no possible escape from that reasoning. But let us look for a moment at another phase of the matter. The cost question has come up several times and the minister has expressed the opinion that we are going to add to the cost if we adopt this amendment. It does not matter where the case is decided, whether in the Exchequer Court, in the Patent office, in the Justice department or anywhere else, it must be given consideration and there must be cost. There must be cost in maintaining the Exchequer Court, because there have to be clerks, judges, registrars, etc.; and there must be cost if the matter is to be considered in the Patent office. In short, wherever the case is considered cost is involved. For the commissioner to say that he will just simply unload all his work on the Exchequer Court in so far as decisions are concerned, and thereby effect economies in the administration of the act, is absolutely nonsense, because if the Exchequer Court is in such a condition to-day that case after case can be referred to it without adding to its cost, there must be something wrong somewhere. It may be argued by the minister that the parties appealing to the courts will pay their own costs. That is a point to be considered; but I want to point out that they have already paid their costs to the Patent office. If I remember rightly, and, of course, I am subject to correction, the Patent office now has a revenue of over \$200,000. These fees are paid to that office for just such cases as this, where there is a difference, where there is a ruling, where there is a search wanted. All these things are the reasons for the fees that are paid into that office. I would say, if the minister argued on the basis of cost, that he at once reduce the fees to applicants, because the Patent office never was intended as a profit-making institution. I cannot see, therefore, that my hon. friend has made an adequate defence at all in regard to this section. On both these grounds I appeal to him again, supporting my hon. friend who presented the amendment. Let the commissioner have the re-