

Industrial Relations

An hon. Member: No condition.

Mr. Speaker: The hon. member has withdrawn the remark.

Mr. Dickey: I think it is improper to suggest by legislation or otherwise that the magistrates of this country are officials to whom any board or body can issue a direction to impose a sentence upon a person who has not been before them in the ordinary manner in which justice is dispensed in this country. The magistrate is to be ordered to pass a sentence upon persons who have not been before him and in connection with which he has not heard any evidence. The fifth subsection of the proposed bill reads:

(5) If, in the opinion of a magistrate, the order of the board is ambiguous or its meaning not clear in any particular, he may refer to the board any question or matter for clarification by the said board.

There is certainly nothing objectionable about that. Then the sixth subsection reads:

(6) The board may appeal from the decision or judgment of a magistrate.

I am completely unable to understand the purpose of that particular subsection except that it is absolutely improper. To state that the board may appeal from the decision or judgment of a magistrate is meaningless because I submit that in fact there is no judgment or decision which a magistrate can give. Under subsection 4 the magistrate is directed to pass sentence upon a party who has been selected by the board as being guilty of a violation. That is not in any sense of the word a decision or judgment of that magistrate. It is a decision of the board and the magistrate is simply the official who decides what penalty will be imposed upon the person selected by the board.

I submit that the only purpose that particular subsection could have is this: When parliament legislates its words are taken in context and construed strictly; when parliament purports to give the power of appeal, and the courts are construing that power they are inclined to say that parliament must have intended to deal with the matter of appeal in a complete manner and to set out the way in which the appeal is to be brought and the persons who are entitled to appeal. I submit that if this subsection is enacted by this parliament we shall have a strange system whereby a board would hear evidence, make a decision and then pass over to a magistrate a direction as to who shall be sentenced.

If the person sentenced by the magistrate tried to appeal his conviction the courts would say that parliament had intended to deal completely with the question of appeal in subsection 6 and that, as parliament had decided that the board could appeal, by inference it was meant that the individual

could not appeal. If we pass this subsection I submit that we shall be laying ourselves open to grave danger of being accused of denying to citizens of this country, union members, employees or anybody else, who come within the purview of this legislation, the right to appeal a decision or judgment which that individual feels is unjust and by which he is aggrieved.

Mr. Gillis: The hon. member knows that that is nonsense.

Mr. Dickey: My hon. friend says that I know that that is nonsense. I do not know that that is nonsense; I know it is absolutely correct. I should like to refer now to the sections which it is proposed to repeal and replace by the single section set out in the bill. The point to notice there is that the main subject matter dealt with in sections 43, 44, 45 and 46, which it is proposed to repeal, is in the main very different from the subject matter of the new section 43 which it is proposed to place in the act. Section 46, for instance, provides in general terms that:

No prosecution for an offence under this act shall be instituted except with the consent in writing of the minister.

It was felt by the industrial relations committee, and by the parliament that passed the act, that the minister should be consulted on questions of prosecution under the code.

Mr. Gillis: One-man dictatorship.

Mr. Dickey: My hon. friend says "one-man dictatorship"—

Mr. Mitchell: I do not believe the hon. member thinks I am a dictator. He is just kidding the troops.

Mr. Gillis: You may not always be there.

Mr. Dickey: My hon. friend seems to enjoy making these interruptions.

Mr. Gillis: So your speech will look intelligent.

Mr. Dickey: Thank you very much. The fact is it is a wise provision to have the minister consulted in these matters. The federal Minister of Labour (Mr. Mitchell) and the ministers of labour for the provinces have heavy responsibilities with respect to matters of industrial relations. I think that the manner in which the labour departments of the federal government and the provincial governments have dealt with these matters should be a source of great pride and satisfaction to the Canadian people. It is proper that the officers who assume these responsibilities should have some right of consultation when parties to disputes believe they have been aggrieved to such an extent that they feel they have to resort to prosecution to secure their rights.

[Mr. Fournier (Maisonnette-Rosemont).]