

ALIEN INQUIRY BOARD MAKES NO PROGRESS

Defense Threatens To Precipitate Collapse of Probe

A new move by the defense this morning threatened total collapse to the proceedings against the four men of foreign birth now under examination by a special board of inquiry in Immigration Hall and forced an adjournment in the hearing of the case against Oscar Schoppelrei.

On the ground that neither the board nor the crown had any legal right to question the defendants so long as criminal charges that might later be pressed against them were not withdrawn E. J. McMurray and Marcus Hynan, counsel for the defense, obtained postponement of the examination of Schoppelrei until this afternoon, in order to consult with T. J. Murray, associate counsel, who was absent, on the question of advising the defendants to answer no questions until the charges of seditious libel and seditious conspiracy against them have been dismissed.

May Adjourn Indefinitely

If the attorneys for the defense decide to prevent the men under investigation from answering questions, the board is expected to adjourn indefinitely and until such time as the men are willing to answer the questions put by the board.

That was the procedure followed this morning in the case of Sam Blumenberg. On advice of counsel,

Blumenberg refused Tuesday to answer questions concerning membership in various societies alleged to be of a revolutionary nature.

This morning Magistrate R. M. Noble, chairman of the board, refused a formal request by Hyman to proceed with cross-examination, and said that Blumenberg would be held until he was ready to answer the questions.

Andrews had only completed his preliminary examination of Schoppelrei and asked his first question when the controversy that finally broke up the session began.

"Will you tell me what you know about the Rank and File club?" he asked.

Hyman objected on the ground that although the crown had agreed to withdraw charges of seditious conspiracy and seditious libel against Schoppelrei the charges still stood, and that under the law Schoppelrei could not be examined unless the criminal charges were discharged.

"The crown has never made such a statement that the charges would not be proceeded with," Mr. Andrews replied. "It is not the intention of the crown to use evidence in this action in any other action."

Useless, Says Hyman

"Such an undertaking by the crown—and I say it without disrespect—is entirely useless," Hyman retorted. "Such examination is inquisition to which he cannot be subjected until after the other proceedings."

McMurray continued the argument with a demand to know why the immigration charges against Armstrong, Heaps, Eray, and the other labor leaders were not being pressed at the same time as those against the men of foreign birth.

He then asked an adjournment so that counsel could consult with Murray, on the advisability of asking the witness to answer no questions at all until the criminal charges had been disposed of.

"I might say that it is the attitude of the board," said Chairman Noble, "that everything in the power of the board will be done to prevent evidence taken here from being used against the defendants, if they were later brought to civil trial."

He allowed the adjournment, however.

Formal applications for bail, written by each of the defendants were presented to the board at the opening of the session, but they were denied by Chairman Noble, who took exception to both the applications of the men and statements of counsel which, he declared, were "carefully calculated to insult the body to which it is directed."

"I am inclined to think," he said, "that the matter was not made so much with the idea of getting bail as for purposes of propaganda, so that it could be said that these poor Jews were not getting the rights they are entitled to under the British flag."

Gelley Refuses.

McMurray replied by asking Commissioner Gelley to fix an amount as suitable bail, but Mr. Gelley refused to do so on the grounds that the investigations are already under way.

McMurray argued that the immigration act required the immigration officer to allow bail or to risk prosecution in the courts.

A few minutes later Mr. Andrews announced that the crown had concluded its examination. Mr. Hyman immediately asked permission to conduct cross-examination of Blumenberg.

Chairman Noble, however, refused to permit cross-examination until Blumenberg answered the board's questions.

"I feel that until these questions are answered we are not getting to the proper stage to take testimony in his behalf," he said.

"Do I understand that you are adjourning this hearing with the idea of holding the defendant in custody?" McMurray asked.

"He can get out of custody by answering questions," Mr. Noble replied.

Just as Blumenberg's appearance in the witness chair brought about a flurry of argument so did that of Schoppelrei. Both McMurray and Hyman objected to the character of the charge. Hyman declared that the warrant was faulty and McMurray objected to the statement of Chairman Noble that the defendant was about to be examined "as to his right to remain in Canada."

Counsel argued that the charge should not be general, but should specify definite instances on which they were based.

Before the questioning began Hyman began a battle to prevent Schoppelrei from being questioned concerning his entry. He declared that until either Sergt.-Major McLeod, recruiting agent at Duluth, or Lieut. Bonner was produced to show under what circumstances he had been brought to Canada, Schoppelrei crossed the line as a recruit.

During the preliminary examination Chairman Noble asked him what country he was a citizen of.

"I don't know," Schoppelrei replied.

Born in California

Schoppelrei testified that he was born in San Francisco. The question of his citizenship brought out arguments from the defense that his service in the Canadian army made Schoppelrei a Canadian citizen, and entitled him to special consideration in his examination.

Andrews said that the state department had ruled that army service did not carry citizenship with it. Then he continued his questioning:

"What road did you come in on?" he asked.

"I don't know."

"Did you come straight through to Winnipeg?"

"I don't know."

"Why don't you know?"

"I was drunk all the way up," Schoppelrei replied.

One particular phase of the legal battle was the controversy over a statement said to have been made in Schoppelrei's enlistment papers that he was born in Quebec. Mr. Hyman said it was a common practice of recruiting officers to say a man enlisted in the United States was a Canadian citizen.

Mr. Andrews said that the crown would be willing to do its best to obtain any witnesses that might be of use to the defense, but said that according to his information, Sergt.-Major McLeod had joined the United States army and had gone overseas and that Lieut. Bonner was last heard of in Siberia.

Capt. William E. Firmstone, of