

and my submission is that having done that we ought to protect the public against exploitation by these people under the protection given by the act as well as the customs duties imposed upon the articles.

I come now to my main argument. I shall not read all of section 40 but it makes certain provisions and imposes certain duties upon the commissioner. Section 40 of the act is being repealed, to be replaced with section 65 of the bill. The operative portion of this section, which is stated to be sufficient protection for the public but which I contend is not sufficient, is as follows:

The Attorney General of Canada or any person interested may at any time after the expiration of three years from the date of the grant of a patent apply to the commissioner alleging in the case of that patent that there has been an abuse of the exclusive rights thereunder and asking for relief under this act.

It will be noted that according to subsection (b) the exclusive right is abused by importations from abroad. Having gone that far nothing whatever is said as to what the commissioner shall do when he has heard a complaint. I drew attention to this fact the other day. I suggest that the following words should be added:

The commissioner shall then consider the petition and if the parties do not come to an arrangement between themselves, shall proceed to hear and determine the matter, and if it is proved to his satisfaction that the reasonable requirements of the public with respect to the patented invention have not been satisfied, or that the patentee has failed to adequately manufacture the patented invention in Canada, the patentee may be ordered by him to supply the patented article within reasonable limits at such price as may be fixed by him and in accordance with the custom of the trade to which the invention relates as to the payment and delivery, or to grant licences for the use of the patented invention as may be fixed by him, in either case within and after such time as may be fixed by him and on pain of forfeiture of the patent.

In other words, following the power of investigation, I merely ask that there shall be laid upon the commissioner the duty to consider the petition and, if the parties do not come to an arrangement, to determine the matter.

Mr. FACTOR: What about section 66 of the new act?

Mr. STEVENS: I submit it does not cover this case. I do not wish to go into a lengthy discussion of it but it will be noted that section 66 deals very largely with licences, exclusive compulsory licences, order for licence, revocation of patent, and so on. The

only clause which might be suggested as covering the case is to my mind inadequate, and that is subsection (c) of section 65:

If the demand for the patented article in Canada is not being met to an adequate extent and on reasonable terms;

It does not say anything about prices nor does it refer to importations nor cover in my opinion the case I have named. As regards terms, they may be the terms upon which they would allow someone to manufacture the patent; and so I submit that section 65 is incomplete inasmuch as it does not direct the commissioner to make a finding, having had a hearing; nor does it give him power to penalize—not to the extent of revocation, because that is of course his right under the general terms of the act. But it does not say to him that an electric light globe that may be bought in Holland or the United States—and we have cases definitely before us—paying a duty and royalty and selling for 26 cents, shall not be sold in Canada for 60 cents, as it is. In other words, by virtue of this arbitrary power exercised under the patent laws of Canada, a firm may mulct the people of this country to the extent of 125 per cent additional protective duty. That is the effect of it.

Now that is my proposal; that is the suggestion I make. There was another point in my mind which I wished to refer to but for the moment it has slipped my memory. But that is my main argument. The hon. gentleman says that the government does not wish to accept my amendment. I offered the amendment, I think, in the kindest and most courteous spirit. I had not the faintest intention of embarrassing the government or interfering with the general tenor of the act. I think that on the whole it is an admirable act and one which will be an improvement on the statute as it stood before. But I did mention this matter to a member of the committee in the other house and it had not been brought up; it had not come to their attention.

Mr. CAHAN: The matter to which the hon. gentleman refers did come to the attention of the Senate and was discussed there.

Mr. STEVENS: I accept the word of my hon. senatorial friend who told me it had not. I am not disputing my hon. friend's view of the matter, but that is what I am told; and knowing that it had not been dealt with I sought to bring it to the attention of the committee here. I offered this amendment, not as something final, but, in the absence of