

*Patents of Invention*

a representative of the people of Canada, to do all I can to keep them out of law. I am going to read a comment which has reached me in connection with this clause. I do not desire any credit for this amendment. It was handed to me by the hon. member for South Wellington (Mr. Guthrie) who, being unable to be present, asked me to take charge of it. This is the comment; with which I entirely agree:

These are framed to reduce the necessity for suit before the Exchequer Court. There is strong feeling against throwing all doubtful cases at once into the law courts and compelling litigation on questions which may well be determined within the Patent office. In fact, there is a strong feeling that without the passage of such amendments the Patent office will be receiving fees without earning them, and as the bill stands at present the Commissioner of Patents is stripped of his proper functions—

With that I absolutely agree.

—which are handed to the Exchequer Court, while the patentee may at any time find himself forced into legal procedure which might be properly avoided.

The only answer made by the minister to that is the imaginary expense it is going to lead to. Let us see what this clause contemplates. The public think they are being called upon to pay an extravagant price for an article the manufacture of which is patented. They present a petition to the commissioner setting out their grievances, I presume, giving some evidence that the article cannot cost more than 20 to 30 per cent of the selling cost, and stating that there should be a reduction in price. When the commissioner receives the petition, he then decides whether or not it should be granted or dismissed. As the minister says, he can dismiss it under the proposed legislation. I want to go a step further and to meet the case when the commissioner, after consideration, is of opinion that the article is being sold at too high a price. He may then say so, and add what he thinks it should be sold for, to supply the public with the article at a reasonable price. He gives his judgment accordingly. Where is there anything cumbersome, troublesome or expensive in that procedure? The commissioner is given many powers in this legislation. Why not give him an important power in this connection, and keep people out of law, if possible. If they must have law, they can appeal to the Exchequer Court from his decision. I must say the minister has not said anything which makes me think this amendment should be withdrawn. I do not present it for the purpose of embarrassment at all; I present it in the hope that the minister may think it is reasonable; that the provisions of this

[Mr. Boys.]

measure will be improved, and that the cost connected with patents will be lessened. In no other spirit do I offer the amendment to the minister. If he just views the situation which might arise under it, I do not see how he can imagine for a moment that the troubles which he has anticipated will occur. I agree with the comment I have read that if you do not give the commissioner such a power as this, the Patent office will be actually receiving fees without earning them. We do not want a commissioner, a man of experience and ability, to merely receive and file papers, and to tell people, if they are not satisfied, to go to the Exchequer Court. We have a commissioner, as far as I know of considerable capacity. He is paid with that in view. Give him some responsibility in connection with the enforcement of this legislation. Do not strip him of responsibility and send everything of any doubt or trouble to the Exchequer Court, which, I think, is fairly well loaded up with work at the present time.

Mr. ROBB: Probably my hon. friend might be right in many arguments that would come up; but there are some cases where, I think, I could almost convince my hon. friend that it is quite necessary that this should go to the Exchequer Court. The commissioner has recently pointed out a case that came before him in connection with a system of recovering ore at the Cobalt mines, a very complicated matter, where royalties would run into millions of dollars. My hon. friend can understand that if the commissioner undertook to hear cases of that kind, they might extend over quite a long time and tie up the work of the office. My hon. friend has not yet persuaded me that it is best to establish a court within the Patent office. He will not deny that it will be necessary to equip the Patent office further, if they are properly to hear all evidence in connection with appeals that arise from time to time. May I again remind my hon. friend that the system he suggests was in vogue prior to 1890?

Mr. STEVENS: The minister is objecting to the establishment of a court within the Patent office; but he is establishing a court by this clause. He is empowering the commissioner to say, no, but he forbids him to say yes. He empowers the commissioner to dismiss a case; but if the commissioner does not dismiss a case, he must send it on with a sort of "God bless you" to the Exchequer Court. Let me read the clause, and the minister will see where his argument is without foundation at all: