

protecting the owner of the patent within reason. But I do say this, that the practice of selling out patents to large corporations which pigeonhole them and do not use them is something that should be examined into, and great care should be taken that this practice is not abused. But that is another question. I am at one with the hon. gentleman and with anyone who desires to protect the property rights of anyone in his patent.

Then my hon. friend referred to my references to certain cases by saying that certain individuals, Mr. Feldberg and a firm on the Pacific coast, had been examined before the Exchequer Court of Canada and convicted, as he says. The suggestion in the argument is that inasmuch as this firm, on the one hand, and this individual, on the other, had been convicted they were out of court. That is exactly the basis of my appeal to parliament at this time. They were convicted of what? They were convicted of bringing articles into Canada, paying a duty upon them to the extent of about forty per cent and offering them for sale when they had paid a royalty in the country of origin.

Mr. CAHAN: Is the hon. member confident that they paid the duty?

Mr. STEVENS: The hon. member rather cross questions me on that point but I would refer him to his colleague beside him who administers the customs laws. I have sufficient respect for him to assume that he is vigorously enforcing the laws and that the duty was paid. I would not like to reflect upon the customs department to the extent of saying anything to the contrary.

Mr. JACOBS: My hon. friend was once minister of customs; perhaps these came in during his period of office.

Mr. STEVENS: No; during that period the customs laws were very vigorously enforced. If my hon. friend was basing his argument upon that period I could answer him with more certainty.

The fact remains that this man imported these goods openly and offered them for sale and no one has challenged the payment of the duty. As a matter of fact I have in my hand a lengthy argument prepared by a prominent firm of lawyers dealing with this particular question. This argument was prepared for certain clients of this firm and bears out my contention. The only point which I have brought before this committee and for which I ask remedial measures is that the Patent Act should not be used to enhance unduly the

[Mr. Stevens.]

price of articles to the public and be a sort of supertariff imposed upon the regular tariff laws. That is all I ask.

The hon. gentleman argues that inasmuch as the privy council has declared that it is not *intra vires* for parliament to pass laws fixing prices, as my proposal fixes prices in effect it is a challenge to the constitutionality of the law. The law has been there for ten years, it has contained the provision I am now proposing and that question has never been raised. I ask any impartial legal mind in the committee: When the British North America Act delegated specifically to the dominion parliament the right to legislate with regard to patents, has not this parliament the right under that power to pass laws which will effectively safeguard the interests of the public in connection with matters appertaining to patents? I am not very much impressed with the argument that the fixing of prices would be challenged in this respect.

There is another view of the matter which I submit to the committee. Subsection (c) of section 40 in the old act, which I have asked to be reinstated, does not mention the fixing of prices. On the contrary, it gives powers to the commissioner of patents to impose a penalty and has nothing to do with the fixing of the prices of articles in the ordinary sense of the term. Let me direct the attention of the committee to the proposal I am offering. The hon. member is correct when he says that sections 64, 65, 66 and 67 of the bill replace section 40 of the act. We do not dispute that at all. Before making my main argument on section 65 of the bill, I would direct the attention of the committee to the fact that the hon. gentleman in making his argument a moment ago quoted a number of subsections of this section but he omitted to quote subsection (b). This subsection reads:

If the working of the invention within Canada on a commercial scale is being prevented or hindered by the importation from abroad of the patented article by the patentee or persons claiming under him, or by persons directly or indirectly purchasing from him, or by other persons against whom the patentee is not taking or has not taken any proceedings for infringement:

That is declared to be an infringement of the exclusive right. I ask the committee to note that if anyone does import, it is an infringement of the right. The hon. gentleman did not argue that point and that is the gravamen of my whole argument. The cases to which I referred were the large electrical manufacturing and radio concerns. A very definite provision has been made to protect these large corporations against importations