

Mr. BOYS: If the minister thinks the suggestion is worthy of consideration I think the deputy could work it out.

Mr. ROBB: Let it stand.

Section stands.

On section 12—Election of domiciles:

Mr. ROBB: I propose to move, in substitution for clause 12, the following clause:

(a) Every applicant for a patent and patentee who does not reside in Canada shall file at the Patent office a notice in writing designating, and specifying the address of some person resident in Canada to represent and stand in the place and stead of such applicant or patentee for all the purposes of this act including the service of proceedings taken under any provision of this act.

(b) Upon failure to file such notice as above required or in the event of the person designated not being found at the address specified the applicant or the patentee as the case may be shall be deemed to have elected domicile for all purposes aforesaid at the Patent office.

(c) In the case of applications pending or patents issued at the time of the coming into force of this act the applicant or patentee shall not be in default in respect of such notice before the expiration of six months from such time.

(d) Copies of any proceedings under any provision of this act served upon or left for any applicant or patentee at the Patent office shall be forwarded by mail to his last known address.

The object of this clause is: Under the previous clause domicile was given simply in some city, without giving any address therein, and in consequence the section serves no purpose. The draft clause which we now propose is satisfactory to all interested. If the hon. member opposite desires to have this go on Hansard and stand for further consideration, I have no objection.

Sir HENRY DRAYTON: The first two paragraphs are perfectly plain but I did not get the effect of the last one.

Mr. STEVENS: It struck me, from what the minister read, that what he was substituting for clause 12 is more complicated than the present clause. I will admit the present clause is very brief, but it does provide that the applicant shall elect his domicile in Canada. My own notion is that the more simple we make the legislation the better. Unless there are very strong reasons for changing the section, I think it would be inadvisable to change it, but if there has been experience in the way of extensive litigation or something of that kind, of course it might justify the change.

Mr. ROBB: Experience has been that in many instances they are unable to find the patentee, who has given his address as Montreal, Vancouver, or Toronto, without designating any particular street.

[Mr. Robb.]:

Sir HENRY DRAYTON: Is the hon. minister quite clear that this will only apply to non-residents?

Mr. ROBB: My hon. friend will note in paragraph (a), it states that every applicant for a patent and patentee who does not reside in Canada shall file at the Canadian office, and so on.

Sir HENRY DRAYTON: Are you quite sure that covers the other clauses?

Mr. STEVENS: The present clause does not refer merely to absentees.

Mr. ROBB: We propose to make it more clear.

Mr. STEVENS: Is it proposed to add this provision to the present clause?

Mr. ROBB: No, it is in substitution. It has had the approval of the law officers.

Mr. McMASTER: Section 11 of the present act provides that:

The applicant for a patent shall, for the purposes of this act, elect his domicile at some known and specified place in Canada, and shall mention the same in his petition for a patent. R.S., c. 69, s. 11.

That would cover both those who live in the country, and those who reside outside of the country. I do not see the necessity for the change which would merely put the obligation of electing domicile on some one who lives outside the country. I do not see the reason for the change.

Mr. ROBB: It is very largely because experience has been that 75 per cent of the patents issued are to non-residents.

Mr. STEVENS: If the minister drops the existing clause, then applicants who are bona fide citizens and residents of Canada would not be provided for at all, because his substitution clause refers to applicants for patents who do not reside in Canada. If the minister intends to add these three, four subclasses to the existing clause, that might be desirable: but I cannot see how we could possibly drop the existing clause altogether.

Mr. RYCKMAN: The difficulty with this clause arises from the legal fiction of the language; that is, that the applicant, although he may live out of Canada, shall elect his domicile in Canada. Any domicile so elected is not the true domicile of the applicant, and I can see reasons why an applicant might decline to elect a domicile in Canada. I think the new clause, while it is lengthy, applies to this case. One who comes from the United States, Europe, the ends of the earth, should give, in a case of this kind, an address in