

the patent upon those conditions, conditions which are fair, is it proper or right that his patent should be taken away by a tribunal constituted as this tribunal is? Why, the hon. member for North York (Mr. Mulock) who has no confidence in the Minister of Agriculture or in any of his colleagues, as I understand him, thinks we ought not only to have confidence in the hon. gentleman but should accept his decision as a higher authority than the courts of the land, than judges sworn to do their duty impartially, judges only removable by joint address of both Houses of Parliament, men who hold office during good behavior in that way. The hon. gentleman must be—I am not desiring to make any attack on the hon. gentleman, I am not desiring to express an opinion about his decision in the last case, for I desired, and I thought I made myself plain when I introduced the Bill, to say that if he thinks proper there should be no appeal in the last case, and I think it would be better there should not be—but I say that this very important case, in which a vast amount of property is concerned, has brought prominently before the people the fact that their property may be taken away by the decision of one man, and he not a judge, a man not possessing legal training, not amenable to public opinion; by one man who is necessarily a politician, and whose judgment will not be accepted in every case, whatever may be his decision, as one of a satisfactory character. There have been Ministers of Agriculture, and there will be other Ministers of Agriculture, and I ask hon. members to try and remember who they were, and perhaps to look forward and see who will probably fill that position, and let them ask themselves whether they are willing that matters of such importance should be dealt with and decided by a Minister who happens to fill the position of Minister of Agriculture. Moreover, his deputy is vested with the same power as is the Minister, the deputy who is not even amenable to this House, who does not carry with him in his decisions that tremendous weight which is to be given to the decision of a Minister, according to the member for North York (Mr. Mulock), because he sees in it the decision of the whole Cabinet, a doctrine which members of the Cabinet will not desire to accept.

Mr. MULOCK. I did not wish to give the House to understand, for a moment, that I supposed the whole Cabinet personally were aware of the decision, or gave it as their judgment. I simply meant that in giving that decision the hon. gentleman compromised his Cabinet, and as regards the effect, made not only himself responsible but his twelve colleagues.

Mr. McCARTHY. Can there be any better argument than that offered by the hon. gentleman who has just spoken, for doing away with such a law? He says the decision compromised the Cabinet, and that the decision must be viewed with respect to the effect upon the Cabinet and upon public opinion, and with reference to the chance of an adverse decision in this House, and matters of that kind, which certainly would not enter into the consideration of a judicial officer in determining a matter between two people in this Dominion. No better argument can be offered than the suggestion made by the hon. member for North York in the explanation he has given to the House. I desire not to be misrepresented by the hon. member behind me or by the hon. member for North York. I desire the House to understand that this is, as I have said, a one man's decision, the decision of a man who has no power to call witnesses, who decides upon evidence that is not sworn evidence, and upon statements made behind the back of the party interested, without opportunity being afforded for cross-examination. All this, I say, is, to my mind, so monstrous that I can hardly imagine it being brought to the attention of the House without the House desiring an amendment made to the

Mr. McCARTHY.

law. My hon. friend has endeavored to mix up the rights of patentees with the general and abstract question. He says in particular no more beneficial decision could be given. What has been effected? For this time forth we shall have cheap telephoning, and will get that accommodation which is becoming so very essential to men of business at a cheaper rate. Is that an argument worthy of the hon. gentleman; is it an argument that ought to have fallen from a man so distinguished; is it an argument which could have fallen from any person but one who might have something more than a public interest in the question? Surely the hon. member will hardly say it was right to present that as an argument against this amendment of the law, this amendment as regards the abstract principle, as to whether it is right that the gentleman whom I have already described should have the determination of a question of this kind. Surely it was not in any sense as a bribe that it was held out to members of the House. But I can tell the hon. gentleman—I mention this for his private information—that, perhaps, so far as that case goes, he has not heard the last of it. According to an ancient and well known jurisdiction, the Court of Queen's Bench has the right to revise proceedings of tribunals created as this tribunal is; it has a right to call on the Minister to certify to the court all the proceedings that have taken place before him, and I do not think it is a very dignified position for the Minister to occupy.

Mr. COLBY. Have you not failed to get such an order from the court?

Mr. McCARTHY. I have not failed. The hon. gentleman is not very familiar with the procedure taken. There is at present an application before the court, for the purpose of compelling the Minister to certify to the Court of Queen's Bench all the proceedings that took place before him, and it is an ancient jurisdiction of the court which has been exercised, because that court always claimed to exercise supervision over proceedings of what, according to the view of the law, is an judicial tribunal. I say if that is a proceeding which is open, it is not a dignified position for a Minister to be placed in, to be called on to certify his proceedings to a judge sitting in Toronto, St. John or Halifax, for his revision and decision.

Mr. COLBY. Then we do not need this law.

Mr. McCARTHY. I submit we do need the law. The proper way to determine such rights is by a properly constituted court of law. If such a trial is surrounded by too many obstacles and difficulties the law should be amended by the proper Legislatures. But I do not know why the law disposing of questions of patents should be different from the law with respect to rights in regard to other questions. Rights of property, of character and reputation, we are willing to leave to the courts of the land; but, forsooth, a question of patents is one which some hon. members think the courts are not capable of dealing with, simply because it involves questions of fact. I deny *in toto* that this is merely a question of fact. The Minister knows that in this very case rather difficult questions of law came up, or at all events were argued. The question was as to the importing of portions of instruments said to be patented, and it was a rather difficult question of law to determine whether the parts imported were those which involved a forfeiture of the patent granted. If, of course, there had been an importation of the instrument in whole there would be no difficulty; but in this particular case, and probably in many cases, the difficulty would arise as to the importation in part, and as to whether they were such portions as the law contemplated should be manufactured in the country, and should not be imported. I propose, Mr. Speaker, to ask the House to read the Bill a second time. I think in doing so I will only be discharging