

to appeal; a decision is rendered and the parties, as a rule, accept it. Appeal is taken in a limited number of cases, and so it would be in respect to these petitions. It is perfectly proper to protect the public by appeal, but I think that in the other way you would get a decision much quicker, and you would not heap upon the Exchequer Court every case in which there was any doubt at all—and that must be the result here. The commissioner would have no power except to dismiss the petition. I do not imagine he would be inclined to dismiss unless he was very certain about it; therefore, wherever there is any doubt you throw the people interested into litigation in spite of themselves, although they might be willing to lay their views before the commissioner and accept his decision.

Mr. ROBB: In the hope that at six o'clock the commissioner and the legal gentlemen may get together and introduce language that would suit all, I suggest that the clause stand.

The CHAIRMAN: Section 40 and amendment thereto stand.

On section 41—Revocation of patent time limit:

Mr. BOYS: We see at once, right in this section, the very thing we have been striving for in the last. I cannot understand this: in one section you give the commissioner certain power and in another section you run away from it; in another you come back again to it, and then run away from it. In the last section we were trying to give the commissioner the power a man of his ability and experience might properly be vested with, but we were met with the suggestion that it was too great a power. Now, here is subsection 2 of 41:

The commissioner shall consider the application, and, if after inquiry he is satisfied that the allegations contained therein are correct, then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in Canada, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the commissioner may—

Not refer it to the Exchequer Court but may do something himself, and to find out whether he is going to do that something or not, the case has to be proved before him. How does he do it? I suppose a court, as the minister suggested, would be required in connection with the last section. Witnesses come before him, are examined pro and con, and when all that is done and satisfactory reasons are given the commissioner then comes to a decision. It is not a case of a prima facie proposition in which he refers it to the Exchequer Court, or dismisses it; he

reaches a decision. Now what is the difference between this and my contention in connection with the last section? Absolutely none except with regard to perhaps highly technical cases. They impress me, I admit. In some very difficult cases it might lead to a prolonged investigation. It will lead to that anyway before the Exchequer Court, and I should imagine the commissioner of patents ought to be just about as well able to dispose of matters respecting patent rights as a judge of the Exchequer Court, who may be very able, but is not, at all events, confining his attention to one line all the time as the patent commissioner is. So here in this section we have adopted what was rejected in the last. I can see no reason whatever for its rejection except in technical cases.

Mr. STEVENS: The minister must realize the sanity of my hon. friend's suggestion—sanity that is in comparison with the obvious—what shall I say—not insanity, but bordering on it of these two sections when one is compared to the other. Not only is what my hon. friend (Mr. Boys) has said true, but it will be noted that the power given to the commissioner in this section is to revoke a patent, cancel it, to take from a man all rights he has in it. It is the ultimate power, one might say. But not only that, the commissioner must be in a position to understand all the details of all treaties of this country with other countries. This is a power infinitely wider than the power in section 40. Perhaps we had better have the two sections stand until after six o'clock in order to have them harmonized. Let the powers whatever they are be the same in both cases and run in some degree of harmony.

Mr. ROBB: How would it be to pass this section? Then we shall have a precedent for what is suggested by my hon. friend for Simcoe.

Mr. STEVENS: We will have to look at the powers of appeal.

Mr. McMASTER: The section provides for power of appeal.

Mr. STEVENS: That ought to make this section a model for the other.

The CHAIRMAN: Shall subsection 2 carry?

Mr. BOYS: If this carries with a view to amending section 40 to meet it, I can understand it, but surely you do not want one section contradicting the other. I think the committee has to decide whether you are going to have a commissioner in the patent office who is to have responsibility com-