

sioner may with the approval of the minister, instead of hearing and determining the matter himself, refer the petition to the Exchequer Court, which shall have jurisdiction in the premises and may make such order thereon as the commissioner is authorized to make under this section.

And by adding the following sub-clause to said clause 40:

(2) Any decision of the commissioner under this section shall be subject to appeal to the Exchequer Court.

Section as amended agreed to.

Mr. ROBB: Will you refer back, Mr Chairman, to clause No. 5? In view of the extended powers just given under this amendment it is necessary to add to clause 5 another section. Therefore I beg to move, seconded by the hon. member for South Simcoe (Mr. Boys):

That clause 5 be amended by adding thereto the following subsection:

(2) For the purposes of this act the commissioner shall have all the powers that are or may be given by the Inquiries Act to a commissioner appointed under part 2 thereof.

Amendment agreed to.

Section as amended agreed to.

Mr. ROBB: Mr. Chairman, I desire to refer to section 61 and to move, seconded by the hon. member for South Simcoe (Mr. Boys):

That there be added to section 61 the following clause:

In all cases where an appeal is provided from the decision of the commissioner to the Exchequer Court under this act, such appeal shall be had and taken pursuant to the provisions of the Exchequer Court Act and the rules and practice of the said court.

Mr. MEIGHEN: That amendment does not seem appropriate to section 61, which deals only with costs; it should be a separate section.

Mr. ROBB: It is an independent section.

Mr. BOYS: It was arranged in the conference I had with the commissioner that there would be a heading to it as well, namely, Appeals.

Mr. ROBB: That is marked on the order before the Chairman. The section will be No. 61a.

Section 61a agreed to.

Mr. ROBB: Mr. Chairman, it appears from the records before the law officers that section 21 was not passed as amended.

The CHAIRMAN: It was allowed to stand.

Mr. ROBB: I beg to move the following amendment:

That section 21 be struck out and the following substituted therefor:

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20. In case of conflicting applications for any patent, the same shall be submitted to the arbitration of three skilled persons, two of whom shall be chosen by the applicants, one by each, and the third of whom shall be chosen by the commissioner; and the decision or award of such arbitrators, or of any two of them, delivered to the commissioner in writing and subscribed by them or any two of them, shall be final, as far as concerns the granting of the patent.

2. If either of the applicants refuses or fails to choose an arbitrator, when required so to do by the commissioner, and if there are only two such applicants, the patent shall issue to the other applicant.

3. If there are more than two conflicting applications, and if the persons applying do not all unite in appointing three arbitrators, the commissioner may appoint the three arbitrators for the purposes aforesaid.

4. The arbitrators so named shall subscribe and take before a judge of any court of record in Canada, an oath in the form following, that is to say:—

"I, the undersigned (A.B.), being duly appointed an arbitrator under the authority of the Patent Act, do hereby solemnly swear or (affirm, as the case may be), that I will well and truly perform the duty of such arbitrator on the conflicting applications of (C.D. and E.F.) submitted to me."

5. The arbitrators, or any one of them, when so sworn, may summon before them any applicant or other person, and may require him to give evidence on oath, orally or in writing (or on solemn affirmation if such applicant or person is entitled to affirm in civil cases), and to produce such documents and things as such arbitrators deem requisite to the full investigation of the matters into which they are appointed to examine, and they shall have the same power to enforce the attendance of such applicants and other persons, and to compel them to give evidence, as is vested in any court of justice in civil cases, in the province in which the arbitration is held.

6. The fees for the services of such arbitrators shall be a matter of agreement between the arbitrators and the applicants, and shall be paid by the applicants who name them, respectively, except those of the arbitrator or arbitrators named by the commissioner, which shall be paid by the applicants jointly.

Mr. BOYS: The commissioner is now taking more responsibility under the amendments that have been agreed to. So why not let him take this degree of responsibility in connection with conflicting applications? Possibly they would be even more appropriate for his attention in the first instance than some other matters. I really thought that was understood, although I admit it was not discussed this morning between myself and the commissioner. The other day we discussed the arbitration features in the old act and it was generally agreed that they were very cumbersome and led to great delay and unnecessary expense. I would suggest that the section should provide that in cases of conflicting applications for any patent the commissioner should first determine the matter, subject to appeal to the Exchequer Court.

Mr. ROBB: The commissioner assures me that it is proposed to simplify the regulations and provide for this.

Mr. BOYS: In view of the statutory provision here that the commissioner must send