

*Patents of Invention*

Sir HENRY DRAYTON: Surely if my hon. friend thinks that arbitration is not satisfactory—and we all agree that it is not—he will admit that some indication should be given to the Exchequer Court as to what the department's views are. That is practically all that is asked. I hope that my hon. friend will think this over before he comes to a conclusion.

Mr. ROBB: We will let it stand.

Mr. BOYS: Does the act provide for two courses, one by arbitration and the other direct to the Exchequer Court? If so, it must be by amendment, for it is not in this.

Mr. ROBB: It is provided for in the Exchequer Court Act.

Mr. BOYS: Section 20 provides for the disposition of conflicting applications, and they are to be disposed of under that section by arbitration. As the section is to stand over I shall not prolong the discussion, but I do not want the minister to think that in making the suggestion I did I was trying to provide work for lawyers. I had no such thought in my mind; quite the reverse. I was trying to simplify and improve the procedure for those seeking patents. If you want to make it expensive and cause delay and inconvenience, all you need do is go back to section 20 and adopt the cumbrous process of arbitration, which lasts very much longer, costs very much more, and half the time when one of the parties is dissatisfied it is not very difficult for him to upset the award.

Section stands.

On section 22—What patents shall contain and confirm, etc:

Mr. ROBB: No change.

Section agreed to.

On section 23—Patents for inventions by persons in public service, etc.:

Mr. ROBB: This clause has been added to the bill at the request of the Honorary Advisory Council for Scientific and Industrial Research. It refers to patents for inventions made by scientists employed in the public service in the course of their employment. While allowing the inventor to obtain patents for such inventions, it establishes the rights of the public therein and conserves the same.

Mr. BOYS: A moment ago there was an effort apparently to escape from responsibility on the part of the commissioner; in this section we have the converse. Under

[Mr. Robb.]

subsection 2 he is given absolute jurisdiction. It is debatable if there should not be a right of appeal.

Mr. ROBB: We will let that stand for consideration also.

Section stands.

On section 24—Form of issue:

Mr. ROBB: That is the old clause.

Section agreed to.

On section 25—Term limit:

Mr. ROBB: That is the same clause as in the old act.

Section agreed to.

On section 26—Issue of new or amended patents:

Mr. ROBB: There is an amendment to this clause by adding after the word "date" in the eighth line of subclause 1 the words "or within one year from the passage of this act."

Mr. McMASTER: Mr. Chairman, I suggest this with diffidence because I am not sure whether there will be any objection to it, but is there any objection to giving the right to a patentee to ask at any time during the life of his patent for the correction of clerical or typographical or other obvious errors? I have had placed in my hands a memorandum concerning this act, in which the author says:

In view of the fact that this section limits the period for re-issuing patents to four years, it seems advisable to add a paragraph by means of which minor errors may be corrected any time during the life of the patent. The following is suggested:

"(5) Any time during the life of a patent a patentee may make petition to the commissioner for the issue of a certificate of correction, and if the commissioner is satisfied that the correction desired to be made relates to a clerical, typographical or obvious error, the correction of which will not alter the scope of the patent, the commissioner shall, upon payment of a fee as hereinafter provided, issue a certificate of correction in duplicate, one copy of which shall be attached to the patent under the seal of the Patent office and become a part thereof, and the other copy of which shall remain of record in the Patent office, and after the issue of such certificate the patent shall be read as corrected by such certificate."

I am not sufficiently familiar with patent practice to say whether a case like this often occurs, but the suggestion seems to be a reasonable one.

Mr. ROBB: On the face of it it sounds reasonable, but in practice it might lead to abuses. It is very hard to determine what is really a clerical error, and the experience of the department is that it is better not to accept the suggestion.