

*Patents of Invention*

That is the English provision. Nothing could go further than that.

—Provided that, in considering the question of equality of advantage, the commissioner shall take into account any work done or outlay incurred by any previous licensee with a view to testing the commercial value of the invention or to securing the working thereof on a commercial scale in Canada.

That is paragraph (a). Could anything be clearer? It meets the very condition that has been suggested to the committee. Then we come to paragraph (b), and these are the steps:

(b) If the commissioner is satisfied that the invention is not being worked on a commercial scale within Canada, and is such that it cannot be so worked without the expenditure of capital for the raising of which it will be necessary to rely on the exclusive rights under the patent, he may—

Do so and so. That is to provide for a case in which it becomes very difficult to raise the necessary capital to enable the patentee to reap the fruits of his invention.

(c) If the commissioner is satisfied—

Will the committee please consider this carefully?

—that the exclusive rights have been abused in the circumstances specified in paragraph (f) of subsection 2 of the last foregoing section, he may order the grant of licences to the applicant and to such of his customers, and containing such terms, as the commissioner may think expedient.

Mr. FACTOR: Would that entitle the commissioner to fix the price of a patented article?

Mr. BENNETT: This is to avoid the very constitutional difficulty that is mentioned. It fixes the royalty and provides for a reasonable profit and price.

Mr. STEVENS: Limited to paragraph (f).

Mr. BENNETT: Then paragraph (d) states, and this is the gravamen of the whole thing:

If the commissioner is satisfied that the objects of this and the last foregoing sections cannot be attained by the exercise of any of the foregoing powers, he may order the patent to be revoked, either forthwith or after such reasonable interval as may be specified in the order, unless in the meantime such conditions as may be prescribed in the order with a view to attaining the objects of this and the last foregoing sections are fulfilled—

Which of course involves, so far as we may constitutionally exercise the power, the price.

—and the commissioner may, on reasonable cause shown in any case, by subsequent order extend the interval so specified:

[Mr. Bennett.]

Provided that the commissioner shall make no order for revocation which is at variance with any treaty, convention, arrangement, or engagement with any other country to which Canada is a party.

Is there any hon. member who can do less than that or more? There are the steps: first, the abuse; second, the complaint; third, the adjudication; fourth, the direction to do whatever may be necessary to remedy that abuse, and lastly, if there is failure to remedy the abuse in the manner indicated, then there is revocation. As the minister very properly pointed out, revocation is a very serious matter, one to which people do not have recourse except in the very last resort. This legislation, following the English act, provides that if there is a recalcitrant patentee, one who insists on continuing his abuse in utter disregard of the consuming public, he shall suffer the results of his action and have his patent revoked, not willy-nilly in the first instance, but if necessary he is given thirty days or sixty days or six months, with power to the commissioner to extend the time.

Then the commissioner has this power:

(e) If the commissioner is of opinion that the objects of this and the last foregoing sections will be best attained by making no order under the above provisions of this section, he may make an order refusing the application and dispose of any question as to costs thereon as he thinks just.

That, you will observe, is a complete code to deal with a recalcitrant person, to use the language of the English Act, or a domineering patentee, or an unthinking patentee or an undesirable patentee, one who has no sense of public duty and obligation. You have a code as complete as you can possibly get.

Then section 67:

1. In settling the terms of any such exclusive licence as is provided in paragraph (b) of the last preceding section, due regard shall be had to the risks undertaken by the licensee...

Without going into that, and the contents of the application, and the duty of the commissioners to adjudicate and matters of that sort, I say only this: it will be observed that under the terms of this statute there is a code provided to meet the very grievances to which attention has been directed. That code is the code which was adopted by Great Britain after the convention, and we have adopted it in terms, because we were bound by the convention not to insert in our statute any provisions which were at variance with the treaty we made. It is perfectly true, as the hon. gentleman pointed out, that there has been a period of six or seven years in which there has been complete and utter disregard