

And then on pages 300 and 301, the learned author says; and I find this interesting:

It cannot, however, be contended that an inventor has any natural, or even a moral right in his invention, for he does not create in the same sense as an author does. The distinction between the production of a great literary composition and the discovery of a great invention is made apparent by a contrast of a play of Shakespeare (Hamlet, for instance) with a world revolutionizing invention such as the steam engine of Watt. Had Shakespeare never written Hamlet, it is practically certain that the play would never have existed, and the literature of the world would undoubtedly have been the loser; but had Watt never lived, it can scarcely be doubted that the vast superiority of the plan of condensing the steam in a steam engine in a separate vessel instead of in the cylinder would have been perceived and communicated to the world by some other inventor. It is evident that an inventor merely produces a new art. The law does not recognize any natural or moral right in the inventor to the exclusive use of the invention, and will not, except on certain conditions, attempt to guarantee him a monopoly in the profitable exercise of it.

I have already pointed out the absence in the picture of the original inventors, and I would even go farther and say that it is neither moral nor ethical to grant an extension to this company without protecting the rights of the original inventors.

Moreover, the company is out of court altogether, because I think it has abused its patent rights, as I shall explain in a few moments. There being no legal right as I have pointed out the applicants come to this house as if it were a court of equity. It is an old recognized principle in equity that one who comes to equity must come with clean hands. I may say that this company offends against this principle because on the information which I have received none of the articles patented are now, nor have they ever been manufactured in Canada. Section 65 of the Patent Act provides in sub-paragraph 2 as follows:

The exclusive rights under a patent shall be deemed to have been abused in any of the following circumstances:

(a) if the patented invention, being one capable of being worked in Canada, is not being worked within Canada on a commercial scale, and no satisfactory reason can be given for such non-working.

Mr. SMITH (Calgary West): I may say to the hon. member that so far I am with him, but I am wondering if he has the dates of assignment in order to bring it in line with his argument?

Mr. JAENICKE: I am sorry; I have not the dates.

Mr. SMITH (Calgary West): You do not know whether these people have had an opportunity of working the patents?

Mr. JAENICKE: My information is that they have had these patents since the original applications were made; in every case they were assigned at the time the patent was issued.

Mr. SMITH (Calgary West): They have had them for a long time?

Mr. JAENICKE: Yes. I have reason to believe that my information is correct when I make the assertion that neither one of these patents is being worked in Canada but the articles or devices which the patents protect have always been imported from foreign countries. This is an abuse of patent rights under our law and it is an abuse which affects materially our whole Canadian economy. At some time or another we should really look into this matter fully. In 1946, according to the commissioner's report, patents granted in Canada amounted to 7,412, of which only 495 were granted to Canadian residents, and of the 6,917 which were granted to foreigners, 5,845 were granted to residents of the United States. I may say that the picture in the United States is the very opposite, where the patents granted to United States residents amounted to 22,983, and only 1,655 were granted to foreigners.

When we were talking about the benefits of the public in connection with patents and patent rights, what public do we mean? Surely we refer to the Canadian public and to no other public. The public is very much concerned. May I point out that two of the patents have already expired, and consequently any rights under these are vested in the public, the Canadian public, which so far does not appear to have benefited because the devices and articles are not made in Canada.

I think it would be the most vicious precedent for us to create if we were to pass this bill.

I move, seconded by the hon. member for Winnipeg North Centre (Mr. Knowles):

That the word "now" be deleted and that the words, "this day six months hence" be added at the end of the question.

Mr. EUGENE MARQUIS (Kamouraska): Mr. Speaker, I wish to object to the present bill and to support the views of the hon. member for Kindersley (Mr. Jaenicke). Bill No. 16, to amend the Patent Act, 1935, was adopted by this house a short time ago. It was discussed at length in the standing committee on banking and commerce and general provisions were adopted in so far as the dura-