

any other suggestion, as one which would meet what I regard as a grievance on the part of the people of this country.

Let me say that I at least know, and I think other members know, that a great many concerns who are manufacturing goods affected by patents in Canada find themselves subjected very frequently to an overbearing attitude on the part of those who control patents, as in the case of electric light bulbs and, I am told, in many of the additions to the radio. By the way, that abuse was very prevalent a few years ago though it was substantially corrected after investigation under the Combines Investigation Act. Though the act was not applied, there was an investigation, and the mere publicity given by that investigation induced those who were manufacturing radios to lower their prices substantially. No law or authority was invoked to compel them to do so, but the publicity forced their hand. Now all I suggest here is that this amendment would be a simple and reasonable way of meeting what many people consider a very serious grievance. If on the other hand the government feel that it is a gross violation of some sacred international undertaking, far be it from me to cause any international complications because of it. I am content to wait and allow the act to go through and be put into operation, and I am satisfied that when this house reassembles there will be an opportunity of dealing with this matter. I am confident of this, that in the interim the force of it, the fairness of my proposals, and the extent of the injustice which the people are suffering will be brought more vividly to the attention of the house than perhaps I have been able to bring the subject.

Mr. BENNETT: I propose to indicate to this committee that the grievance to which the hon. gentleman has directed attention is covered by the legislation now before the house, and not only covered but covered most adequately and most fully. The provisions that have been inserted in the statute are to meet the very cases to which attention has been drawn, and I trust the committee will pardon me if I direct attention to what the provisions of the sections were intended to meet. Section 65 contemplates that when a patent is granted in Canada operations under that patent shall be carried on in Canada. Now that was much discussed during the war. It will be recalled that Mr. Lloyd George made certain observations with respect to that before the convention met in 1925. If the committee will bear in mind that section 65

[Mr. Stevens.]

is placed in this statute to ensure that Canadian workmen will be employed in the manufacture of patented articles under patents granted by the Dominion of Canada, they will realize what the foundation of the remarks I have to make may be with respect to that section. If hon. gentlemen have before them the section they will observe that the language used by the hon. gentleman who has just taken his seat was "infringement". The language is not infringement but abuse:

The Attorney General of Canada or any person interested may at any time after the expiration of three years from the date of the grant of a patent apply to the commissioner, alleging in the case of that patent that there has been an abuse of the exclusive rights thereunder and asking for relief under this act.

Now what constitutes abuse? Abuse is defined by the statute itself—not infringement but abuse:

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

That is, there has not been an infringement of it but an abuse. Now what are the factors that constitute abuse, if the commissioner is determining whether or not there has been an abuse? The next paragraph:

(a) If the patented invention is being one capable of being worked within Canada is not being worked within Canada on a commercial scale....

That constitutes an abuse—there is a proviso. Instead of (b) meaning what is suggested it means nearly the opposite:

(b) If the working of the invention within Canada on a commercial scale is being prevented or hindered by the importation from abroad of the patented article by the patentee or persons claiming under him....

That is, if there is not being produced in Canada the patented article as provided for by statute and goods are being imported instead of being made in Canada, that is an abuse—an entirely different thing; not an infringement but an abuse, the language being of course that this constitutes an abuse. In other words, an effort is being made to secure the production in Canada of the patented article, and if instead of its being produced in Canada it is being imported from abroad, then that constitutes an abuse of the patent. Could anything be clearer than that?

—or persons claiming under him, or by persons directly or indirectly purchasing from him, or by other persons against whom the patentee is not taking or has not taken any proceedings for infringement.

Those are three things, as the committee will observe, without my going into them at any length, that constitute abuse, the purpose