should be given from his decision to the Exchequer Court in accordance with the practice set out in the Exchequer Court Act.

Mr. GUTHRIE: Upon the suggestion of the hon. member for South Simcoe (Mr. Boys), I am going to move as an amendment—

Mr. ROBB: Before my hon. friend moves his amendment, we propose to amend this clause 21. We propose to strike it out and to substitute the following, really the present law.

Mr. GUTHRIE: The present clause is one to which, I think, great objection has been taken. It is the old arbitration clause. It provides that where there is any conflict between applicants for a patent, three arbitrators shall be appointed. The machinery is very cumbersome and the proceeding is very often long drawn out and expensive. I agree entirely with what the hon. member for South Simcoe says. We have a Commissioner of Patents. In the vast majority of cases, he can decide as between conflicting claims, and I am satisfied that his decision will be accepted in the great majority of cases. But at the same time I believe there should be an appeal from his decision. That is the view of many public bodies in the country and people interested in the question of patents, and an amendment has been prepared along that line. Upon the suggestion of the hon. member for Simcoe, I move:

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

(1) In case of conflicting applications the commissioner shall determine the right of the applicants to receive a patent or patents for the invention involved.

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

That simplifies the procedure very much. That will avoid delays consequent upon arbitration and also save the expense of arbitration. As I say, in the vast majority of cases the decision of the commissioner will be the one accepted. In very important cases there will no doubt be appeals.

Mr. ROBB: Before the hon. member presses his amendment, may I point out that the present method which we propose gives an option either of arbitration or of appeal to the Exchequer Court. The proposition my hon. friend makes means additional expense in the administration of the department. It will mean an additional staff in the office and more lawyers, with possibly more delay. What the hon. member is suggesting really is that we set up a court in the patent office. We have the Exchequer Court now which is proving satisfactory; and there is the option either of appeal to that court or of recourse to the board of arbitration.

Mr. STEVENS: That is not the point at all. The minister surely does not mean to suggest that the commissioner has any knowledge of these applications. When applications are made, if there is any conflict they must be submitted to the commissioner before he can notify the parties according to the section, that they must go to the Exchequer Court. So that what he certainly ought to do would be to give his decision, having had the two applications before him, and then there could be an appeal. I cannot for the life of me see how that would involve a larger staff. As to adding to the staff by engaging lawyers and holding court, that is not the idea that either my hon. friend or I have in mind. We simply suggest that the commissioner, with his practical knowledge of patents, and having perhaps a wider knowledge of this business than any other man in Canada, should decide what in his opinion is right as between two conflicting applicants.

Mr. ROBB: But he cannot possibly decide before hearing fairly the evidence from both sides.

Mr. STEVENS: It is not a question of evidence; it is a question as between two applications.

Mr. McMASTER: I rise to support the proposal that the cases should not be flung into the Exchequer Court before the commissioner has given a first decision. I agree with what has been proposed, but I believe that it might be wise to indicate the procedure which should be followed by the commissioner when there are two applications in conflict. I understand that the proper term is that they are in interference; that is to say, the claims made by each applicant conflict. I propose that we should follow the procedure which is observed in the United States in this regard. In view of the close business relationship that exists between the two countries I think it is not unwise to have our procedure in our patent office follow on not dissimilar lines from the procedure in the American office. What they do there is this:

In case of conflicting applications the commissioner shall determine the right of the applicants to receive a patent or patents for the invention involved.

The commissioner has had the thing before him; he is conversant with the matter before the conflict arises. What I want to bring before the committee is the procedure that should be followed to carry out the proposal