

*Patents of Invention*

Mr. FORTIER: The clause would then read:

The applicant for a patent shall, for the purposes of this act, mention his domicile.

If he is resident in this country he will give his Canadian address and if he lives outside he can elect his address there for the purposes of the act.

Mr. PUTNAM: I agree with the hon. member. I care not whether the language is new or old, it is an anomaly to say that a man may elect his domicile.

Mr. McMASTER: That may be an anomaly under English practice, but it is not an anomaly under the practice of the civil courts of Quebec, where people constantly elect domicile for the purposes of contracts, or specifying the place at which legal papers may be served upon them.

Mr. RYCKMAN: I wish to make myself clear on this point if I can. I object to the word "domicile" being used to apply to an applicant who is not resident in Canada. "Domicile" is derived in two ways. You have an actual domicile where you live and are well known to reside, in short where you sleep at night; and you can elect another one, so long as you use it as the place where you reside, in other words where you sleep at night. There are questions of taxation that arise, and there are also questions in divorce court proceedings that come up in the United States; and there is many an applicant for a patent from Canada who is unwilling to have himself described as taking the first step towards acquiring domicile by election. He might find out when he had effected domicile that he was held to reside in that place and therefore came within the tax law or the divorce law of that country. Let us consider the case of an applicant for a patent in Canada who elected his domicile, for reasons best known to himself, in the city of Montreal. Suppose divorce proceedings should take place in one of the United States, Nevada, for instance, and he should be on the witness stand. If he were asked to state his domicile, which is a most important matter, he would give the address of the place where he resided, wherever it might be. But someone would confront him with the statement made by him over his own hand that he was domiciled in Canada. The thing is simply inconsistent; the word "domicile" is not strictly applicable in this connection; it is a heritage, a vestige of the past. Let us make it plain that the applicant for a patent in Canada shall give a specific address where he can be reached by any communication that

[Mr. Robb.]

might be addressed to him; and let us provide further that in case he is not reached at that address there will be someone there empowered to receive communications on his behalf.

Mr. MARTELL: I thoroughly agree with what has been said by the last speaker. If you leave the word "domicile" in the section you will simply leave it open to a great deal of legal argument. Anyone who has studied law knows that the law of domicile is one of the most perplexing of legal questions. We are told by the law lecturers and the text books that in order to establish domicile a person must have the animus manendi without the animus revertendi.

Some hon. MEMBERS: Oh, oh.

Mr. MARTELL: It is all very well for hon. members to say "oh, oh" but if they do not know what the law is I cannot help that. That is the sort of law we got in Nova Scotia, the good old English law.

An hon. MEMBER: They do not understand the Latin.

Mr. MARTELL: Well, I cannot help that. The principle is that the man must have the mind to remain in a certain place and not the mind to return to the place from which he came. That is not the intention in this act. A man may be a United States citizen and may wish to secure a patent in Canada. But it is not necessary in order that he may get it that he should be domiciled in Canada; and it seems to me that the whole intention of the act is to have him designate some place in Canada where all legal documents or anything appertaining to the patent might be served on him. When the minister inserts the word "domicile" he does not realize the trouble he is laying up in store for the courts in the future; it is simply opening the door to endless litigation. I would suggest that the minister strike out the word "domicile" and insert instead the word "residence," or other words indicating some place where legal process could be served upon the applicant.

Mr. ROBB: If we do that we shall be striking out words that have been in the act for fifty years.

Mr. HANSON: That is no reason at all; it is the weakest argument. I agree with the learning exhibited by the hon. member (Mr. Martell). He was brought up in the same legal school as myself—

Mr. MARTELL: A good one, too.

Mr. HANSON: —and he recalls pleasant memories. However, joking aside, he is