

DIVERSITY OF PATENT LAWS

Patent law in the British Empire is discussed in the recent report made by the Dominions Royal Commission. In the United Kingdom anyone who imports an invention from abroad, provided that it is not in use in the United Kingdom, may obtain a patent, but any hardship that might arise from this provision is modified by the adherence of the United Kingdom to the International Convention for the protection of industrial property, under which an inventor in any country adhering to that convention is allowed priority over other applicants during a period of one year from the date of his foreign patent. Australia and New Zealand expressly refuse protection to imported inventions. The United Kingdom and most of the dominions admit to protection the assignee or legal representative of an inventor, but in Newfoundland only the assignee is given protection, and then subject to conditions.

The report says:—"There is divergence as to opposition to the grant of patents. Newfoundland provides no machinery for this. Canada allows opposition only in case of conflicting applications. In the United Kingdom, Australia, and the Union of South Africa, there are many and different grounds, and in New Zealand there are no limitations to the grounds of opposition.

Life of Patent.

"In Canada the life of a patent is 18 years, in the United Kingdom and all the other Dominions 14 years. The provisions for, and periods of, renewal differ widely.

"In the United Kingdom a patent may be revoked after four years for non-working. This provision was complained of in evidence before us in London, and the complaints were supported both in New Zealand and Australia. In Canada and Newfoundland a patent is void after two years if not worked, whilst Canada has also a provision under which a patent is voided if the patented article is imported into the Dominion by the patentee after the expiration of one year (subject to extension) from the date of its grant. In Australia and New Zealand, if working is not satisfactory, the court may by order allow a patent to be worked by others than the patentee but without revocation. In the Union of South Africa revocation in consequence of non-working is allowed after three years.

"The United Kingdom, Canada, Australia, New Zealand, and the Union of South Africa make provision for the grant of compulsory licenses by the patentee if the competent government authority is not satisfied with his working; Newfoundland makes no such provision.

As to Fees.

"Witnesses in the United Kingdom dwelt strongly on the question of fees and the heavy cost of full protection. This cost was set down in 1912 at £289 for the United Kingdom and all the Dominions, but has since been reduced to £166 by recent legislation in the Union of South Africa. Even so, the case is not so bad as these figures would make it appear, because the total sum is only payable when an inventor wishes to protect his invention throughout the self-governing parts of the Empire for the full life of the patent. What an inventor needs most is protection from the dangers of early publicity, and he can obtain provisional protection in the United Kingdom and all the Dominions for a much lower sum.

"The laws of Australia and New Zealand already resemble those of the mother country in essentials with regard both to provisional and complete specifications whilst the recent legislation of the Union of South Africa is also similar to that of the United Kingdom. Canada does not appear to contemplate provisional specifications, but allows the intending applicant for a patent who has not perfected his invention to file a description of his invention so far as it has proceeded and this filed document (called a 'caveat') gives him protection for one year. Newfoundland does not provide for provisional specification or caveat, but gives protection for six months from the date of delivery of specification.

"In view of the divergences between existing legislation, some of which, but by no means all, we have sketched above, and of the number of legislative authorities amongst whom agreement would need to be sought, immediate uniformity seems impossible. It has been suggested to us by witnesses that, if an invention has been patented in any of the self-governing parts of the Empire, it should be patentable in all parts on payment of search fees, but the fees payable for full protection are now so low that there would be no practical gain in the adoption of this suggestion.

"In the United Kingdom the renewal fees are heavy, but, as was pointed out to us in evidence, it is only reasonable that a patentee should pay more heavily for the continued right to exploit a market of 45 million persons than for that of exploiting the smaller markets of the Dominions.

"We do not think that the question of fees is one in which reform is most urgently required. There are others on which action is more needed, and also immediately practicable. These we may classify as follows:—(1) The legislation now in force in Newfoundland is somewhat out of date and could be remodelled with advantage. We hope that the necessary steps may be taken. (2) Efforts should be made to arrive at uniformity in the United Kingdom and all the Dominions with regard to compulsory licenses and revocation for non-working.

"In our judgment the Australian and New Zealand system, which we have described above, is the most satisfactory. This system should be combined with clauses for compulsory licenses.

Uniformity Without New Legislation.

"(3) Even without new legislation it should be possible to secure complete uniformity in the mother country and the self-governing dominions in regard to:—(a) the forms that have to be filled in when a patent is applied for; (b) the declaration to be appended to those forms; (c) the specifications and drawings required; (d) the amount of protection obtained by acceptance of provisional specifications. Much useless expense and trouble would be saved by uniformity in these respects. (4) Legislation is desirable to secure uniform duration of patents."

STEEL NOT AVAILABLE FOR SHIPS

Canada will not be in a position to build steel ships for at least two or three years. This was a statement of Mr. Mark Workman, president of the Dominion Steel Corporation, at Montreal. He added that scarcity of steel was the chief cause.

The entire output of steel from the Dominion Steel Corporation's plant had been contracted for by the Munitions Board up to the middle of 1918, and the chances were that this contract would run into 1919.

Some criticism has been directed at the officials of the corporation because of the sale of a ship plate mill some months ago to United States interests. Mr. Workman, when asked regarding this, explained that the plant sold was incomplete, and that it would be impossible to make ship plates from it.

No Raw Material.

He pointed out that he thought it had been purchased some seventeen years ago, had never been operated nor installed. He added that a plant properly equipped to manufacture ship plates would require an expenditure of something like \$2,500,000, and the plant sold had been purchased for \$70,000.

Going further into the prospects of steel shipbuilding here, Mr. Workman said that it would be an absolute impossibility for the Steel Corporation to operate a plate mill at the present time, even if they had one on the ground, because of their inability to secure raw materials. The corporation has a rail mill lying idle because sufficient ore cannot be obtained to operate it.

Extensions Cost \$5,000,000.

"The Canadian Government Railways, the Canadian Pacific and the Grand Trunk are all crying bitterly for rails, but we can do nothing to help them as shell requirements just about exhaust our product," he said.

To increase the steel output they would have to start at the ore output from the mines. Additional furnaces would have to be installed, as well as new coke ovens. Work is at present well advanced on these extensions, and the corporation is spending this year something like \$5,000,000 in extensions and improvements at Sydney, but this increased output is all provided for in contracts already made with the Munitions Board.

"These extensions will require a great deal of additional labor and it will be another question whether we can secure this or not," he concluded.

Shipyards are Busy.

Sir George Foster in a statement in parliament last week said:—

"Every shipyard in the Dominion of Canada which is able to build ships and is equipped therefor has not only the opportunity but has the actual contracts for building every