

## THE PATENT ACT AND SOME IMPROVEMENTS

Mr. Babcock Makes a Further Suggestion Aiming at the Improvement of Present Regulations

### SINGLE CONTINUOUS TERM

Enumerates Advantages Which Would Arise From Substitution of Proposed System For One Which Is in Practice at Present.

Following his two articles on the Patent Act, which appeared in the last two numbers of the Journal of Commerce, Mr. W. S. Babcock follows to-day with a third, in which he suggests the substitution of a single, continuous term of 18 years with payment of entire fee at time of filing, in lieu of the divisional term with installment payment. The advantages of this Mr. Babcock says would be:

1.—A considerable total net increase in the revenues of the Patent Office annually.

2.—A much greater certainty in the continuance of the protection to the inventor.

3.—An absolute certainty as to an ample period of time to enable introduction of the improvement.

4.—A considerable saving in the clerical work of the record division of the Patent Office.

5.—Abolishment of private bills for reinstatement of patents forfeited for non-payment of fee installments.

5.—A great encouragement to inventors and industrial development.

According to the present Patent Act, an applicant for patent has a choice of paying \$20.00, \$40.00, or \$60.00 government fee at the time of filing his application. If he pays \$20.00, as about 99 7-10 per cent. do, then before the expiration of six years from the date of grant of the patent, he must pay a further fee of either \$20.00 or \$40.00. If he pays \$40.00 on filing the application, then he must pay a further fee of \$20.00 before the expiration of the 12th year from the date of his patent. No days of grace are allowed under any circumstances whatever. If he mails a cheque so that, in the normal course of affairs, it would reach the Patent Office a full week in advance, and the cheque is lost, that fact avails him nothing. If he is totally incapacitated through illness, insanity, or injury, such fact is of no assistance to him. If he does not pay within the time allowed, whether he is able or not, his patent rights cease at the end of the period within which payment should have been made. Besides the cases of practical impossibility of payment of the second or third installments of fees within the periods allowed, there are a very large number of cases where the time for payment is passed by through misunderstanding or confusion of dates, and many others of pure oversight. As shown by the last report of the Commissioner of Patents for April 1st, 1909, to March 31st, 1910, during the 12 months covered by the report, 7,197 patents were granted with the payment of only the first installment of the government fee. There were 5 granted with payment of the first two installments, and 14 granted with payment of all three installments. From April 1st, 1908, to March 31st, 1904, 6,209 patents were granted with about the same proportion of first installment of government fees paid. The second installment of these fees would fall due between April 1st, 1909, and March 31st, 1910. From April 1st, 1908, to March 31st, 1910, second installments were paid on 1,010 patents. In other words, second installments were paid on less than one-sixth of the issue of the year April 1st, 1908, to March 31st, 1904, so that more than five-sixths of the patent rights granted in the official year 1909-04 were lost to the patent owners at the expiration of the sixth year of the life of the patent. The same is true as to other years. The one particular year selected is taken here because it is representative of existing conditions, and because the necessary data is readily obtainable. The main object of a patent is, of course, to eliminate competition for a limited period of time, in favor of the patentee. In exchange for this protection the inventor agrees to turn over his invention to the public at the expiration of the life of the patent. Necessarily the period of protection must be of such duration as to fully enable the inventor to reap a fairly adequate return for the valuable improvement which he is later going to give up to the public. Such period has been variously estimated at 14, 15, 17, 18, and 20 years by a number of different responsible governments. Now, when the period has once been determined, it would seem advisable, and in the interest of all parties concerned, especially the manufacturing public, to make the period continuous and indivisible. By doing so, there would be no forfeiture of valuable rights as the result of natural confusion of dates, misunderstanding, or neglect. These causes of forfeiture are very common, and of every day occurrence. They fill the path of the unwary patentee with pitfalls. And it is notorious that the average inventor and patentee is unbusinesslike, and decidedly unwary in these matters. At present, the period for Canada is 15 years, broken up into three successive periods of 5 years each, with the patent rights forfeitable on the sixth and twelfth anniversary of the patent date, unless the second and third installments, respectively, are paid in to the Commissioner of Patents at Ottawa on or before the exact anniversary date. Not one day's grace is allowed under any conditions whatever. It may be argued that the applicant is given the option of a total payment for the whole period of 15 years, or a partial payment for 5 or 12 years, at the time of his application. This is perfectly true. However, such an option is of practically no value. It simply means that his option, very naturally, will almost invariably be exercised in favor of the first installment only. This is strikingly illustrated by the last report of the Commissioner of Patents. In that report it is clearly shown that out of 7,216 original patents, only 19 paid more than one installment of the fee, at the time of application. More than 99 7-10 per cent. of the applicants paid only the first installment. Thus, more than 99 7-10 per cent. of the patents and patentees are subject of the pitfalls and chances above pointed out. The result is disastrous to a very large proportion of this 99 7-10 per cent. and over.

Aside from these serious dangers, there are a great many cases where patentees become discouraged as a result of seemingly insurmountable obstacles encountered in getting their inventions on the market in such a shape as to get an appreciable return. Some of the most valuable inventions ever patented have taken considerably more than six years to get into profitable shape, involving the persistent effort of the inventor or patentee, and the expenditure of large sums, and leaving only a part of the full term for the reward of the inventor. In many such cases, the inventor becomes greatly discouraged. Suppose that during one of these periods

## GENEROUS RESPONSE TO APPEAL FOR AID FOR BELGIAN WAR VICTIMS

Cash Contributions and Gifts in Kind Has Been Coming in to Central Executive Committee Steadily.

Relief work for the victims of the war in Belgium is progressing rapidly. Contributions in money and in kind have been coming in regularly to the Central Executive Committee, of which His Royal Highness the Governor-General is the patron. This committee has already received \$126,701.53. In addition to this amount the Consul-General of Belgium has received \$21,451.15, while from other sources, including \$7,500 collected by the Montreal Board of Trade, there is a total of \$155,652.78, making a grand total of cash contributions of \$157,502.68. This does not include numerous donations received by local committees outside of Montreal. So numerous have been the contributions in kind that it has been found next to impossible to list them all in the pamphlet of public acknowledgment issued by the Central Committee. The personnel of this committee, the patron and vice-patrons are:

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### USING TELEPHONE LESS.

New York, November 5.—That telephone traffic has fallen off fully 15 per cent. in lower Manhattan and to some extent all over the city of New York on account of the general business depression consequent on the war, was stated by Frank N. Bethell, vice-president of the New York Telephone Company, who was called as a witness before the U. S. State Public Service Commission at a telephone hearing.

of discouragement he either forgets or neglects to pay the next installment of the fee. With his protection at an end, the patentee, of course, ceases his efforts and what would have been of great value to him with a few years' more effort, and of much greater value to the public thereafter, becomes simply a dead letter and a heavy loss to the patentee.

Again, there are the most valuable of all inventions, those involving genius; inventions which strike out the path to new industries. It is on these inventions that the great majority of all other inventions are based, as improvements. Pioneer patents, these are aptly termed. At first, the great majority of these wonderful inventions are laughed at and treated by the public as huge jokes and utterly impossible. Witness: Fulton's steamboat, Stephenson's locomotive, Morse's telegraph, Bell's telephone, Edison's phonograph, Langley's flying machine, Seldons steam road wagon, (automobile), Marconi's wireless telegraph, etc., etc. It was only the indefatigable energy, backed by the unlimited faith of the inventors that finally resulted in the success of these wonderful inventions. The loss resulting from the lapse of any one of these pioneer patents before completion would be inconceivable. Yet, such might easily have been the same under the present system of payment of the government fee, where failure to pay second installment would involve forfeiture of the remaining 12 years' protection. It may be argued that in a case of such importance the injury could be cured by a private bill in Parliament. Such, however, is not the fact. The invention, at such time, appears to all but the inventor as an impossibility and therefore entirely unworthy of the consideration of Parliament. Furthermore, even to the inventor, its practicability yet remains to be demonstrated. In addition to these facts, is the very heavy expense involved. Thus, the remedy by private bill in Parliament is entirely impracticable in such a case.

Again, as a matter of business, it may be urged that it would not be practicable to grant a single undivided and continuous term of 18 years with the payment of a total fee of \$60.00 upon filing each application, because so large a government fee would discourage applicants, and a great many applications would not be filed. This is undoubtedly true. However, this fee could be so greatly reduced as not to be appreciably more burdensome than the present first installment fee of \$20.00, and even then show a very appreciable money increase in the receipts of the office. For instance, during the official year of April 1st, 1909, to March 31st, 1910, a total of 1,098 second and third installments were received, amounting to \$21,960. During the same period there were granted 7,216 original patents. If the first installment of the fee were increased to the extent of \$10 only, the increase would amount to \$72,160.00. Suppose that the second and third installments were cancelled, in view of this \$10 increase in the first installment. There would then be a set-off of \$21,960 against the increase of \$72,160, leaving a net increase of \$50,200, and giving to the patentee a continuous period of 18 years. Suppose the increase were only \$5, instead of \$10, there would still be a handsome net increase of \$14,100.00.

At the same time, a great saving would result in the clerical work of the Patent Office, and a proportionate saving would be made in the corresponding and rather unprofitable work of the various patent attorneys, and practitioners. A total Government fee of \$30 to cover the entire life of an 18-year patent, and made payable on filing the application, with the usual \$10 deduction in case of withdrawal of the application, would certainly not deter applicants from filing their applications. This would seem clear from the fact that a \$35 government fee in the United States (\$15 on filing application and \$20 when application is allowed) does not in the least deter Canadian applicants from filing United States applications, where the United States patent term is one year less—17 years, but continuous and indivisible.

## MOVING TOWARD AN ORDERLY RECOVERY

National City Bank Analyzes the Trade Situation in the United States

### PREDICTS PROLONGED WAR

Banks on Central Reserve Cities Have Restored Reserve and Money is Easier—Financial Crisis Has Disappeared With Growing Foreign Trade—Exchange Problem No Longer Disturbing.

New York, November 5.—Movement of business toward recovery in this country but probably long continued war in Europe are the two leading signs of the times seen by the National City Bank in its November letter.

"The progress of the war does not point to an early termination," it says. "The idea that the effectiveness of modern weapons and the costly scale of operations would force an early peace, has been generally abandoned. Exhaustion is a long way off for any of the combatants."

"Affairs in this country are moving in an orderly manner toward recovery. The banks in the central cities have restored their legal reserves, money is easier, fears of a financial crisis have disappeared, the foreign trade situation is better, a pool to lend money on cotton has been agreed upon, and the new banking system is nearer to doing business."

The grain and meat producing sections, are experiencing great prosperity and the purchases of horses, mules, automobiles and other war equipment and supplies by foreign Governments are assuming large proportions.

### Contributes to Financial Ease.

The Federal Reserve banking system, when in operation, will release a large sum in bank reserves, which should contribute to financial ease and thus aid in handling the cotton crop and in the efforts at trade extension in other countries. It is not to be expected that bankers will feel free at once to use these new reserves to the limit. They have been accustomed to regard these reserves as necessary to conservative banking and may want to become familiar with the workings of the new system before relying upon it for prompt support.

"The period of 1 per cent. interest on the Aldrich-Payne currency will begin to expire in November upon a large volume of issues and the banks will probably want to retire them. The opening of the Federal reserve banks will facilitate such retirement. These banks can take all of these notes and give the redemption bureau at Washington time to handle them without embarrassment."

The foreign exchange situation has improved. Of this and the gold pool the bank says:

"The gold pool has not been very active in its operations because it has acted upon the principle of making its stock of gold go as far as possible. The policy has been to supply gold for payments that must be made, but where arrangements, satisfactory to foreign creditors to avoid immediate remittances have been practicable, they have been made. The high rate of exchange in itself has encouraged this course."

### Situation is Threatening.

"These obligations, as already said, are owing by individuals, companies or corporations, and it should not be understood that they are in default or that the situation is threatening. Credits running into the millions of dollars have been accumulated by the New York banks to pay them and in many instances, by the direction of creditors, payment has been made into New York banks for the credit of foreign banks. Where payments are due abroad it is the duty of the debtor to stand the cost of transmittal, and to meet his obligation on time, unless he can arrange for an extension. Where the payment is due on this side, as in the case of securities sold on the New York Stock Exchange, the creditor receives his money here and the question of when and how to convert it into foreign funds is for him to decide."

The bank commends the \$35,000,000 cotton pool plan, saying of the cotton situation:

"It is estimated that losses under the pool will prove negligible and that the expenses will not exceed 1/2 of 1 per cent. of the amount loaned. "It now appears probable that some time during the coming month, probably the fore part, the New York Cotton Exchange will be re-opened for business. There is good reason to believe that the opening of the Cotton Exchange will have even a more beneficial effect upon producing a market for cotton than the formation of the pool above referred to."

### Canal Generally Underestimated.

"It now appears that the influence of the Panama Canal has been generally underestimated. The canal opened for business on August 15 and since that time 49 ships having a capacity varying from 6,000 to 12,000 tons, have been engaged in handling freight through it to the Pacific Coast."

"It appears that from as far West as Ohio and Indiana, freight is now moving in considerable volume by way of New York and the canal into Pacific Coast points. The all rail price for freight is 65 cents a hundredweight. By way of New York and the canal the freight costs 48 cents. Eighteen cents of this is consumed in charges from Ohio to New York and the balance, 30 cents, from New York to San Francisco via the canal."

The large developments of this traffic will depend largely upon the attitude of the Interstate Commerce Commission, says the bank, toward the application of the railroads to reduce rates from the seasonal competition zone to Pacific ports in order to meet canal competition, and at the same time to be permitted to maintain present interior territory rates.

### Apply for Higher Rates.

Of the application of the Eastern railroads for higher rates, the bank says:

"It is a fundamental mistake to assume that it is of no more consequence that the railways' business shall be remunerated than it is that and that individual business, which might be affected by an increase of rates, shall be spared. If the Government was to take over all of the railways and all of the industries and business establishments of the country, it would probably close many poorly located and ill equipped establishments, and at the same time put enough new capital into the railways to bring them up to the highest standard of efficiency. That would be economy for the industries of the country as a whole."

The only additional comment on the working Federal Reserve system by the bank is to point out that in its call for payment of reserves to the reserve banks the Federal Reserve Board directs payment in gold or lawful money, though the reserve act permits payment of half the reserves in commercial paper.

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## DIG BULK OF ORDERS HAVE BEEN ISSUED

Britain's Allies are Calling on Britain to Supply Them With Clothing for Armies

### BRITISH MILLS EMPLOYEES

Demand For Crossbred Wool and Tops Shows No Abating—Look to Cash For Early Supplies of Merinos, Wool Embargo Maintained.

As the war has now been in progress nearly a month, it may be assumed that by this time the British Government has given out the bulk of its clothing, and we know that these will keep many of our allies, on whose behalf probably a good many orders have yet to be placed. Belgium has no local manufacturing resources, and will naturally turn to us first if our manufacturers are able to supply. Unhappily, the chief centres of the French wool industry are in the war area or are actually captured by the enemy, so that France also is largely dependent on others, of whom we should again be first. Of course, large French orders placed here some weeks ago, but Lille and Roubaix had not then been devastated by the invaders, and the French Government was no doubt counting on the ability to supply the greater part of its needs at home. Only two or three weeks ago small consignments of wool from Roubaix were actually reaching Bradford when the Germans have made a second invasion into the district, which is now reported to be "a picture of the ruin of war."

There are few mills here capable of turning out army clothing that are not already employed to their fullest capacity, so that further orders for France and Belgium will have to wait a while. In fact, it is reported that one very large French order is being at the present time, as no manufacturer can be found who is prepared to take it. No doubt the French Government will do the best it can where, and French buying may in part explain some of the "bushy" boom in the United States, which seems inclined to credit wholly to Germany. The present United States is the only neutral country that can command wool enough for manufacturing a large scale, and manufacturers there will not be able to look after the home trade and supply France and Germany as well. Hence there is little to be worked for this district after the orders for British Government are completed, and the boom is not end March.

So far the demand for crossbred wool and tops shows no sign of abating. People must have it, and price is no object. Many qualities are practically unobtainable at all for delivery this year, and view of the uncertainty as to when the new supply will arrive topmakers are reluctant to quote January and February. There is understood to be very little Australian and New Zealand wool on water at present, and although sales are now proceeding it is impossible to count on getting the wool shipped promptly. The latest exploits of the embargo have caused a further advance in insurance rates, and it is probable that until this disturber of trade is brought to book the Australian boats will still be on the long Cape route.

It is to the Cape we must look for the earliest supplies of merinos. Cargoes by mail steamer cannot get here in three weeks, and Cape tows are being ordered for November-December delivery at comparatively reasonable prices. It will be noted that South African Government has prohibited the export of wool except to Great Britain. With regard to the embargo on the export of wool from the country, the point on which traders are now most anxious for information is how long it will be maintained. In the absence of this knowledge it is to be unsafe to sell to the home trade stocks which had been intended for export lest the embargo should be raised before they could be replaced and the buyers claim immediate fulfillment of the contracts. It is also difficult to fix up future business with customers abroad, as no definite date of delivery is promised. As regards the former point it is maintained until supplies are forthcoming in substantial quantities to bring about a substantial reduction of prices, in which case foreign clients will be too glad to consider the contracts cancelled, the meantime the home market offers the chance of a handsome profit.

### CATTLE QUARANTINE WILL NOT NOTICEABLY AFFECT PRICES

Chicago, November 5.—Big packers say that government's quarantine will not curtail their business noticeably affect prices. Only 10 per cent. of 1914 year's receipts here were shipped to foreigners. Investigations show no foot and mouth infection here.

Washington, November 5.—Quarantine regulations are in force over entire area of Michigan, Indiana, Illinois and Pennsylvania, and restriction on shipments from Ohio effective November 2nd. They apply to cattle, sheep and swine including also fiddle and animal products.

### A NOTABLE WINDOW.

The up-town St. Catherine Street district has been interested in a notable window prepared by the Montreal Light, Heat and Power Co. at the store. The display includes a full sized furnace right in the window, and the appearance of glowing iron is arrived at by having red lights shining through holes for fuel. It is a novel effect and created no little interest amongst hundreds who are considering what fuel to buy just now. The coke idea is explained by small cards and convincingly they are true in favor of coal over coal as fuel. The reason is many, the chief being the more heat per unit of coke cost per ton. All dealers have coke now, as they have also full information as to its worth.

### STEEL PRICES.

New York, November 5.—The Iron Age's report says the following changes in steel prices over 1 week are: Bessemer, Pittsburgh off 10 cents a ton. Open hearth, Philadelphia off \$1 a ton. Steel bars off 1 ton. Beams and sleep off \$1 a ton.

### NEW YORK EXPORTS.

New York, November 5.—Exports of general merchandise from New York Wednesday totalled \$46,515, a decrease of \$1,400,483, compared with Monday. Imports were \$5,847,521, increase \$1,024,987.