

import, is claimed in and covered by the patent; or that anyone who should use it, without the permission or consent of the respondents, would render himself liable to them in an action for infringement of the patent.

The process of further carbonizing the filament after it is introduced into the bulb, by passing an electric current through it while a high vacuum is maintained, as described by some of the witnesses for the respondents, as well as by Mr. Edison himself, is not anywhere described or claimed in the patent, and forms no part of it; on the contrary, it is the subject of another patent, obtained subsequently, by the same inventor, Mr. Edison, on the 5th July, 1881, under the number 13057, the fourth and fifth claims of which are as follow :—

*Fourth.* "The method of treating carbon conductors for electric lamps, consisting in enclosing the conductor in a glass case or globe, exhausting the air therefrom, heating the conductor by an electric current, and then hermetically sealing the glass case or globe."

*Fifth.* "The method of treating carbon conductors for electric lamps, consisting in enclosing the conductor in a glass globe, or exhausting the air therefrom, heating the conductor by an electric current to a higher degree than that at which it is intended to ordinarily raise the conductor in use, and then hermetically sealing the glass case or globe."

Here then the process is fully and explicitly described and claimed, and the use or employment of it cannot be invoked or relied on by the respondents, to sustain the patent now in controversy.

The next feature of importance, after the method of securing the platina contact wires to the carbon filament, as set forth in the *fourth* claim of the patent in contestation, is the glass globe or bulb referred to in the *third* claim, and is abundantly proved, and admitted by the respondents, that they have always, and still continue to import these, and have never manufactured them in Canada.

Some of the witnesses for the respondents state, that the carbon filaments and the glass

bulbs, are exceedingly difficult to manufacture, requiring great skill and judgment, and that they cannot be made in Canada, and that there is only one factory in the United States where they can be made to the satisfaction of the respondents, but this seems irreconcilable with the statement of these same witnesses in calling these articles raw material. Mr. Edison himself, in his affidavit, referring to the glass bulbs, says: "They are strictly of the character of raw material;" and in view of the fact also, that the records of the Patent Office show, that on the 23rd November, 1882, Mr. Edison obtained a patent for the process of manufacturing glass bulbs for incandescent lamps from pot glass. The allegation of inability to manufacture in Canada is no plea in defence of a Canadian patent, and it would be a singular misconception of the spirit of the law, if a patentee, probably holding a patent for his invention in the United States, or other foreign country, should suppose he could hold to his Canadian patent, declare his inability to manufacture it in Canada, ignore the fact he was thereby preventing any one else from engaging in the industry, and defeating the very object and intention of *The Patent Act*, enacted to encourage and protect home labor and manufacture.

The bamboo cane was, and continues to be, imported from Japan into the United States, by the respondents, in its natural state, and was there, by a series of manipulations or processes, reduced to a filament of required size and proportion, and was then further subjected to the very difficult and delicate process of carbonization, and in this state was imported into Canada expressly for use in the lamps.

The platinum, another component part of the invention, was, and still is, imported into the United States from Russia, by the respondents, and was there melted and alloyed with iridium, drawn into wire, and otherwise specially prepared, and then imported into Canada for use in the lamps.

I find that every essential feature, element, and component part of the invention was, and still continues to be, imported into Canada by the respondents, in a manufactured state, for the especial purpose of assembling