

Imperial Unity in Patent Laws

British Committees favor Uniform Patent Law for Dominions

London, March 25.

Two of the Government's committees appointed in connection with the work of industrial preparation for after-war conditions have reported on questions concerning patents and trade marks. These are the Engineering Trades' Committee and the Committee on Shipping and Shipbuilding.

In addition to advocating certain amendments in the existing laws, the committee on the engineering trades suggest that the Government should "think imperially" on the whole subject. They state:

"It has been suggested, and we approve of the suggestion, that it should be possible for the various self-governing portions of the British Empire to agree among themselves to harmonize their patent laws, so that an intended patentee might not find himself obliged to comply with a different set of conditions. It appears to us that there should be little or no difficulty in getting the representatives of the self governing Dominions to agree to such uniform practice. We suggest that advantage might be taken of the intended imperial conference to elicit the views of the representatives of the Dominions on this subject. There might, no doubt, be difficulty in harmonizing the Dominion laws with those of the United Kingdom, having regard to the difference in manufacturing conditions between different parts of the British Empire. Manufacture within the British Empire should, however, be accepted as sufficient to comply with any manufacturing clauses which might appear in such patent laws. If it were possible to arrange a similarity of fees, this also would be of great assistance to the patentee."

URGE UNITY ON TRADE MARKS.

Again they add, with regard to trade marks:

"The same remarks as to harmonizing the laws throughout the empire apply as to trade marks. Cases have been brought before us where the charges for granting trade marks have offered materially. There would seem to be no reason why a trade mark if granted should be more expensive to obtain in one part of the empire than another. We are not suggesting that the grant of a patent or trade mark in any part of the British Empire should entitle the patentee to require the same patent or trade mark to be registered throughout the whole of the Dominions. This obviously is undesirable and impracticable."

"The opinion of the members of the Imperial Conference might profitably be taken on these points. It would be advantageous also to point out that the enlargement of the area over which the protection of registration of one patent or one trade mark extended would undoubtedly lead to a large increase in the registration of patents and trade marks."

Dealing with patents, this committee states that certain cases came before it where special prejudice has resulted from the grant to foreigners of patents which have not been adequately worked in this country. There are, however, exceptions, such as the Diesel engines and the Welsbach gas mantles, which are now manufactured in England in large numbers. But it is apparent that many patents have been applied for by foreigners, not with the bona fide object of working them in this country, but for the purpose of securing a monopoly of the British markets for goods manufactured abroad by owners of British patents held abroad.

The object of the British Patents act appears, therefore, to be capable of being frustrated without any compensating advantage to British trade, and the committee states:

"We suggest that the clause of the Patents act which requires manufacture within this country should be more stringently enforced, and should refer not merely to nominal manufacture or to the assembling of parts made abroad, but to actual manufacture of commercial quantities. It appears to us that manufacture in this country would be best attained if it were possible to define a proportion of the articles to be manufactured under the patent in this country, as against the total import of such articles under patents held abroad."

RECOMMENDATIONS MADE.

The following recommendations have also been made by this committee:

"We further think that the clauses of the Patents Act requiring licenses to be granted might be materially improved by providing some competent body to decide as to the reasonableness of the royalties

and of the terms demanded for the grant of such licenses without the expenses involved in a reference to the courts. At present the fixing of such royalty depends practically upon bargain with the patentee. If he is desirous of preventing any manufacture under license, the terms he may demand will necessarily choke off the intending licensee who will be reluctant to institute proceedings to get a reasonable rate fixed. The obligation to grant licenses is only enforceable if it can be proved that the patentee has not in fact manufactured in this country. This condition is almost prohibitive so far as the intending licensee is concerned. We suggest that the onus of proving that he has manufactured in this country within the terms of the act should be thrown upon the patentee."

"It also appears to us that it is very much the practice, both for English and foreign patentees, during the life of their master patent to apply for one or more ancillary patents — not so much with the object of securing a genuine improvement to the original article, but practically to prolong the life of the master patent by enabling it to be described for a much longer period as a patented article. Many of these secondary patents appear to be obtained chiefly for the purpose of frightening off competition. They may have no real patentable value, but stand as a bogey to frighten intending competitors, who may not think it worth while to run the risk of an expensive patent action for the sake of embarking upon a special branch of manufacture. It should be possible to challenge inexpensively the inventive value or originality of these secondary patents before the controller of the Patent Office, who should be able to cancel them on proper cause shown."

FIFTEEN YEARS' LIFE FOR PATENTS.

"As regards the life of patents, we believe that the term of fifteen years is one of general acceptance throughout the British Empire, except in the United Kingdom. We suggest that this country might harmonize the life of a patent by increasing the period to fifteen years. This might very well be done now, as the grant of an additional year might in some degree compensate for the loss of profits which might have been sustained through the restriction of output of patented articles during the war."

"We recommend that steps be taken to stop the granting of injunctions in cases of alleged infringement of patent rights. German interests before the war abused their opportunities in this country by obtaining "blocking patents"; and it is alleged that

German patents were exceedingly difficult to obtain by British citizens when a really valuable invention was in question, in face of the arbitrary methods adopted by the German patent authorities. While we do not know whether it will be possible to secure any improvement in German procedure, we recommend that special steps be taken in regard to the rights of Germans in patents in their country, especially as to what is known as "blocking patents." There should be means of compelling the "blockers" to grant licenses when it is shown to be the public interest.

"Every effort should be made to introduce a system of Imperial patents at reasonable fees; the expense at present is far too great."

Finally this committee recommends that the grading of the annual fees should be arranged so that, after the first payment, and the sealing of the patent, seven years be granted for exploitation at purely nominal annual fees, and that for the final seven years the fees be graded rapidly upward, the total in amount being equal to the present total fees. It would, they add, be highly desirable to reduce the total fees if possible.

THE SHIPPING SITUATION.

Dealing with the Patent law, the Committee on Shipping and Shipbuilding states that it has been used by our enemies to throttle or to prevent the establishment of certain industries in this country, some of them "Key" industries. The original purpose for which patents were granted was to encourage the individual to confer a benefit on the State and that there was no intention of creating a form of property (a monopoly) with which the patentee might do as he pleased. In contrast with this the committee points out:

"The courts, however, have been used for the creation of monopolies by the employment of procedure through injunction, a dangerous weapon in the hands of a wealthy and unscrupulous litigant, and one which has led to great injustice to the individual and to the State. Under these conditions the longest purse seemed generally to win, while even a doubtful patent might become a valuable property by resort to judicious threats of proceedings against financially-weak interests."

With regard to trade marks the engineering trades committee asserts that while in this country priority of user gives a right to register a trade mark, in many other countries the validity of a trade mark depends upon registration. Instances were brought before the committee from Spain, from Austria and South America where manufacturers have found their trade marks and trade names pirated by registration for the purpose of being resold to them. It would therefore be an advantage, if, by some arrangement, the practice of appropriating an unregistered trade mark should be stopped.

INSURANCE A CONSERVATOR OF HUMAN LIFE.

No form of investment that I am familiar with is comparable to life insurance as an agency for promoting thrift. The policyholders who must pay a premium at stated intervals is in effect keeping a compulsory bank account. The right kind of insurance company relieves the policyholder from anxiety regarding his family in the event of his death, and so enables him to devote himself with more freedom and energy to their welfare during his life. Life insurance is one of the greatest agencies, not merely as a provision against the deprivations of death, but in the conservation of human life, for the properly managed insurance company is of necessity profoundly interested in establishing adequate safeguards against accidents and in the prevention of disease.—Lyman Abbott, in Insurance Press.

LIFE INSURANCE VS. PENSIONS.

After one and a half years of experience in administering the mother's pension law I can not help but feel that the State of Wisconsin should by its next legislature enact the necessary laws to place the responsibility where it properly belongs, upon the father of the children, compelling him to provide for the future of his family in case of accident to him. Surely this responsibility belongs not to the taxpayers, but to the husband and father of the family.

A law should be enacted which would compel every father to carry life insurance in approved life insurance companies, to the amount of at least \$1,000 or more, depending upon all the conditions surround-

INCREASED INSURANCE RATES.

"War conditions generally increase the fire hazard," remarked John A. Robertson, secretary of the Canadian Fire Underwriters' Association, in discussing the general increase in insurance rates.

Such conditions embraced the employment of aliens, the extra pressure on factories, and the employment of inexperienced help. Undoubtedly the employment of aliens entered into the question, but this was a matter for the manufacturers.

It is the opinion of fire insurance men, said J. B. Laidlaw, of the Norwich Union Fire Insurance Co., that there is a considerable increase in incendiary hazard through alien enemies, and there is also an increased hazard through the employment of inexperienced labor.

The experience generally of Toronto fire insurance companies was, however, that there were more fires where the foreign element entered than where the native born were alone concerned. To a limited extent the alien menace had entered into the consideration of the recent increased rates.

The Board of Directors of The Canadian Bank of Commerce have declared the usual quarterly dividend at the rate of 10 per cent. per annum and a bonus of 1 per cent. The books will be closed from the 17th May, to the 31st May, inclusive.

ing the case. This insurance money could then be paid into the court where the mother's pension is administered and paid out to the family, monthly in such sums as the judge of that court finds it necessary for the proper maintenance.—Judge Hoppman, Administrator of Mothers' Pension Fund, Wisconsin.