

those used in the Hancock's locomotive inspirators, as originally constructed, were invented by Mr. Park, and patented in the United States, and those used for locomotive inspirators more recently constructed, were patented, in Canada, by J.T. Hancock, in 1881. The respondents admit that they imported locomotive inspirators embodying Park's and the Hancock's last mentioned invention, but they maintain that this does not entail the forfeiture of their patent, because the machines imported were not the invention patented under Patent No. 7,011, for the reason that if the levers and valves, which constituted Park's invention, not patented in Canada, as used in the first form of the machine, were removed there remained nothing but barrels and jets of themselves wholly inoperative for any purpose; the same can be said in relation to the Hancock's invention of 1881, patented in Canada, inasmuch as valves, connections and means of operating these would have to be supplied to obtain the result sought for. The patents of 1881, No. 12,934 and No. 13,687, Mr. Hancock had abandoned, and what was imported as locomotive inspirators were the old elements, Park's invention and the Hancock invention, patented in 1881, and not the subject matter of patent No. 7,011. As to the stationary inspirators, the shipments made to Fairbanks, after the legal delay, were of few articles, very nearly all "locomotive injectors," and were, moreover, made for the purpose of creating a market. The "stationary inspirators" are made in fifteen different sizes at least, requiring for each size special expensive tools. The shipments to Stevens, Turner & Burns, consisted of certain parts, particularly jets and barrels, made to help the manufacture of the article in Canada, inasmuch as neither these licensees nor any other person were willing to undertake the manufacture of such parts. As to the shipments made to Betton, they consisted of a number of parts which had to be worked, combined and adjusted, in order to construct a number of stationary inspirators. The respondents submit that the importation of these parts cannot entail forfeiture of Patent No. 7,011; inasmuch as the parts are old and well known elements, requiring to be com-

bined, coupled and adjusted, to become the invention of the said patentee: inasmuch as they could be used for the separate instruments known as ejector and injector; inasmuch as, all the time, Morrison was manufacturing all sizes of stationary inspirators, as did also Stevens, Turner & Burns; inasmuch as respondents never intended to injure the manufacturing interest of Canada, as is shown by their undertaking to purchase 500 of the patented articles from Morrison; inasmuch as, all through, they acted in good faith under legal advice, believing themselves to be within the purview of the law.

Mr. TACHÉ, Deputy Minister:—In this case the question of importation is the only one which really appears to be involved. There is no proof that at any time the patentees have refused to sell or license their invention; far from it, they seem to have always been anxious that its manufacture should be carried on by somebody in Canada, under license or on payment of a fair royalty, at the same time that they have shown themselves determined to push the sale of their patented articles, even to the alternative of supplying the Canadian markets by importation. The injury to home labor, in this case, comes not under the head of non-manufacture, but under the title of importation, because to the extent that imported articles have been introduced in Canada, to that extent the manufacturing industry of the country has been deprived of the advantages intended to be secured by the 28th section. It is not necessary to sift the technical question as to whether the locomotive inspirators imported were the inventions of Hancock's patents No. 12,934 and No. 13,087, which the patentee has forsaken, or some other invention, and not the invention of patent No. 7,011, the subject matter of the dispute, for the reason that the importation of the stationary inspirators, about which there could not be any such problem raised, is of sufficient importance to decide the fate of this dispute. Patent No. 7,011 was granted on the 24th January, 1877; therefore, the year during which the importation of the invention was allowed by law expired with the 24th day of January, 1878. It is clearly proved that the importation did continue after