

EXCHEQUER COURT.

Cassels, J.]

[Oct 11.

IN RE LEONARD.

Patent of invention—Feeds for grain, ore and mineral separators—Appeal from decision of Commissioner under 3-4 Geo. V. c. 17—Grounds for refusal to grant patent.

This was an appeal by William Leonard, from a decision of the Commissioner of Patents, refusing an application for a patent of invention.

More than two years before the application for the patent in question on the appeal, the applicant had obtained Canadian letters-patent No. 110156 for feeds for grain, ore and mineral separators. The specification of the former patent after declaring that the old method of separating materials, such as gold and ore, cereals and seeds, by delivering them into a vertical spout from a connecting inclined spout and forcing a current of air upward through the vertical spout was ineffective, disclosed the nature of his invention as follows:—

"I have found that, by delivering the materials in a horizontal plane or directly across the vertical spout and therefore at right angles to the ascending air current, they are spread out in a thinner sheet so that the air current acts thereon more effectively, or, in other words, forces upward and separates the lighter materials from the heavier in a more perfect manner than is practicable when the materials are discharged in a downward direction."

The substance of the invention claimed in the former patent was the delivering of the materials in a horizontal plane, or directly across the vertical spout, and therefore at right angles to the ascending current of air.

Held (affirming the decision of the Commissioner), that by the specification to his former patent the applicant had disclosed the invention now claimed, and the same must be taken to have been abandoned and dedicated to the public.

(2) A former patent, while in force, operates as a bar to the application for a new patent, and the only remedy open to the applicant, if he is in a position to invoke it, is to apply for a re-issue of the former patent.

Observations on desirability of Commissioner being represented by counsel on appeals from his decisions refusing to grant patents.