

"title whereof is *Edison Electric Lamp*," on the ground of violation of *The Patent Act*, Consolidated Statutes of Canada, Cap. 61, Section 37, which reads as follows:—"Every patent granted, under this Act, shall be subject and be expressed to be subject to the condition that such patent and all the rights and privileges thereby granted shall cease and determine, and that the patent shall be null and void at the end of two years from the date thereof, unless the patentee or his legal representatives, within that period, commence, and, after such commencement, continuously carry on in Canada the construction or manufacture of the invention patented, in such manner that any person desiring to use it may obtain it, or cause it to be made for him, at a reasonable price, at some manufactory or establishment for making or constructing it in Canada,—and that such patent shall be void if, after the expiration of twelve months from the granting thereof, the patentee or his legal representatives or his assignee for the whole or a part of his interest in the patent imports or causes to be imported into Canada, the invention for which the patent is granted; and if any dispute arises as to whether a patent has or has not become null and void under the provisions of this section, such dispute shall be decided by the Minister or the deputy of the Minister of Agriculture, whose decision in the matter shall be final.

"2. Whenever a patentee has been unable to carry on the construction or manufacture of his invention within the two years hereinbefore mentioned, the commissioner may, at any time not more than three months before the expiration of that term, grant to the patentee an extension of the term of two years on his proving to the satisfaction of the commissioner that he was, for reasons beyond his control, prevented from complying with the above condition.

"3. The commissioner may grant to the patentee, or to his legal representatives or assignee for the whole or any part of the patent, an extension for a further term not exceeding one year, beyond the twelve months limited by this section, during which he may import or cause to be imported into Canada the invention for which the patent is

granted, if the patentee or his legal representatives, or assignee for the whole or any part of the patent, show cause, satisfactory to the commissioner, to warrant the granting of such extension; but no extension shall be granted unless application is made to the commissioner at some time within three months before the expiring of the twelve months aforesaid, or of any extension thereof."

On the 16th November, 1881, an extension of three months' time within which to manufacture was granted to the patentee, on his application to this effect, in which he alleged that "having been engaged in introducing his invention in other countries, he had failed in manufacturing in Canada, within the two years prescribed by law, owing to the large capital which is necessary to establish such manufacture."

By assignment, the respondents became the holders of the patent.

The petition alleged that the patentee and his assignees, had not manufactured the invention within the two years prescribed by law, and that the alleged extension of three months within which to do so, had been obtained by false and wilful misrepresentation; that the patentee and his assignees had imported the invention into Canada, after the twelve months allowed by law, and prayed, for these reasons, that the patent be declared null and void, and the extension above mentioned, set aside and cancelled.

On the application of the petitioners, the Deputy Commissioner issued an order upon the respondents' counsel, to produce at the trial, all the invoices, accounts, letters and other documents, enumerated in a certain paper or "Notice to produce," previously served upon them, at the instance of the petitioners, in order that the same might be used as evidence, if required.

By mutual consent, the trial was fixed for the 13th November, 1888, when the respective counsel, with the witnesses, being present, the case was proceeded with.

The respondents' counsel, in addition to the general denial, by way of preliminary plea, took exception to the jurisdiction of this tribunal, on the ground, that on the 31st March last, and prior to the date of this