

year ended March 31, 1910, the total received for second and third term fees, was \$21,960. During the same period, 7,216 original patents were granted. If the total government fee for eighteen years had been made \$30 there would be a net increase of \$50,200. Had the total government fee for eighteen years been \$25 the net profit would still have been \$14,120. In addition, many patentees would be holding valuable patent rights which, under the existing act, have become lost by accident, neglect, or impossibility of payment on the part of the patentee or parties by him entrusted with such payment. Furthermore, all private bills for the re-establishment of patents forfeited for non-payment would be avoided, and the embarrassing question of intervening rights of innocent third parties would be entirely eliminated. A considerable saving would result in the clerical work in the patent office. All endorsements, entries, and accounting in connection with the second and third term fees would be abolished. Nor can it be argued that a total of \$30 for an eighteen-year patent would deter applicants. Many Canadian inventors take United States patents which run for seventeen years with payment of \$35 total government fee before the patent is granted.

2. *Substitution of interference proceedings within the patent office in lieu of the present arbitration proceedings under section 20 of the act, or the corresponding Exchequer Court practice.*

All interferences originate in and are declared by the patent office. Therefore, they must become somewhat skilled in the subject. On the other hand, arbitrators appointed to hear and determine the issue of interferences are usually the attorneys of the respective applicants, either patent solicitors or lawyers. The average patent solicitor or lawyer handles only a very small fraction of the total applications filed. Obviously his experience in the interferences is very limited as compared with that of the patent office. This has long been clearly recognized in the United States where the interference practice on most points is very similar. There an interference examiner gives his time exclusively to interferences, and the attorneys, instead of acting as arbitrators, argue their cases before him. One great and very valuable advantage thus gained is the right of appeal. The action of the interference examiner is the action of the commissioner and is, therefore, appealable. It is not appealable in the case of arbitration under the Canadian practice. It can not be denied that the question of priority in conflicting applications is very vital, and that the corrective effect of an appeal exists on many far less important questions. Why, then, should it not be granted in the case of conflicting applications? Furthermore, all possibility of fraud, collusion, etc., between the arbitrators in deciding the issue would be eliminated. It can not be denied that there is a very fruitful field for such practice under the present procedure. Two of the three arbitrators would be eliminated, with that much saving to the contestants, and the fees now payable to the third arbitrator would go to the department for the services of the interference examiner. The practice in interferences would become uniform and greatly simplified.

3. *Substitute for compulsory manufacture section 38a and compulsory license section 44, an optional choice between manufacture and compulsory license, the same to be applicable to all patents and to extend throughout the life of the patent except the first two years.*

No court has yet decided whether section 38a applies to process patents. There are many strong opinions both ways and the matter is very much in doubt. Hence all process patents not under section 44 are of very doubtful

validity, simply because the law is very vague. Proof of non-manufacture is proof of a negative, which is exceedingly difficult. It is, therefore, nearly a worthless weapon, in the hands of the public, against the patent owner. It can not be said that such provision compels the patentee to manufacture in Canada. Where there is no demand, the most that is done is to make one of the patented devices, starting it within the two-year period, and dragging it along as slowly as possible. If there is an appreciable demand, the inventor is always very glad to make the invention as rapidly as he can sell it. He needs no law to compel him. Furthermore, it should be remembered that the inventor is the originator. No one else knew of the invention before he did. The public have no rights in it prior to his. Therefore, it can not be argued that he is in any manner injuring the public by not manufacturing or selling to the public; nor can it be said that section 38a has caused the building of factories here in Canada. If any section of the patent act has had any effect in that direction, it is clearly the section about importation.

Compulsory license applies to certain classes of invention only. To many it does not apply. Also, it does not apply to any unless specifically so requested within a limited time from the date of the patent. About one-sixth, only, of the annual issues of patents is placed under the compulsory license clause. That means from 1,300 to 1,500 petitions to be considered by the commissioner, an equal number of decisions to be made out and mailed, and about an equal number of endorsements and other record entries to be made. In many instances an extension of time to manufacture is sought. In each such case a rather lengthy petition with affidavits must be considered, a decision made and mailed, and an endorsement and entries made.

With the suggested change, all of these petitions, decisions, endorsements and entries would be completely abolished, the doubt about process patents would be cleared up, the public would be in just as strong a position to get or use the invention, all patents would be on the same footing and subject to the same conditions, and the validity of all patents would be greatly strengthened, because, to prove invalidity it would be necessary to prove both that the patentee would not grant a license and that he did not manufacture. This is very similar to the present British Patent and Designs Act.

4. *Consolidation of the trade mark and copyright branch with the patent office, and appointment of a commissioner who would give his time exclusively to the consolidated branch.*

The practice and procedure, the rights protected, the rules and regulations and the legal requirements in the two branches are in many respects similar, and most of the business of the two branches is carried on by the same profession—patent attorneys and lawyers.

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Montreal, May 1st, 1916.

SUMMER COURSE IN SCIENTIFIC MANAGEMENT.

The fourth summer course in scientific management will be held in Providence, R.I., under the directorship of Frank B. Gilbreth, consulting engineer. The course, to which only a selected group of teachers and thinkers will be admitted, consists of lectures, laboratory work and visits to various plants where scientific management may be studied. The course commences on July 31st and terminates on August 12th.