

with his brother made a section of a rim and tire on this principle in May following. On the 3rd of August in the same year he applied for a patent therefor in Canada, and on the 2nd December following obtained it. In March, 1891, Jeffery, at Chicago, in the United States, conceived substantially the same device, and confidentially communicated the nature thereof to his partner and patent solicitor. On the 27th of July, he applied for a United States patent, and on the 12th day of January, 1892, such patent was granted to him. On the 5th of February, 1892, he applied for a Canadian patent, which was granted to him on the 1st of June in the same year.

When in May, 1891, LaForce's conception of the invention was well defined there had been no use of the invention anywhere, and the public had not anywhere any knowledge or means of knowledge thereof.

*Held*, (1) that the fact that prior to the invention of anything by an independent Canadian inventor, to whom a patent therefor is subsequently granted in Canada, a foreign inventor had conceived the same thing, but had not used it or in any way disclosed it to the public, is not sufficient, under the patent laws of Canada, to defeat the Canadian patent.

*Barter v. Howland*, 26 Grant 135; and *Smith v. Goldie*, 9 S.C.R. 46, followed.

(2) That the drawings annexed to a patent may be looked at by the court to explain or illustrate the specification.

*Smith v. Ball*, 21 U.C.R. 122, followed.

*W. Cassels*, Q.C., and *Gormully*, Q.C., for relators.

*Ritchie*, Q.C., and *Ross* for respondents.

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SUPREME COURT OF JUDICATURE FOR ONTARIO.

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HIGH COURT OF JUSTICE.

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Queen's Bench Division.

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Div'l Court.]

[Dec. 29, 1895.]

IN RE PARKE v. CLARKE.

*Prohibition—Division Court—Notice disputing jurisdiction—Payment of clerk's fee.*

It is provided by s. 176 of the Division Courts Act, R.S.O., c. 51, that in all cases where a defendant intends to dispute the jurisdiction of the court to hear and determine a case, he shall, within the time named, leave with the clerk a notice to the effect that he disputes the jurisdiction of the court, and that the clerk shall give notice to the plaintiff, and that, in default of such notice, prohibition shall not lie.

In the tariff of fees to be taken by clerks of Division Courts, to be found in Sinclair's Division Courts Act, ed. of 1888, p. 395, a fee of fifteen cents is made