

The Legal News.

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Section 28 of the Patent Act of 1872 provides "that in case disputes should arise as to whether a patent has or has not become null and void under the provisions of this section, such disputes shall be settled by the Minister of Agriculture or his deputy, whose decision shall be final." Under the authority of this Statute the Minister of Agriculture has pronounced an elaborate judgment, which appears in the present issue, declaring that the Bell Telephone Patent has become void in Canada. The minister refers to a decision of Mr. Justice Osler. This was rendered in the Common Pleas Division, Ontario, in December, *Re Bell Telephone Co. et al. v. The Minister of Agriculture*. Mr. Justice Osler held that a court or judicial tribunal for the determination of the matters referred to in the section was constituted by the Patent Act; and that the constitution of such a court was not *ultra vires* of the Dominion Parliament as infringing upon subjects of exclusive Provincial legislation; and also that it was competent for the Minister to decide as to the existence of disputes arising for his decision.

It will be observed that the Minister merely declares that the patent *has become void*, not that it was void from the first. He refers to a decision by Dr. Taché in *Barter v. Smith*. In that case the petitioner asked that the patent should not only be declared void, but that it had been void from the date of the expiration of the delay mentioned in the Act. The patent in that case was sustained, but on the point referred to Dr. Taché observed: "It has been hinted in the arguments, that should a decision intervene declaring a patent null and void, it ought to specify that the patent was voided at the date of the expiration of the delay mentioned in the law, and has stood null since to all intents and purposes. As this incidental question touches rights which do not come within this jurisdiction, it appears clear

"that, in duty and through respect for the higher courts, this tribunal is forbidden from entering such domain, even by expressing an opinion, being bound to restrict its investigations and decisions within the narrowest possible limits. The law orders that the Minister of Agriculture should say *whether a patent has or has not become null and void*, consequently the judgment is simply to decide *if it has or it has not*, as the case may be: all the consequences that may follow are to be adjudicated upon by the ordinary judges of such disputes between citizens." Mr. Pope appears to coincide with this view, and therefore the parties, with respect to infringements before the voidance of the patent, are left to their recourse before the ordinary courts.

Another year has gone by, and the New-York Appeal calendar shows an increasing list of cases unheard. The new calendar, according to the *N. Y. Herald*, contains nearly eight hundred cases. "When the Court adjourns for the summer vacation," says the *Herald*, "it will leave a docket of five or six hundred cases, which will be materially lengthened when the autumn session begins. The Court is crowded with business beyond its capacity to dispose of it, and until some means of relief is provided the pressure is likely to increase instead of diminish. This is an important matter, which demands and ought to receive the attention of the Legislature at the present session. When litigants have to wait two years or more for their rights to be determined on appeal the practical effect in many instances is simply a denial of justice."

Mr. Justice Stephen makes the following observations on law reform, in an article in the *Law Quarterly Review*:—"One of the many difficulties which stand in the way of improving the law of England, perhaps I might say the great difficulty, may be thus expressed. Those who have acquainted themselves with its provisions have, generally, neither the time nor the inclination to undertake any other task than that of administering it as an existing system. Besides, when a man has mastered an intricate and difficult system, he takes a positive pleasure not only