

within the law itself, of requiring on the part of the customers an actual substantial demand or request accompanied with a settlement of royalty, it would be found in Section 21,\* in which an exception to that obligation of demanding is made in favour of the Government, which is, by way of derogation to the general rule, allowed to make use of all inventions without going to the patentee, even during the two years delay, free of any blame for infringement, by resorting to a special and an exceptional mode of settling upon the price to be paid to the Patentee.

The same rules of interpretation apply to the provision of the Act as regards importation. The law says that the Patent shall be void if after twelve months of its being granted, "the Patentee, or his assignee or assignees, for the whole or a part, imports or causes to be imported into Canada, the invention."

The evil aimed at by the Legislature, in ordering the penalty of forfeiture, is the importation of patented inventions being made to the detriment of their being manufactured in Canada. If that was done, even by other persons than the Patentee or his assignees but with his consent, that would call for the application of the remedy, although the mere wording of the law might be pleaded as exonerating the Patentee from the responsibility of having actually imported or caused to be imported. On the other hand the actual importation of a few machines, as models, or for the purpose of bringing the usefulness of the invention before the eyes of the Canadian public and thereby hastening the working of the Patent in Canada, could not be reasonably taken as being the commission of the evil of injuring the manufacturing interests of the country. It may be, on the contrary, in some given cases, the best and promptest way of benefiting Canada with a new and yet unappreciated invention; and the importation of few models then would be fostering the object of the law which is—that Canadian industry and Canadian labour should, in the shortest possible time, be made to profit by new inventions.

\* SECTION 21.—The Government of Canada may always use any Patented invention, paying to the Patentee such sum as the Commissioner may report to be a reasonable compensation for the use thereof.—*"The Patent Act of 1872."*

The words *carry on in Canada the construction or manufacture* with their context cannot therefore mean any thing else than that any citizen of the Dominion, whether residing in Prince Edward Island, in British Columbia, in Ontario, Quebec or elsewhere on federal soil, has a right to exact from the Patentee a licence of using the invention patented, or obtain the article patented for its use at the expiration of the two years delay, on condition of applying to the owner for it, and on payment of a fair royalty. The words *imports or causes to be imported into Canada* cannot mean any thing else than injury to home labour, which injury if actually done by or with the connivance of the patentee, most decidedly entails forfeiture of his Patent.

It has been argued in view of meeting the above mentioned interpretation of the words *construction or manufacture*, that the statute has foreseen the difficulties of special cases and has provided for them by subsection 2 of section 28, in giving to the Commissioner the power to extend indefinitely the delay in such cases as, for instance, would be illustrated by a Patent granted for a graving dock.

The purport and effect of subsection 2 is totally different from and even at variance with the meaning given to it in this argument. A delay does not at all remedy the condition of impossibility in which a Patentee is to establish at any time manufactories accessible to a population scattered over a territory which extends from ocean to ocean, with an area amounting to millions of miles; it does not do away with the impossibility at any time, of keeping articles in stock without purchasers, and so forth.

But this is not all;—subsection 2, construed as is proposed by the said argument, would lead to a positive defeat of the intention of the Legislature, which clearly is, that the Patentee must supply Canadian citizens with the invention when requested to do so by any one, on payment of a reasonable price or royalty.

The effect of the delay of two years and the effect of any further extension thereof means, that during that time the Patentee is permitted to withdraw entirely (the Government excepted) the use of his invention from the Canadian public, that he can refuse the use