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DEFENCES IN INFRINGEMENT ACTIONS UNDER THE PATENT ACT OF 1923.

Patent litigation in Canada is steadily increasing in volume and importance. A new Patent Act came into force on 1st September, 1923, and, though so far the validity of most of the patents sued upon is governed by the former Act, under which they were issued, the new Act will gradually displace the old. The purpose of this article is to enquire what defences are open, under this new Act, to the defendant in an infringement action, and how these defences should be pleaded. The plaintiff's pleading needs no discussion, since it consists simply of a statement of the grant of the patent sued upon, of the assignments, if any, by which the plaintiff has become the holder of it, and of its infringement by the defendant, with Particulars of Breaches setting forth the acts of infringement complained of.

In case any apology should be thought necessary for dealing nowadays with questions of pleading, it should be remembered that the pleadings in an infringement action are more important than those in ordinary litigation have now become. The Court pays closer attention to them, and, except in the early stages of the action, exercises its powers of amendment less readily. Of certain pleas exact particulars must be given, and to these particulars the party pleading is strictly confined. Because of the nature of the preparation necessary for the proper conduct of an infringement action, every precaution is taken to ensure that neither party shall be surprised.

Special defences of rare occurrence are outside the scope of this article. Apart from these, the two defences to an action for infringement are: (1) non-infringement; and (2) that the patent sued upon is invalid. Non-infringement raises no difficulty in pleading, and is so much a question of fact in each case that general discussion of it would serve no purpose. But it may be noted that some-

times a defendant finds it easier to show that what he has done was old before the invention of the device covered by the plaintiff's patent than to show that the patented device has been anticipated. Proof of the one is just as effective as proof of the other, for nothing that was old when the device covered by the patent sued upon was invented can infringe any valid claims of that patent.¹ But this line of defence is really covered by the denial of infringement, and no additional plea would seem to be necessary to admit evidence in support of it.

The section of The Patent Act of 1923 which lays down the main requirements for the validity of a patent is section 7, as follows:—

(1) Any person who has invented any new and useful art, process, machine, manufacture or composition of matter, or any new and useful improvements thereof, not known or used by others before his invention thereof and not patented or described in any printed publication in this or any foreign country more than two years prior to his application and not in public use or on sale in this country for more than two years prior to his application may, on a petition to that effect, presented to the Commissioner, and on compliance with the other requirements of this Act, obtain a patent granting to such person an exclusive property in such invention.

(2) No patent shall issue for an invention which has an illicit object in view, or for any mere scientific theorem.

It is proposed to discuss the requirements laid down by this section, and the proper method of pleading that the patent sued upon does not fulfil them; and then to deal with the chief points affecting the validity of a patent which arise under other sections of the Act.

What will be said is intended to apply to actions in the Provincial Courts equally with actions in the Exchequer Court of Canada, but the plaintiff's choice in an important infringement action usually now falls upon the Exchequer Court. The procedure is not more complicated, and little, if at all, more expensive; and the date of trial can be definitely fixed in advance, a weighty consideration where engineers and other officials, whose time can ill be spared for litigation, and expensive expert witnesses are likely to be engaged. It saves, too, both time and money to be able to appeal direct to the Supreme Court of Canada, without going through an intermediate Appellate Court. Moreover, the constant selection of the Exchequer Court will tend to the more satisfactory disposition of such cases, for, with the increase of patent litigation, a settled practice and body of jurisprudence is becoming established in that Court.

The practice in infringement actions is to deliver, with the Statement of Defence, particulars of the objections to the validity of the plaintiff's patent. In the Exchequer Court, Rules 26 and 27 in terms

¹ See per Lord Moulton in *Gillette Safety Razor Co. v. Anglo American Trading Co.*, 30 R.P.C. at p. 480.

require this, and, in the Provincial Courts, it is now so well settled which objections must be particularized and what particulars must be given that no one waits for a demand for particulars before giving them. This being so, it is of no use to plead the objections in detail in the Statement of Defence. To do so involves needless repetition, and it is better to relegate all the objections to the particulars. The Defence pleads simply that the patent is invalid for the reasons stated in the Particulars of Objection delivered therewith. Then the points against the validity of the patent are stated seriatim in the Particulars of Objection, and the necessary details are set out under each point. It is therefore the form of the Particulars of Objection, rather than that of the Statement of Defence, which requires consideration. At the end of the article will be found the forms of Statement of Defence and Particulars of Objection suggested for use under the new Act.

Upon an examination of section 7, quoted above, it will be seen that, in order to become the subject of a valid Canadian patent, the device² to be patented must fulfil seven requirements. These requirements, arranged in their logical order with the considerations relating to each, are as follows:—

1. *That the device must be an "art, process, manufacture or composition of matter, or improvements thereof."*

The words quoted appear to cover the whole field of commercial invention. It is easy enough to think of cases which they would exclude, and such cases have sometimes come before the Courts. But, for practical purposes, it is hardly ever true, or even arguable, of any device which becomes the subject of litigation, that it is not within these words. The point is almost always pleaded, but generally it is a waste of words and might as well be omitted, unless it is seriously contended that the invention covers a "mere scientific principle or abstract theorem," for which, as for an invention having "an illicit object in view," section 7(2) forbids the issue of a patent.

2. *That the device must be "new"; and that it must not have been "known or used by others before his [the applicant's] invention thereof."*

These two requirements may be considered together. It is not yet settled whether the second is merely an amplification of the first,

² It seems impossible to find a word which will beg no questions. "Thing" will not do, for it does not cover a process. "Alleged invention" comes nearest, but it is too cumbersome and often will not fit. "Device" is open to objection, but with due warning it will serve.

or whether the words "not known by others" so interpret the word "new" as to preclude in Canada the construction which has been put upon that word in England.

In England, the Statute of Monopolies requires that the device shall be new, and that others at the time of the grant of Letters Patent shall not use it; but the Statute does not contain the words "not known by others." The English Courts, basing themselves mainly upon the policy of the Statute, have held that the consideration for the grant of Letters Patent is the addition to the public stock of knowledge, and therefore that "new" means new to the public. Accordingly, prior knowledge of an invention will not invalidate a patent unless the knowledge was accessible to the public, or the invention has been in public use.

Any discussion of the arguments for and against a similar construction of the Canadian Patent Act would be out of place here. In the United States the Statute is upon this point identical with section 7 of the Canadian Act. There the result of the decisions, and particularly of the recent decision of the Supreme Court in *Alexander Milburn Co. v. Davis-Bournonville Co.*³ seems to be that prior unpublished knowledge may constitute an effective anticipation.

In *Gerrard Wire Tying Co. v. Cary Manufacturing Co.*,⁴ Maclean, J., has recently held, though upon the facts found it was unnecessary to do so, that prior invention, without publication, is not an effective anticipation under Canadian law. This decision is under appeal to the Supreme Court of Canada. It is enough, therefore, in an article devoted to pleading, to point out that the question is not yet settled in Canada, and that, until it is, pleadings should be so drawn as to keep it open. This can readily be done by pleading that the plaintiff's device was anticipated not only by the patents and publications referred to in the particulars, but also by the knowledge of the inventors named in the patents and of the authors of the publications.

An illustration will help to make the point clear, and to show how it may arise. Suppose that the device covered by the patent sued upon is shown to have been invented on 1st July, 1920. And suppose that the defendant finds an article in a technical magazine published on July 15th, 1920, which appears to describe substantially the same device. Considered as a publication, the magazine is too late. But, if the true question is when the device became known to the author of the article, it can almost certainly be shown that an article

³ [1926] Sup. Ct. Reporter, 324.

⁴ [1926] Ex. C.R. 170.

published on July 15th was completed and in the publishers' hands before July 1st, and that, therefore, before that date the device described in it was known to the author. If, however, the publication is pleaded simply as such, without any warning to the plaintiff that the knowledge of the author is relied upon as well as the fact of publication, the attempt to found an objection upon any earlier date than the date of publication will probably meet with difficulty.

Prior knowledge of the device by any person other than the inventors and authors named in the patents and publications mentioned should also be pleaded under this head, with such particulars as will warn the plaintiff what is to be relied upon and enable him to make enquiries. The address of the person named and the date when his knowledge is said to have been acquired will generally be enough.

Under this head also should be pleaded any instances of prior use. Obviously, prior use must almost always involve prior knowledge. But the Courts have gone a long way in ordering exact particulars of prior use, and it would lead to difficulty at the trial if, under particulars which alleged prior knowledge only, the defendant attempted to prove actual use as evidence of such knowledge. If, therefore, actual use is to be relied upon, it is safer to plead it as such. The dates and places of use must be given.

3. *That the device must have been "invented."*

This requirement is to be distinguished from the requirement, just discussed, that the device must be new. Assuming that the device was new, it does not follow that any exercise of invention was necessary to produce it. It may have been something which had never been actually produced because there was no demand for it, but which would have been obvious to anyone familiar with the common knowledge of the art the moment its desirability was suggested to him. If so, though new, it was not an invention. The two requirements tend to shade into one another in practice, and in most cases the argument that the device has been anticipated is really based upon both. It is so seldom that an exact anticipation can be found, that the argument usually takes the form that no invention was needed to pass from the prior device to the device sued upon. Nevertheless it is desirable to preserve in pleading the distinction between lack of novelty and lack of invention, if only to avoid confusion in thought and ambiguity in the particulars. It should be observed, too, that if, to show either lack of novelty or lack of

invention, it is only the common knowledge of the art that is to be relied upon, no particulars of this knowledge need be given. But exact particulars must be given of every specific anticipation relied upon for either purpose. And, if the anticipations set out in the plea that the device was not new are to be relied upon also to show lack of invention, it must be clearly stated in the Particulars that they will be used for that purpose.

Lack of invention is often pleaded thus: "The alleged invention was not proper subject-matter for Letters Patent having regard to the common knowledge of the art at the date thereof"; and the plea that the device involved no invention is often spoken of as a plea that it "was not subject-matter." The objection to this is that the term "subject-matter" is used in two senses, the one broad and rather loose and the other narrower and more accurate; and the distinction between the two is not consistently maintained either in the decisions or in practice. In the broad sense subject-matter includes novelty, on the ground that nothing which is not new can be proper subject-matter for Letters Patent. If the term is used in this sense, a plea that the device was not proper subject-matter involves a plea that it was not new, the latter being merely a particularization of the former. In the narrower sense, all question of novelty is excluded, and the main issue raised by a plea that the device was not proper subject-matter is whether, assuming that the device was new, any exercise of the inventive faculty was necessary to produce it. In either sense, a plea that the device was not proper subject-matter raises also the question whether, assuming both novelty and invention, the device is "an art, process, machine, manufacture or composition of matter." It seems better, in pleading, to avoid altogether so Protean a phrase, and to plead separately and plainly the various objections which it may conceal.

4. *That the device must have been invented by the applicant for the patent.*⁵

The effect of section 7 is to require, not only that the device must have involved invention, but that it must have been invented by the applicant; and section 10 requires the applicant to swear that he verily believes that he is the inventor. The question whether the applicant was the inventor of the device sued upon arises now more frequently than it used to, and is often of importance.

⁵ This requirement is subject to the exceptions provided for by sub-section (2) of section 10, which permits application by the legal representative or assignee of a dead, incapable or lost inventor, or of one who, after assignment, refuses to make the necessary oath or affirmation.

Under modern conditions, a considerable proportion of commercial inventions are made in the laboratories and engineering departments of large corporations, and many people may be concerned in them, so that it is often difficult to say definitely who actually made a given invention. Moreover, there is sometimes personal or inter-departmental jealousy for the credit of the invention, stimulated, perhaps, by a bonus to patentees; and sometimes proper enquiry has not been made or proper care taken to see that the application is made in the right name. The result is that the chief engineer may be named as the inventor instead of some subordinate, or only one inventor may be named instead of two or more, and so on. A patent for an invention alleged to have been made by the head of a department is usually worth investigating, and, indeed, it is well to raise the point against any patent for an invention stated to have been made by an employee of a corporation. In the case of a joint patent, though taken in perfect good faith in the name of two inventors, it is sometimes possible to show, by an investigation of the prior art, that everything contributed by one of the two was in fact old. If so, the joint patent will be invalid. Numerous illustrations might be given, but so much has been said only in order to indicate that it is generally wise to plead the objection, so that the facts may be investigated.

A practical difficulty in so pleading is that the decisions upon this plea have required that the particulars must name the person alleged to have been the true inventor. This is reasonable enough when the true inventor is someone not connected with the plaintiff or with the plaintiff's assignors. But, if the objection is that the inventor was some employee of the plaintiff other than the applicant, the facts are more accessible to the plaintiff than to the defendant, and it should be enough to plead that "*The invention, if any, was not invented by the patentee but by another officer or employee [or 'other officers or employees'] of the Company whose name is [or 'names are'] unknown to the defendant.*" After all, the purpose of particulars is that the opposite party may have such warning of the case against him as will enable him to prepare his answer to it, and an objection in this form seems, under such circumstances, sufficient for that purpose.

5. *That the device must not have been "patented or described in any printed publication" anywhere "more than two years prior to the application."*

An objection based upon this requirement is distinct from the objection that the device was not new, and must be the subject of

a separate plea and separate particulars. On the issue of novelty, the date of *invention* is the critical date, but, for the purpose of the requirement now in question it is the date of the Canadian *application* that governs, and the date of invention is immaterial. If this plea can be made good, the Canadian patent is invalid however new the device when invented, and no matter how early a date the inventor may prove for his invention in order to anticipate a publication which threatens him on the issue of novelty. Even if he proves for his *invention* an earlier date than that of the publication in question, he will still fail to support his patent if the publication antedates his Canadian *application* by more than two years.

It may well happen that a given publication is available under both heads, both as anticipating the invention, and as antedating the Canadian application by more than two years. But this is no reason for confusing the two points. If it is desired to rely on the same publication for both purposes, that can readily be done by properly phrasing the particulars, and failure to make clear what publications are so relied upon may give rise either to a demand for further particulars or to difficulty at the trial. It should be observed, too, that, though under the plea that the device was not new, publications of the device by the inventor himself are irrelevant, they are as relevant as any others (and sometimes much more useful) in support of the plea now in question.

6. *That the device must not have been in public use or on sale in Canada for more than two years prior to the application.*

Under the former Act, the requirement was that the device should not have been "in public use or on sale with the consent or allowance of the inventor thereof, for more than one year previously to his application for patent therefor in Canada." Under the present Act, use and sale in Canada are in almost the same position as patents and publications. What has just been said under the last head applies therefore equally under this, and need not be repeated. Two further points should be noted.

The words are "on sale" not "sold." Apparently, therefore, offers for sale would be sufficient, even if no actual sale could be proved. And, further, it would not be necessary that the device should have been in existence at the time of the offer. Take the case of a process, to which the requirement is just as applicable as to a "machine, manufacture or composition of matter." If the inventor, or anyone else, has tried, though in vain, to persuade people to adopt the process on payment of a royalty, it would seem that the process

has been "on sale" within the meaning of the Act. Since the requirement is not limited to a process, there seems to be no ground for so limiting the reasoning, or for holding that, if there have been offers to manufacture and sell, e.g., a mechanical doll, the doll has not been "on sale" just as much as if it had been completed and put in a shop window. The reasoning upon which some of the American Courts have arrived at an opposite conclusion is of doubtful application in Canada, and the question has never yet been squarely decided in the Canadian Courts, though there is some discussion of it in *Barnett-McQueen Co. v. Canadian Stewart Co.*⁸ Clearly, therefore, if any such offers for sale or attempts to sell are known, they should be pleaded in the particulars.

The second point is that the Act says that the device must not have been in public use or on sale "for more than two years." This may be, though it has not yet been, held to mean that the device must have been continuously in use or on sale during a period of more than two years. The decisions in the United States, where the language is the same, are that a single use or sale is enough. Until the contrary has been decided in Canada, all uses of or offers to sell the device should be pleaded, whether continuous or not.

7. *That the device must be "useful."*

The plea that the invention is not useful is rarely of much real value, but is almost always inserted. As no particulars need be given of it, it does no harm, and the pleader is seldom familiar enough with the art at so early a stage to be sure that nothing can be made of it. It has at least two possible meanings. It may be another way of saying that the device does not work, and thus really mean that the specification is insufficient, i.e., that, if it is followed, the result claimed by the patentee is not obtained. If so, it is better to plead it clearly as an objection to the specification, and this can more appropriately be done under a separate head, to be mentioned presently. Or it may, and in the mind of the pleader probably does, mean that, assuming both novelty and invention, no improvement in the art has been made and the device is of no practical value. Though this may be said of many inventions, it is seldom true of any that come into the Courts. Moreover, if the defendant infringes, he answers the plea by his own use of the device, and, if he does not, he escapes on the ground of non-infringement.

In addition to section 7, the pleader must also bear in mind certain other provisions of the Patent Act, the effect of which is to pre-

⁸ 11 Ex. C.R. 186.

scribe further requisites, not of the device to be patented, but of the form of the Letters Patent. These are as follows:—

8. That “the specification shall correctly and fully describe the invention and its operation or use as contemplated by the inventor”; and that it “shall set forth clearly the various steps in a process, or the method of constructing, making or compounding, a machine, manufacture, or composition of matter” (Sec. 14, sub-sec. 1).

The objection that the specification in question does not satisfy this requirement should be pleaded in the language of the Statute. What particulars must be given of this plea will depend upon the nature of the objection. If it be the general objection, already referred to, that anyone following the specification does not obtain the result claimed by the patentee, this should be so stated, and no further particulars need, or indeed can, be given. But, if the objection is to specific errors, obscurities or omissions in the specification which make it impossible to follow, then these must be particularized, with reference to the relevant passages in the specification.

9. That the specification and drawings must not “contain more or less than is necessary for obtaining the end for which they purport to be made” (Sec. 31, sub-sec. 1).

Any objection based upon this requirement must be clearly pleaded and particularized. But it is difficult to invalidate the plaintiff's patent upon this ground, since section 31 requires that, to avoid the patent, the omission or addition must have been “wilfully made for the purpose of misleading.” Moreover, the proviso directs that: “If it appears to the Court that such omission or addition was an involuntary error, and if it is proved that the patentee is entitled to the remainder of his patent *pro tanto*, the patent shall be held valid for such part of the invention described as the patentee is so found entitled to.” But this, of course, may be a part which the defendant does not infringe. How far, if at all, the power of the Court under this proviso to section 31(1) applies to any failure of the specification to satisfy section 14(1), just mentioned, has not been determined, and need not be discussed here.

10. That the claims shall “state distinctly the things or combinations which the applicant regards as new and in which he claims an exclusive property and privilege” (Sec. 14, sub-sec. 1).

Here, again, any objection to the claims in question should be pleaded in the language of the Statute. It is impossible to suggest

any general rule as to the particulars which must be given of such a plea. It has been held (*British Ore Concentration Ltd. v. Minerals Separation Ltd.*, 24 R.P.C. 790) that no particulars need be given of a plea that "the specification (which includes the claims) does not sufficiently define the extent or limits of the invention claimed." But, if the objection is really directed against specific obscurities in the claims, it should probably be particularized. The objection that the claims are too broad, as claiming more than the patentee invented, should, if relied upon, also be pleaded here. This objection, however, must be considered subject to section 35, which provides that "when-ever it appears that the defendant used or infringed any part of the invention justly and truly specified and claimed as new, the Court may discriminate, and the judgment may be rendered accordingly."

Subsection (1) of section 17 precludes certain claims in the case of inventions relating to substances prepared or produced by chemical processes, and intended for food or medicine. Whether the inclusion of the forbidden claims would invalidate the patent has not yet been decided, but, if the patent in question contains such claims, the objection, following the language of the Statute, should be pleaded in this place.

11. *That no "material allegation in the petition or declaration of the applicant" must be "untrue" (Sec. 31, sub-sec. 1).*

This requirement is mentioned because an objection based upon it is often inserted in the defendant's particulars. But an examination of the prescribed forms of petition and declaration shows that such an objection is really useless, if the rest of the particulars have been properly drawn. Apart from the name, address and occupation of the petitioner, which can hardly be considered "material," the allegations in the petition are simply allegations that the invention fulfils the requirements of section 7. The declaration similarly states the name, address and occupation of the declarant, and says that the allegations in the petition are true. So far, therefore, every material allegation in the petition and declaration should have been already covered by specific objections based upon the requirements of section 7, and, if any one of these can be supported, the patent is invalid upon that ground, whether the applicant has said anything about it or not.

The declaration contains also an allegation that no application for any foreign patent on the device has been made, except as stated. This allegation relates to section 8, which requires

12. *That the patent must have been "applied for within one year from the earliest date on which an application for a patent for the invention was filed in any foreign country, or from the passing of this Act if no patent has been issued on a foreign application for the invention for more than one year."*⁷

If the statement in the declaration as to foreign patents is inaccurate, it would not seem to be material unless any such foreign application preceded the Canadian application by more than one year. Any foreign application made more than one year before the Canadian application, and therefore any material misstatement upon this point in the declaration, will be covered by an objection based upon section 8.

The suggested forms of Statement of Defence and Particulars of Objection are as follows:—

STATEMENT OF DEFENCE.

1. The Defendant has not infringed the Letters Patent mentioned in the Statement of Claim.

2. The said Letters Patent are invalid for the reasons stated in the Particulars of Objection delivered herewith.

PARTICULARS OF OBJECTION.

Letters Patent number....., mentioned in the Statement of Claim, are invalid because:—

1. The alleged invention was not an art, process, machine, manufacture or composition of matter, or any improvement thereof.

2. The alleged invention was not new; it was known and used by others before the date thereof, as appears from

(a) The common knowledge of the art at the said date;

(b) [*Here set out all patents relied upon as anticipations, stating for each patent the country of issue, date, number, and the name of the patentee*].

(c) [*Here set out all publications relied upon as anticipations, stating for each publication its title, the name of the author, the date and place of publication and the name of the publisher*].

(d) The knowledge of the inventors named in the patents and of the authors of the publications aforesaid [*and of the following persons*]:—

[*Here give the names and addresses of any persons, other than the inventors and authors mentioned under (b) and (c), who are said to have known the device before its alleged invention by the inventor named in the patent sued upon*].

⁷ Provided that the foreign patent actually issues before the Canadian patent. *Russell v. Commissioner of Patents*, (1925) Ex. C.R. 15.

(e) The use thereof by

[Here give the names of any persons who are said to have used the device before its alleged invention by the inventor named in the patent sued upon, with dates and places of such use].

3. There was no invention, having regard to the common knowledge of the art, and to the patents, publications and uses aforesaid.

4. The alleged invention (if any) was not invented by [naming the person stated in the patent sued upon to have been the inventor] but by [naming and giving the address of the person alleged to have invented it, or describing him as particularly as possible if he was in the employment of the plaintiff or the plaintiffs assignor].

5. The alleged invention was not useful.

6. The alleged invention was patented and/or described in printed publications more than two years before the application for the said Letters Patent

(a) In such of the patents and printed publications aforesaid as were issued or published more than two years before the said application;

(b) In [setting out any printed publications by THE INVENTOR HIMSELF published more than two years before the application for the patent sued upon.]

7. The alleged invention was in public use and/or on sale in Canada for more than two years before the application for the said Letters Patent as follows:

(a) By [naming any of the persons mentioned in paragraph 2 (e) who USED the invention in Canada for more than two years before the application for the patent sued upon] as mentioned in paragraph 2 (e).

(b) [Here set out all relevant sales and offers for sale by any persons other than the inventor and those claiming under him, and all relevant USES, sales and offers for sale by the inventor or his representatives or assigns with dates and places, and names of actual or proposed purchasers].

8. The specification of the said Letters Patent does not correctly and fully describe the alleged invention, and its operation or use as contemplated by the alleged inventor, and does not set forth clearly the various steps in the process [or "the method of constructing the machine," or as the case may be, following the language of sec. 14 of *The Patent Act*] therein mentioned, because:

(a) If the said specification be followed the result [or "results"] claimed in the said Letters Patent is [or "are"] not obtained;

(b) [Here set out any specific errors, obscurities or omissions relied upon, with references to pages and lines of the specification.]

9. The specifications and drawings of the said Letters Patent contain more than was necessary for obtaining the end for which they purported to

be made, in that

[*Give particulars.*]

Such additions were wilfully made for the purpose of misleading.

10. The specifications and drawings of the said Letters Patent contain less than was necessary for obtaining the end for which they purported to be made, in that

[*Give particulars.*]

Such omissions were wilfully made for the purpose of misleading.

11. (a) The claims of the said Letters Patent do not state distinctly the things or combinations which the applicant regards as new and in which he claims an exclusive property and privilege.

(b) The said claims claim more than the applicant invented, if he invented anything.

CHRISTOPHER C. ROBINSON.

Toronto.

GLADSTONE'S REPUTATION.—In the opinion of *World Wide* the honour of England's "Grand Old Man" stands unsullied before the world. 'We are unanimously of the opinion that the evidence which has been placed before us has completely vindicated the high moral character of the late Mr. William Ewart Gladstone.' This statement on February 3rd, by the foreman of the jury empanelled to consider the libel suit brought by Captain Peter Wright, soldier and publicist, against Viscount Gladstone, son of one of England's greatest statesmen, decided the real issue in this cause célèbre.