

*Reasons for the Report of the Lords of the
Judicial Committee on the Petition of John
I. Thornycroft and another for extension of
the Term of Letters Patent, No. 1404, of the
31st January 1885 ; delivered 25th February
1899.*

Present :

LORD HOBHOUSE.
LORD MACNAGHTEN.
LORD DAVEY.
SIR RICHARD COUCH.

[Delivered by Lord Davey.]

This is an application for an extension of the term of certain letters patent dated the 31st January 1885 and granted to John Isaac Thornycroft for "improvements in steam generators." The invention has reference to what are known as water tube boilers and consists of the combination of various parts all or most of which were admittedly not new at the date of the letters patent. It is no doubt a useful invention particularly in marine engines and has been applied with success both in this country and abroad. It has been used in vessels of the Royal Navy in which high speed is required with small weight of boilers and of fuel to be carried in the vessel. But the evidence has not satisfied their Lordships that the invention is one of such striking or unusual merit as would justify them in recommending an extension of the term of the patent. The only evidence on

this point in addition to that of the patentee himself is that of Professor Capper who speaks of the boiler as the best of its kind for certain purposes. He is no doubt a gentleman of competent skill and knowledge but his evidence on a point of this kind has not the same authority as that of a naval architect or constructor might have had.

The evidence as to the remuneration of the patentee is also unsatisfactory. In the opinion of their Lordships the petitioners fail to give any sufficient explanation why they have not or might not have received adequate remuneration for the invention. The petitioners have received a net profit of 5,826*l.* 5*s.* 4*d.* on their foreign patents. They have also made a profit of 3,178*l.* 10*s.* during the years from 1888 to 1895 inclusive on boilers made by them in this country for boats not built by them, being at the rate of about 16 per cent. on the expenditure. But they state that they have lost 6,494*l.* 7*s.* in fitting the patented boilers on boats built by themselves under contract. They have built between 30 and 40 boats fitted with the patented boilers from the year 1885 to the year 1896 at an expense of 480,686*l.* In particular they state that in the year 1891 they lost a sum of 38,226*l.* 8*s.* 9*d.* on a vessel called the *Speedy* which they built for the British Admiralty and they attribute 4,970*l.* 13*s.* of the loss to the boilers. In this and other cases the petitioners have taken the percentage of loss on the boat including the boilers and divided it *pro rata* between the actual cost of the boilers and that of the boat exclusive of the boilers. It appeared however on cross-examination that the tenders for the *Speedy* as well as for some other vessels contained separate prices for the boilers and for the boat and the difference between the contract price and the actual cost of the boilers

of the *Sgeedy* was 688*l.* only. Their Lordships think that the proportion of loss attributed to the boilers is ascertained on a fallacious principle but in the circumstances of this case they do not find it necessary to dwell on these details. No explanation whatever has been offered why this large loss (nearly 10 per cent. on the amount expended) was incurred in building boats fitted with the patent boilers for themselves while a handsome profit was made on supplying the boilers for boats built by other builders. In the absence of any explanation the facts proved are consistent with the existence of some error of judgment miscalculation or other defect in the petitioners' mode of carrying on their business of boatbuilding and their Lordships cannot accept the evidence as proof that no profit was or could have been made in working the patented invention.

They will therefore humbly advise Her Majesty that the prayer of the petition be refused.

