

NOTES ON THE PROLONGATION

OF

LETTERS PATENT FOR INVENTIONS,

WITH THE

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883-8,
CONSOLIDATED;

THE BOARD OF TRADE RULES AND
THE PATENT OFFICE RULES AND DIRECTIONS;

AND

THE NEW RULES OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL.

BY

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Notes of Scottish Decisions.”*

LONDON:

EYRE AND SPOTTISWOODE,
GOVERNMENT, LEGAL, AND GENERAL PUBLISHERS,
EAST HARDING STREET, E.C.

1898.

Price Five Shillings.

P R E F A C E.

I commenced this book with the idea of giving a short resumé of the cases bearing on the extension or prolongation of Letters Patent. But after my experience in applying for provisional protection for my own invention, I considered it might aid others if I presented to intending patentees the whole procedure for obtaining Letters Patent: Registration of Designs: or Registration of Trade Marks. I therefore extended my work so as to include the Board of Trade Rules: The Forms: the Valuable Instructions compiled by the Patent Office; and the Act of 1883, consolidated with its amending Acts, 1885, 1886, 1888.

I cannot help saying that it would be a great convenience if the intending patentee was supplied at the Patent Office itself with the 1*l*. stamp, which has to be affixed to or embossed on his Application Form. It is also a pity that the Patent Office is not in a more conspicuous building: on a corner site: easily found; and presenting an inviting appearance. All men may not be successful patentees, but most men have inventive faculties, and may make the most useful and meritorious of inventions, yet these generally are the most wanting in energy to protect their ideas; therefore, both from patriotic motives, and financial motives, it ought to be made easy to Inventors as a body to quickly perceive where, and how, they can protect their inventive thoughts.

In conclusion, I trust the object of this book will be fulfilled, namely, to place before the inventing public, in a cheap and compact form, the whole procedure for obtaining Letters Patent, or their extension, or for obtaining registration of Designs, or Trade Marks; and that the book will be found generally helpful.

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Lincoln's Inn,
February, 1898.



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Cl. and F.	-	- Clark and Finnelly's House of Lords Reports.
L.J. P.C.	-	-- Law Journal Privy Council Reports.
L.T.	-	- Law Times Reports.
Moo.	-	- Moore's Privy Council Reports.
Moo. N.S.	-	- " New Series.
P.C.	-	- Law Reports, Privy Council Cases.
R.P.C.	--	- Official Reports of Patent Cases.
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INTRODUCTION.

PART I.

PROLONGATION.

To obtain prolongation, three things seem to be absolutely indispensable, merit, clear accounts, and proof of an absence of adequate remuneration. Further, no concealment or mis-statement of the facts will be for a moment tolerated; in fact, the whole past history of the invention must be candidly laid before the Judicial Committee; the accounts being presented in a clear and comprehensible way, and showing year by year the receipts and expenditure.

PART II.

CONSOLIDATED ACTS OF 1883-8.

Many important alterations have been made in the Act of 1883 by subsequent legislation. These alterations are embodied and generally marked. Tables pp. ix to xiv being keys to the sections of the Acts.

PART III.

OBTAINING LETTERS PATENT, REGISTRATION OF DESIGNS,
AND REGISTRATION OF TRADE MARKS.

Firstly.—As to obtaining Letters Patent.—Since 1888 a great change has been made in the fees. They have been stupendously reduced, and payments by instalments is the rule. For the initial payment of 1*l.* protection for nine months, and with leave of the Comptroller for ten months [see pp. 37, 89-90, 110, 144], can be obtained, and on payment of another 3*l.* protection can be obtained for four years, and so on [pp. 93, 150]. The mode of procedure seems simple enough. Application for a patent is to be made on Form A., or A. 1 or A. 2 (as the case may be) [pp. 120-1-2]. This Form must bear a 1*l.* stamp, which can be obtained at Room No. 6, Royal Courts of Justice, or at the chief post offices in the kingdom, a list of which will be found on p. 94. The Form, when filled up as the side notes direct, is to be accompanied by Form B. [p. 124]. This latter Form bears no stamp; it is called the Provisional Specification; that is, it must describe the general nature of the invention. It is desirable to use the printed Form B., obtainable as above; but if the description of the invention extends beyond the first sheet, writing only on one side, then the inventor is not to write on the back, but can add further plain sheets of foolscap paper. The Application Form A., A1, or A2, stamped with 1*l.*, and the Provisional Specification Form B., are lodged at the Patent Office, 25, Southampton Buildings, Chancery Lane, W.C. These are referred by the Comptroller-General to the examiners, and, if in order, the applicant is informed, within a few days, that his Provisional Specification is accepted, and from the date of that intimation the invention is protected for nine months. If these documents are out of order in any way the Comptroller-General communicates

with the applicant and informs him what is required. Before the nine months—or with extension ten months—from the date of the application run out, the inventor's Complete Specification Form C. [pp. 90, 125] must be furnished in duplicate. One copy requires a 3*l.* stamp, which, if it is accepted, will protect the invention for four years. Extended time not exceeding three months after 12 months may be granted for the acceptance of the Complete Specification, p. 37, see Form V., p. 145, and Fees, p. 151. The Complete Specification must contain a complete and exhaustive description of how the invention is to be made or carried out, with drawings, if necessary. It will be referred to the examiners, and if passed as fulfilling all the requirements of the patent, it will be advertised in the Official Journal; and if, after two months from the date of the advertisement [see S. 11 (p. 38) of the Acts], there is no opposition, the patent is sealed [see Instructions and Rules, pp. 95, 109].

Thus, for 4*l.*, four years' protection is obtained; but a further boon is given to inventors in that they may pay, before the expiration of the fourth year the fees for the fifth year, and so year by year.

Secondly.—Then, as to registration of Designs. The application for registration of a Design is Form E. or Form O. [pp. 165, 175], and for Lace Designs, Forms E 1, and O 1 [pp. 179, 180], see Instructions, p. 154; and for Fees, see p. 178. Applicants must state their trade or business, and whether the design is for the "pattern," or for the "shape," or for the "ornament."

Thirdly.—The application for registration of a trade mark is to be on Form F. [p. 207]. For Fees see p. 203, for Instructions, p. 184, and for statutory definition of a trade mark, see p. 60. A trade mark may be registered for 25*s.* if the articles are contained in one class, that is

5s. on application and 20s. on registration, p. 203. But a separate application form is required for each class of goods in cases where the same trade mark is claimed in more than one class, p. 185. Further, a series of trade marks may be registered, pp. 61, 186, 203. And goods, generally, have been classified, *see* p. 230.



PROLONGATION OF PATENTS.

Notes.

The earliest patents granted under the Act of 1883 [46 & 47 Vict. c. 57] began to run out in January 1898; and in respect of prolongation of these and future patents New Rules have been prepared and sanctioned by the Lords of Her Majesty's Privy Council, and are given *post*, page 248.

The old rules were made in November 1835, and re-issued with some alterations in 1871. These old rules are set out in Macpherson's Practice, 1873 edition, App. p. 24; also in 3 Knapp's Reports.

By s. 25 of the Patents, Designs, and Trade Marks Act, 1883 (46 & 47 Vict. c. 57), it is enacted that:—

- “ A patentee may, after advertising in manner directed by any rules [see the new rules, p. 248] made under this section his intention to do so, present a petition to Her Majesty in Council, praying that his patent may be extended for a further term, but such petition must be presented at least six months before the time limited for the expiration of the patent.
- “ (2.) Any person may enter a caveat, addressed to the Registrar of the Council, at the Council Office, against the extension.
- “ (3.) If Her Majesty shall be pleased to refer any such petition to the Judicial Committee of the Privy Council, the said Committee shall proceed to consider the same, and the petitioner and any person who has entered a caveat shall be entitled to be heard by himself or by counsel on the petition.
- “ (4.) The Judicial Committee shall, in considering their decision, have regard to the nature and merits of the invention in relation to the public; to the profits made by the patentee as such; and to all the circumstances of the case.
- “ (5.) If the Judicial Committee report that the patentee has been inadequately remunerated by his patent, it shall be lawful for Her Majesty in Council to extend

the term of the patent for a further term not exceeding seven, or, in exceptional cases, to 14 years; or to order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the Judicial Committee may think fit.

- “ (6.) It shall be lawful for Her Majesty in Council to make, from time to time, rules of procedure and practice for regulating proceedings on such petitions and subject thereto such proceedings shall be regulated according to the existing procedure and practice [see notes of cases which follow] in patent matters of the Judicial Committee.
- “ (7.) The costs of all parties of and incident to such proceedings shall be in the discretion of the Judicial Committee; and the orders of the Committee respecting costs shall be enforceable as if they were orders of a division of the High Court of Justice.”

The duty of a petitioner for extension is :—

- (1.) To state the letters patent, what the invention is for, and produce the letters patent. If the letters patent are not in existence certified copies will be received.
 - (2.) Describe the invention, paying particular attention to what the petitioner considers the merit and benefit to the public.
 - (3.) Give an account of the difficulties the patentee or the assignees (as the case may be) have encountered from poverty, infringement, &c., &c.
 - (4.) What prospect there is of the invention paying in the future.
 - (5.) He must prove formally the advertising of the intended application and produce the newspapers containing the advertisement, with the part containing the advertisement marked so that it can be at once seen.
 - (6.) Have in attendance at the hearing independent witnesses as to the merit and benefit to the public of the patent.
 - (7.) And above all the patentee or assignee must show year by year, without inaccuracies or discrepancies, how the profits have been made, and if they have increased or fallen off; and why either.
-

Grounds of Extension.

The grounds on which extension is granted have reference to the inventor himself—

1st. To reward the inventor for the peculiar ability and industry he has exercised.

2nd. Because some great benefit of an unusual description has by law been conferred upon the public through the invention itself.

3rd. Because the inventor has not been sufficiently remunerated by the profits derived from his strenuous exertions to make the invention profitable. Norton's Patent, 1863, 1 Moo. N.S. 339, 11 W.R. 720.

Matter of Favour.—The extension of the letter of a patent is matter of favour not of right; and it is essential to the favourable consideration of the patentee's application that he should distinctly prove how much the public have had to pay, or, in other words, how much has been received on account of the patent. Trotman's Patent, 1866, 3 Moo. N.S. 488, 1 P.C. 118. See also Perkins' Patent, 1845, 2 Web. 6; Hills' Patent, 1863, 1 Moo. N.S. 258, 9 L.T. 101, 12 W.R. 25.

Degree of Merit.

The degree of merit required for prolongation must be merit beyond that ordinary merit which would be sufficient to sustain a patent when there is a plea on the ground of want of utility. The law presumes some merit in a patent by the mere granting of it. In practice very little merit will do, and the law officers do not go into the merits further than to see that the alleged invention is not an absurd one. The theory of patents is that they are granted *ex mero motu* by the Crown, on the recommendation of the legal advisers of the Crown, upon *prima facie* novelty and *prima facie* merit. But to induce the Lords of the Privy Council to extend a patent there must be something more than would merely support a patent in a court of law. And where an extension goes beyond seven years, according to the words of the statute, there must be "exceptional merit" in the case, which means there must be still further merit than would merely support a patent. Sir W. Grove in Stoncy's Patent for sluice rollers, &c.,

1888, 5 R.P.C. 518. [Prolonged for 20 years.] *See* remarks, Pemberton Leigh in Porter's Patent, 1855, 2 Web. 207.*

That in order to obtain it a very special case must be made; that the novelty, merit, and utility of the invention must be proved, and it must be shown that all reasonable means have been used in order to make the invention productive, but that in spite of such exertions the remuneration obtained by the inventor has either entirely failed, or has been quite disproportioned to his merits and to the benefit conferred upon the public. These rules will be found to be laid down by Lord Brougham in Soames' Patent, 1843, 1 Web. 729; in Morgan's Patent, 1843, *ibid.* 737; in Jones's Patent, 1840, *ibid.* 577; by Lord Lyndhurst in Swaine's Patent, 1837, *ibid.* 560, and by other Lords in a variety of subsequent cases, down to the late case of Heath's Patent, 1853, 2 Web. 247, 8 Moo. 223, and we think it of great importance that they should be strictly observed.

If another's invention is necessary in order to make the first invention useful, no doubt that takes away the merit of the first invention. Woodcroft's Patent, 1846, 2 Web. 28.

An invention may be very simple and yet merit an extension. Muntz's Patent, 1846, 2 Webs. Pat. p. 119.

On the other hand the invention may be very simple, but without merit; so where a spring was inserted between the fork and the axle bearings of bicycle wheels, extension was refused. Hall's Patent, 1895, 12 R.P.C. 401.

And in Lowe's Patent, 1852, 8 Moo. 1, for propelling vessels, there was found to be no unrequited merit.

Yet, if the public have received great benefit from the patent, although small in point of discovery, prolongation may be granted. Derosne's Patent, 1844, 2 Web. 1, 4 Moo. 416.

Evidence that a machine is a great advance on the rapidity of the work done goes towards merit. Hazeland's Patent for planing wood, 1894, 11 R.P.C., 467; and improvements in the invention by the patentee is to be encouraged, Bovill Patent; but the extension was given to the patentee alone, and not to his creditors. *See also* Soames' Patent, 1843, 1 Web. 729.

But the extension, as in Bodmer's Patent, 1853, 8 Moo. 282, may be only for the unexpired term of the subsequent patents. The original and improvement patents were to expire on a certain date.

: **Auxiliary Patents.**—Subsequent patents might receive undue support from the prolongation of the patent invention if both the inventions were owned by the same petitioner. Thus, if the subsequent patents were invalid, and the patent was prolonged, they might receive countenance and the public might be excluded from the use of certain known processes by reason of their being inseparably connected with the use of the particular machine; and, further, if auxiliary and subsequent patents were taken out by others than the patentee of the parent machine, then the patentee, of an auxiliary might be deprived of his just profits. Lord Romilly in *Norton's Patent*, 1 Moo. N.S., p. 347, 11 W.R. 720.

Circumstances of each Case to be examined.

The peculiar circumstances of each case ought to be narrowly examined, because it is not a matter of course, that, when a party applies for an extension of a patent merely on the ground that it is a valuable invention, he is to have an extension of it. *Pettit Smith's Patent*, 1850, 7 Moo. p. 137; *Soames' Patent*, 1843, 1 Web. 729; *Morgan's*, 1843, 1 Web. 737; *Jones's*, 1840, 1 Web. 577; *Swaine's*, 1837, 1 Web. 559; *Heath's Patent*, 1853, 2 Web. 247. and *Hardy's Patent*, 1849, 6 Moo. 441.

Rival Inventors.—The Judicial Committee cannot go into an argument to show which is the best. It is enough to show that the patent for which an extension is asked has considerable merit. *Woodcroft's Patent*, 1846, 2 Web. 18.

Pushing Invention.—An inventor must not lie idle but must do his best to promote his invention, and not neglect it, or let it take care of itself. *Stoney's Patent*, 1888, 5 R.P.C., p. 523. *Dolbear's Patent*, 1896, 13 R.P.C. 203.

Difficulties in the way of deciding the Merits.

Non-user creates a difficulty in the Judicial Committee properly considering the merits of an application for prolongation, for there is no opposition and the Court has not all the facts it might have. *Allan's Patent for Improvements in Electric Conductors*, 1867, 4 Moo. N.S. 443, 1 P.C. 507. And non-user is presumptive of non-

utility. Simister's Patent, 1842, 4 Moo. 164, 1 Web. 721; Bakewell's Patent, 1862, 15 Moo. 385; Norton's Patent, 1863, 1 Moo. N.S. 339, 11 W.R. 720.

But where there is a very limited market for an invention the presumption of non-utility from non-user may be more easily rebutted. Herbert's Patent, 1867, 4 Moo. N.S. 300, 1 P.C. 399, for improvements in the construction and moorings of light vessels, buoys, and similar floating bodies. Hughes' Patent, 1879, 4 App. Cas. 174, 27 W.R. 493, improvements in the construction of armour plates.

The Specification.

Specification must be Clear and Workable.— McDougal's Patent, 1867, 5 Moo. N.S. 1, 2 P.C. 1, 37 L.J., P.C. 17, for improvements in heating sewage, Rex and Wheeler, 1819, 2 B. and Ald., 345, Galloway's Patent, 1833, 1 Web., 175.

Nor must the specification be too wide. McInnes' Patent, 1868, 5 Moo. N.S. 72, 2 P.C. 54, 37 L.J., P.C. 23.

Lord Eldon said, in *Williams v. Williams*, 3 Mer. 157, the patentee "is a purchaser from the public, being bound to communicate his secret to the public at the expiration of his patent."

Validity of Patent.—The Judicial Committee do not go into any nice questions touching the validity of a patent, Stoney's Patent, 1888, 5 R.P.C. 518, especially as the new letters patent fall on the patent being declared invalid.

Therefore, when an action is pending to declare a patent invalid, the Judicial Committee may upon the merits shown extend the patent for a short time, although if the patent on the face of it was manifestly and grossly illegal, the Committee would not advise an extension. Kay's Patent, 1839, 1 Web. 568. 3 Moo. 24, ultimately declared void, 1841, 8 Cl. and F., 245. *See also* Woodcroft's Patent, 1846, 2 Web. 18.

Identity between Foreign and English Patent.—If it were clear that the discoveries of the English and foreign patentee were the same, and that the foreign patent was about to become the property of the public, the Judicial Committee would certainly think it wrong to recommend a prolongation. And though a doubt of their being the same will not decide the case, that doubt will have some weight. Hills' Patent, 1863, 1 Moo. N.S. 258, 12 W.R. 25.

Novelty.—Nor will the Judicial Committee decide the novelty of a patent. *Cocking's Patent*, 1885, 2 R.P.C. 151; *Woodcroft's Patent*, 1846, 2 Web. 18.

Use, meaning of.—Previous use means where there was an invention which had been actually practised. The patent is not rendered invalid by previous attempts to use it in the first instance having been abortive; and it would seem that it was wholly immaterial, whether the attempts were continued, or whether the attempts were abandoned, for in neither case can they be made use of as evidence of prior use for the purpose of invalidating the patent. But if the invention has been once publicly used that is sufficient. In *re Card's Patent*, 1848, 2 Web. 161, 6 Moo. 207; *Lamenaude's Patent*, 1850, 2 Web. 164; *Honiball's Patent*, 1855, 2 Web. 201, 9 Moo. 378; *Househills Iron Company v. Neilson*, 1843, 1 Web. 673, 9 Cl. and F. 788.

And mention in a book is no bar to a patent, unless it is so accurately expressed that anybody could easily make it and use it. *Woodcroft's Patent*, 1846, 2 Web. 18; *Stead's Patent*, 1844, 8 Scott, N.R. 472, 2 Web. 142. Tindal, C. J., said: "If the invention has already been made public in England by a description contained in a work, whether written or printed, which has been publicly circulated, in such a case the patentee is not the first and true inventor." See *Alderson, B.*, in *Carpenter v. Smith*, 1842, 9 M. & W. 303.

In *Lancaster's Patent*, 1864, 2 Moo. N.S. 189, for improvements in the manufacture of fire-arms and percussion caps, it was alleged that a book called "*Selopetaria*" by *Beaufoy*, in 1810 (2 Ed. 1812), described the invention. But it was held by the Judicial Committee that the account in the book did not deprive the invention of the presumption of novelty.

Contract beyond the Term.—The Judicial Committee will not look with favour on contracts for a further period than the term of the patent, for such provisions have a strong tendency to contravene the interest of the public. *Hills' Patent*, 1863, 1 Moo. N.S. 258, 12 N.R. 25.

Facts to be proved.—The petitioner is bound to prove three points—

- (1.) The merits of the invention.
 - (2.) That the party interested has done all in his power to bring out the invention and turn it to advantage.
 - (3.) That owing to circumstances beyond his control, he has been unable to obtain an adequate remuneration.
- Markwick's Patent*, 1860, 13 Moo. 310, 8 W.R. 333.

Accounts.

The very threshold of an application for prolongation is that full accounts should be rendered. The accounts must also be accurate, and not include the allowances for machinery and plant used in the manufacturing of other articles, nor law expenses partly incurred for other patents; and, further, adding on a percentage to labour for waste of machinery and carriage opens the door to doubt. In *re Saxby's Patent*, 7 Moo. N.S. 82, 3 P.C. 292, 19 W.R. 513, for railway points and signals. Earl (then Lord) Cairns said: "It is the duty of every patentee who comes for the
 " prolongation of his patent to take upon himself the onus
 " of satisfying this committee, in a manner which admits
 " of no controversy, of what has been the amount of
 " remuneration, which, in every point of view, the invention
 " has brought to him, in order that their Lordships may
 " be able to come to a conclusion whether that remunera-
 " tion may be fairly considered a sufficient reward for his
 " invention or not."

And dealing with the cost of the levers and the fact that the patentees put down the cost of the materials and the wages, and then added 25 per cent. for factory charges, degeneration of machinery, clerks' wages, cost of transport, and fixing machinery, his Lordship said: "If on analysis
 " it might be shown these conjectural charges were larger
 " than necessary, it was obvious another source of profit.
 " We do not say there was that profit, nor are their Lord-
 " ships in a position to form an estimate upon it; but it is
 " their duty to say that it was for those who submitted
 " the accounts to them to put it beyond doubt that there
 " was no further probable source from which profit might
 " have been derived."

"It was not for the Committee to send back the accounts for further particulars, nor to dissect the accounts for the purpose of surmising what might be their real outcome if they were differently cast; it is for the applicant to bring his accounts before the Committee in a shape which will leave no doubt as to what the remuneration has been that he has received."

Accounts ought to be kept from the commencement of the patent. *Betts' Patent*, 1862, 1 Moo. N.S. 49, 7 L.T. 577, 11 W.R. 221; *Lake's Patent*, 1891, 8 R.P.C. 227.

If accounts are not put in within the time mentioned in the rules, their Lordships may decline to receive them at all. In *re Johnson and Atkinson's Patent*, 1873, 5, P.C. 87.

Further, a petitioner seeking the grace and favour of the Crown is bound to strict truth and the utmost candour and fairness in his statements of accounts, and contracts for the future as well as prospective work ought to be mentioned. Clark's Patent, 1870, 7 Moo. N.S. 255, 3 P.C. 421.

The invention may be both useful and important, but having regard to the accounts the remuneration may be considered ample: McInnes' Patent, 1868, 5 Moo. N.S. 72, 2 P.C. 54, 37 L.J. P.C. 23.

In Hardy's Patent, 1849, 6 Moo. 441, for improvements in the manufacture of iron axle-trees for railway carriages, the patent was extended for four years. The patentee lost 3,000*l.* on the patent, he then assigned it to a company for an annuity of 500*l.* The company spent on the patent 36,000*l.*, and during last four years they had made 23,000*l.* profit. Lord Brougham in giving judgment considered the incontestably great merits, the ingenuity of the contrivance, its perfect success, its great importance to the welfare and safety of the public, and on the other hand the large profits made, and taking all these circumstances into consideration advised the extension.

Profits, also, on exported goods must be put into the account, on the ground that the patent protected the inventor in the foreign market, *ibid.*

But the patentee or his assignees are allowed to deduct from the estimates the proportion of the profits on the article sold to English manufacturers of carriages for exportation. In *re* Hardy's Patent, 1849, 6 Moo. 441.

One part Meritorious.—Where the expenditure does not show what is attributable to one meritorious combination of a patent, and, in fact, that part has not been pushed, no extension will be granted. Willacy's Patent, 1888, 5 R.P.C. 690.

Foreign Patent Accounts.—Separate and distinct accounts of all foreign patents must be kept. Betts' Patent, 1862, 1 Moo. N.S. 61; Saxby's Patent, 1870, 7 Moo. N.S. 82; Adair's Patent, 1881, 6 App. Cas. 176.

Merits and Accounts.—Where there are no special circumstances on the face of the accounts showing the patentees have made sufficient profits, the usual course of going into the merits of the invention will be followed. In Houghton's Patent, 1871, 7 Moo. N.S. 309, 3 P.C. 461, for improvements in the preparation of materials used

in the manufacture of paper, the petitioners were a joint stock company who had obtained the assignation of the patent. It was also clear that the patentee had spent a great part of his life and money, and the company a great deal of capital in the invention, with no profit to either, but counsel for the Crown, citing Saxby's, 1870, 7 Moo. N.S. 82, 3 P.C. 292, and Clark's, 1870, 7 Moo. N.S. 255, Patent, made a preliminary objection to the merits being substantiated until the accounts were proved as satisfactory. Their Lordships, however, held that the petitioners had a right to put their case in the way they thought most advisable. Lord Justice James said: "Their Lordships think that the cases of Saxby's Patent and Clark's Patent only go to this extent, that where there are special statements which show upon the face of the accounts that the petitioners have, in fact, made very large profits by their inventions, as was the fact in both those cases, such circumstance is sufficient for their Lordships at once to determine the application without going into the question of the merits of the invention. In the present case there seems no reason to depart from what appears to have been the usual course."

Deduction for Supervision.—The patentee in Trotman's Patent, 1866, 3 Moo. N.S. 488, 1 P.C. 118, claimed to be allowed for his services in supervising manufacture of the invention by his licensees. Lord Chelmsford said: "The patentee was in the situation of a person receiving a rent or royalty, having nothing whatever to do with the manufacture of the article from which his rent or royalty was derived. He had a right under the licenses to visit the works of the licensees at any time, 'to view and inspect the method there used and employed in manufacturing anchors and the quantities and values thereof.'" The patentee gave them to understand that the sum of 4,900*l.* was "an assumed sum, which he considered himself entitled to for his trouble and labour in generally superintending the manufacture of his anchors by the different licensees. It was difficult to understand upon what principle it can be maintained. It was no part of the covenant with the licensee that the petitioner should superintend their operations, and if they required his assistance to instruct their workmen they should have engaged him and paid him for his services. If they had done so this would have constituted a fair deduction out of the profits of the licensees, and would have properly

“ entered into the patent account. But if an allowance
 “ for management were to be deducted from the royalty
 “ in ascertaining the amount of profit received by the
 “ patentee, as the licensees, in estimating their profits from
 “ the patent, would be entitled to the deduction of an annual
 “ sum on the same account, the patent would be debited
 “ twice with the same item of expense for management.”

Commissions.—The allowance to the trade in commissions reached 40 or 50 per cent. of the receipts. These commissions were allowed to be brought into the account. *Davies's Patent, 1893, 11 R.P.C. 27.*

Patentee alone and combined with Manufacturer.

The Judicial Committee will, as to general total of profits, draw a distinction between the cases of patentee as only such, and patentee also carrying out the invention as manufacturer. *Muntz's Patent, July 31, 1846, 2 Web. 113, 121.*

Manufacturers' Profit.—When the patentee turns his invention to account, first as a manufacturer and vendor of the patented article, and second, as a grantor of licenses to third persons who pay him royalties, he has no right to deduct from the net profits received any profits as manufacturer's profits.

In *Hills' Patent, 1863, 1 Moo. 1 N.S. 258, 9 L.T. 101., 12 W.R. 25, Sir J. T. Coleridge*: “ If, but for the patent
 “ there would have been no manufactory, then the net
 “ profits of the manufacturer are, in that large sense,
 “ attributable to the patent. The patent may be said
 “ to create his trade; at least it develops it to an extent
 “ which would be impossible without it. It cannot be
 “ reasonable, then, that when called upon to state what
 “ profits he owes to the patent, the patentee should
 “ withhold these.”

“ Their Lordships cannot discharge their duty unless
 “ they have the whole case before them; they must know
 “ the whole remuneration. Different considerations may
 “ be applicable to different parts of it; but if to any extent
 “ the patentee has received his remuneration by the making
 “ and selling the patented article, the profits on that sale
 “ must be disclosed and taken into account.”

“ Their Lordships do not say that this principle is to be pushed to an unreasonable extreme, and they have said that they do not exclude all just deductions, if any.”

In Saxby's Patent, 1870, 7 Moo. N.S. 82, 3 P.C. 292, 19 W.R. 513, Lord Cairns said :—

“ It has been decided more than once by this Committee [Betts' Patent, 1862, 1 Moo. N.S. 49, McInnes' Patent, 1868, 2 P.C. 54], that where a patentee is also the manufacturer, the profits which he makes as manufacturer, although they may not be in a strict point of view profits of the patent, must undoubtedly be taken into consideration upon a question of this kind.”

“ It is obvious that in different manufactures there will be different degrees of connexion between the business of the applicant as a manufacturer, and his business or his position as the owner of a patent. There may be patents of some kind which have little or no connexion with the business of the manufacturer, and there may be patents of a different kind, where there is an intimate connexion with the business of the manufacturer—that the possession of the patent virtually secures to the patentee his power of commanding orders as a manufacturer.”

His Lordship then considered the question that the patent might be seriously prejudiced if manufactured by others than the patentee, for the collateral works might be so imperfectly executed as to bring disrepute, and that was an argument which would tell with great force with railway companies, and would ultimately lead them to select as the persons who was to construct the whole article those who were the owners of the patent, and who were interested in its success.

Licensees' Profits.—Licensees' profits, as well as the amount of the license or royalty, should be furnished. For the question in all these cases is not what the patentee has received, but what has been made, or by proper judgment might have been made, by the patent. Trotman's Patent, 1866, 3 Moo. N.S. 488, 1 P.C. 118.

In Saxby's Patent for railway signals, &c., 1870, 7 Moo. N.S. 82, 3 P.C. 292, 19 W.R. 513, Lord Cairns said :—

“ Their Lordships have also to observe that the omission from the accounts and the omission from the evidence of any particulars as to what licenses may have been granted by Stevens, and what profits may have resulted from that source, is a defect which has by no means been explained, and which adds another imperfection to the accounts.”

Foreign Patents.

Mere reference to the foreign patents is not enough, there must be a clear statement.

In considering the remuneration which the invention has brought in, the whole remuneration must be considered, and Poole's case, 1867, 4 Moo. N.S. 452, to the contrary appears to be overruled. Thus in Johnson's Patent, 1871, 8 Moo. N.S. 282, 4 P.C. 75, Willcox and Gibbs' improvements in sewing machines, caveats were filed stating—

- (1.) That Johnson was only an importer;
- (2.) That the original foreign patent was about to expire;
- (3.) That others had expired or become *de facto* void;
- (4.) That no machine had been made by the patentee in this country;
- (5.) That the patent was for the sole benefit of the manufacturers in America;
- (6.) That the profits had been large; and
- (7.) That the petitioners were unwilling to grant licenses.

James, L. J., said: An English patentee who has obtained a patent from abroad may make out a case for a prolongation of his patent, but their Lordships must have regard to all the circumstances of the case:—

“They must have regard to the antecedent circumstances, the effect of which the Legislature itself has thought of so much importance as to make it absolutely impossible for the Crown in some cases to grant a renewal of a patent, or even to extend a patent beyond the duration of the foreign patent, whether the invention is in its origin and domicile a foreign invention or an English invention, and that difference their Lordships think they must have regard to in considering this application.” [*But see now Semet and Solvay's Patent, 1894, 12 R.P.C. 10.*] “Now beyond all question here the origin and domicile of this invention, and of the patent, and of the manufacture protected by it, are American.”

“If the Commissioner in America had not in the exercise of his discretion thought fit to prolong the terms of the letters patent, then the English letters patent would necessarily have come to an end, and it would not have been within the power of the Crown to have granted a renewal of the term.”

“So if the French patent or Belgian patent had been taken out before the English patent, it would have been impossible to have granted a renewal of this patent, and

to extend the length of the term for which the foreign patent taken out first would have existed."

As to Profits, his Lordship referred with approval to Lord Cairns in Saxby's Patent, and desired it to be understood that Poole's case was not to be considered as laying down any general rule of law, and continued:—

"Where the question to be considered is whether an invention has been sufficiently remunerated or not, in taking into consideration the remuneration received their Lordships must have regard to the remuneration which the inventor has brought in to the patentee, or the person who claims the right of the patentee, whether it be in one country or another."

And all, and full, particulars must be given, including the dates, by an English as well as a foreign patentee. Adair's Patent, 1881, 6 App. Cas. 176, 29 W.R. 746.

In Newton's Patent, 1884, 1 R.P.C. 177 9 App. Cas. 592, for improvements in cutting, boring, grinding, and pulverizing stones, the petitioners were a limited company, and were the assignees of Tilghman, an American, who had communicated the patent from abroad to Alfred Vincent Newton. Tilghman had patents in France, Austria, Belgium, Italy, and the United States.

Sir A. Hobhouse said: "For the present purpose no distinction can be drawn between the petitioners and Tilghman himself." Objections were made that Tilghman, or the persons for the time being owners of the authorised invention, had obtained with them all like privileges for the monopoly or exclusive use of the said authorised invention in certain foreign countries and British colonies which had been allowed to, or were about to expire, and that insufficient information is afforded by the petition as to such patents or privileges; in point of fact, the petition is entirely silent with regard to any profits obtained upon the foreign patents. The petition was not amended after those objections were put in, and when the accounts are brought up in support of the petition, it is found that they do disclose what has been received in respect of the Belgian and French patents, but say nothing about the Austrian, Italian, or the American Patents. Now the reason given for that is, that by the new Patent Act of last year [1883] the practice of the Committee has been altered [see Poole's Patent, 1867, 4 Moo. N.S. 452], and that it is not necessary for the petitioner to produce the accounts relating to foreign patents, and this is the section which is relied upon. His Lordship read s. 25 (4). Now it is

quite true that in that section one particular class of profits is specified as something absolutely necessary to consider. There is nothing whatever in the section to say or to intimate that the Committee shall not look at other classes of profits, but they are to look "to all the circumstances of the case." It is difficult to suppose that the Legislature could have intended to alter the rules adopted by this Committee, resting on no previous enactment, but on what was found to conduce to the justice of the case and the public convenience. Their Lordships are of opinion that no such alteration is made by the statute, and that looking now, as they looked before, to all the circumstances of the case, they find it to be a very material circumstance that they should know what has been received by way of profit on the same invention in foreign countries. It may be the determining point of the case, it may prove not to be so, but that is a point on which the Committee must form their own judgment, and it is for the petitioners to supply them with materials for that purpose.

Remuneration.

What remuneration has been received under the patent as a whole, not for any particular branch of it, must be shown. *Perkins' Patent, 1845, 2 Web. 6.*

A patent may be useful, but its merits may be adequately remunerated. *Nussey and Leachman's Patent, 1889, 7 Q.P.C. 22.*

Ratio of Profits.—It is most material to show in what ratio the profits have increased, namely, whether they have increased year by year. *Perkins' Patent, 1845, 2 Web. 16.*

Where it can be presumed that from the activity in the use of this patent in England during its last years, that, if due activity had been shown in making the patent known in England during the first year of its existence, the remuneration would have been adequate, the Judicial Committee will not prolong the patent. *Carl Pieper's Patent, 1895, 12 R.P.C. 292.*

Where a company seeks prolongation of a patent possessed by them, for which they give the patentees a large sum, and they themselves have made a considerable profit (in all the patent profits were about 17,000*l.*), but

cannot show what amount the patentees had actually received, or what the patent had, on the whole, brought in, prolongation will be refused, because their Lordships cannot say the patentees had been inadequately remunerated. *Willans and Robinson's Patent*, 1896, 13 R.P.C. 550.

Where, however, the remuneration becomes great in the later years, but has been so long coming that it cannot be said to be adequate, the patent will be prolonged, if meritorious. Thus, in *Cocking's Patent*, 1885, 2 R.P.C. 151, for splints, Lord Monkswell said: "It appears that this invention, like many other useful and meritorious inventions, was some time making its way. There is always an amount of inertia which every inventor has to contend against, and under which he sometimes succumbs, and it would appear that for a considerable time the merits of this invention were not recognised; but of late years it seems that the invention has been considerably adopted, that the sale of it has been increased, and that it is now employed in a great number of hospitals." The accounts showed that in the last two years the gross sales had amounted to as much as 4,724*l.*, and in those years the patentee, after allowing himself 300*l.* a year for his services, admits a profit of 527*l.* "It would therefore appear that the invention, though at first unsuccessful, has latterly been in the way of success, although that success has not lasted long enough to remunerate the inventor." Extended for seven years.

So, also, where considerable difficulty is incurred in inducing a particular class to adopt the new patent. *Wasteneys Smith's Patent* for improvements in anchors, 1885, 2 R.P.C. 14; *Davies' Patent* for economy in the utilization of exhausted steam, 1893, 11 R.P.C. 27.

Onus.—The onus is upon the petitioner to satisfy their Lordships that, when all the circumstances are considered, his remuneration has been less than he is equitably entitled to. *Hills' Patent*, 1863, 1 Moo. N.S. 271; 9 L.T. 101; 12 W.R. 25.

Preliminary Expenses.—If a man has 20,000*l.*, for which he might get a safe 3 per cent., and he uses that capital in promoting a patent and gets 5 per cent., the whole of that 5 per cent. is not due to the patent. *Davies' Patent*, 1893. 11 R.P.C., p. 28. See also *Foard's Patent*, 1855, 9 Moo. 376; *Whitehouse's Patent*, 1 Web. 477.

But if trade becomes dull, and profits are lost, that alone does not seem to be a reason for extension. *Woodcroft's Patent, 1846, 2 Web. 18.*

Lord Brougham said, in *Muntz's Patent, 1846, 2 Web. 120*: "We cannot weigh in golden scales the proportion between manufacturers' profit and patentee's, but we must take it in the gross; and, applying our mind as men of the world, men of business—neither unfairly towards the inventor, nor extravagantly and romantically towards him in his favour; neither against him pressing, nor in his favour straining—we must ascertain whether he has, in the eyes of men of ordinary but enlightened understandings, judging fairly between him and the public, had a sufficient remuneration." *See also Lowe's Patent, 1846, 2 Web. 158.*

In *Furness' Patent, 1885, 2 R.P.C. 175*, for improvements in lubricating the cylinders of locomotives, the patentee received 1,794*l.*, his widow 3,178*l.*, and her assignees 940*l.*, against 2,400*l.* charged for attending to the patent. The Judicial Committee considered that a considerable part of the 2,400*l.* ought to be considered as profits, and in that view considered that the patentee had been sufficiently remunerated.

Where the importer of an invention from abroad is adequately remunerated, no prolongation will be granted. *Claridge's Patent, 1851, 7 Moo. 394.*

Reasonable Profit.—Where the invention was one introduced from abroad for improvements in machinery for printing, 7,000*l.* profit was not considered a reasonable profit with respect to the merit. *Newton's Patent, 1861, 14 Moo. 156.*

So where considerable praise was due to a patentee for introducing an invention from abroad into this country, which he had improved, and which, to protect, the patentee had involved himself in debt and mortgaged his rights, the Judicial Committee, considering there had not been sufficient remuneration, granted a prolongation, but to the patentee alone, and not to the petitioner, his mortgagee. *Bovill's Patent, 1863, 1 Moo. N.S. 348.* *See also Morgan's Patent, 1843, 1 Web. 737; Soames' Patent, 1843, 1 Web. 729, 734; and Hardy's Patent, 1849, 6 Moo. 441.*

The petitioner's accounts showed a loss of 166*l.* up to 1883, and a subsequent gain of 5,158*l.* giving a balance of profit of 4,991*l.* The licensees' account showed they had made a profit of 7,000*l.*, of which 2,000*l.* represented their

share of the profits of an action "*Lyon v. Goddard*," and from royalties received from users of the machine. The machine was for disinfecting purposes. The invention being meritorious, and the exclusive licensees renouncing their claims, the patent was extended for five years. *Lyon's Patent*, 1894, 11 R.P.C. 537.

A patentee stated that his licensees had received 7,816*l.* 2*s.* 5*d.*, but he had only received as royalties 276*l.* 15*s.* Of this amount 189*l.* 13*s.* had been paid for patent fees and expenses, and estimating his out-of-pocket expenses annually at 25*l.*, and his personal services at 117*l.* a year, there was a balance due to him of 1,819*l.* The Judicial Committee extended the patent, on account of its merit, seven years. *Hazeland's Patent*, 1894, 11 R.P.C. 467. *See also Hardy's Patent*, 1849, 6 Moo. 441.

Remuneration—Deductions.—Bringing a new machine into use perhaps involves severe personal energy on the part of the patentee, and for this he is justified, where he devotes his whole time, in deducting from his profits 400*l.* a year. *Carr's Patent*, 1873, 9 Moo. N.S. 379, 4 P.C. 539, for improvements in machinery for disintegrating artificial manures; *Newton's Patent*, 1861, 14 Moo. 156; *Hazeland's Patent*, 11 R.P.C. 467.

Expenses.

Heavy Law Suits.—In *Whitehouse's Patent*, 1838, 1 Web. 477, 2 Moo. 496, for improvements in manufacturing gas tubes, &c., it was intimated that the costs of heavy litigation ought to be taken into account, not only as a great item of deduction, but as also involving great pain and anxiety.

Guaranty Money.—In *Muntz's Patent* (sheathing for ships), 1846, 2 Web. Pat. p. 120, Lord Brougham said: "There may be a guaranty to be allowed which is afloat, and the guaranty may enure and may hereafter come out of the pockets of the patentee, and be a deduction from the profits he has already made. I shall not inquire whether that might not be contended by the other side to be future expenses, to be deducted from future gains; but, putting it in the least favourable way to the opposers of the petition, and most favourable to the promoter of the petition, Mr. Muntz, I will assume that all he is liable to, under the guaranty of the metal

“ afloat, shall be paid hereafter, and that he is liable to
 “ pay and deduct it from his actual profit just as if he had
 “ already paid it.”

Patent shut out by Improvements.—Where the patentees obtain a patent for an improved machine, and their sales are almost all of this later machine, and there is adequate remuneration, the earlier patent will not be prolonged. *Nussey and Leachman's Patent*, 1889, 7 R.P.C. 22.

All Circumstances to be considered.—The patent law is formed in a way to include two species of public benefactors; the one, those who benefit the public by their ingenuity, industry, and science, and invention and personal capability; the other, those who benefit the public, without any ingenuity or invention of their own, by the importation of the results of foreign inventions. Now the latter is a benefit to the public incontestably, and, therefore, they render themselves entitled to be put upon somewhat, if not entirely, the same footing as inventors. *Berry's Patent*, 1850, 7 Moo. 187.

It was decided in *Johnson's Patent*, 1871, 8 Moo. N.S. 282, 4 P.C. 75, following *Betts' Patent*, 1862, 1 Moo. N.S. 49, that an English patentee who has obtained a patent from abroad may make out a case for prolongation, but the Court must have regard to all the circumstances of the case.

The unknown foreign profits might not be taken as an average of the English profits, because, when the merit of a patent is admitted by the Crown, which also admits that the patentee might well have a short prolongation, the English profits might be very small compared to the foreign profits. *Adair's Patent*, 1881, 6 App. Cas. 176; *Davies' Patent*, 1893, 11 R.P.C. 27; *Newton's Patent*, 1884, 9 App. Cas. 592. But if they are manufacturers' profits, that is, if the machine is made abroad and imported, then see *Johnson's Patent*, 1871, 8 Moo. N.S. 282, 4 P.C. 75, that those manufacturers' profits must certainly be considered. See also *Bower-Barff Patent*, 1895, A.C. 675.

Foreign Patent at an end.

The result of subs. 4 of s. 25 of 46 & 47 Vict. c. 57. is that the Judicial Committee are no longer deprived of the right to recommend, in their discretion, the extension of a

patent in cases where one or more foreign patents for the same invention have lapsed or expired. As to old law, see 15 & 16 Vict. c. 83. s. 25, and cases given below.

Therefore, where letters patent for a novel construction of ovens for cooking and distilling coal, by the use of which the quantity of coke obtained from each ton of coal was largely increased, were first taken out in England, and subsequently obtained in France, Germany, Austria, Belgium, the United States, Russia, and Spain, and, with the exception of the two latter, these patents were in existence, the Judicial Committee being satisfied that (1) the invention was of sufficient merit; (2) that neither the co-patentees nor the company working the patent had been adequately remunerated; and (3) that a prolongation, from the nature of the invention, would not prejudicially affect consumers in Great Britain and Ireland, extended the patent for five years. *Semet and Solvay's Patent*, December 8, 1894 [1895], A.C. 78, 12 R.P.C. 10.

But where there is no patent existing outside the United Kingdom for an invention patented in this country, or where the foreign patents lapse or expire, these circumstances, which may prejudicially affect the interests of the inhabitants of the United Kingdom, must necessarily be strongly considered in a question of prolongation. *Semet and Solvay's Patent*, 1894, 12 R.P.C. 10.

So, where a patent sought to be prolonged is the last one of four, three of which were issued in foreign countries, the last of which expired two years before the application, and the circumstances are: That although the patent was of sufficient merit to warrant prolongation in favourable circumstances, yet it was not of rare or exceptional merit, nor was the patent pushed with sufficient activity in England during its first years, the Judicial Committee refused prolongation. *Carl Pieper's Patent*, May 8, 1895, 12 R.P.C. 292.

In *Adair's Patent*, 1881, 6 App. Cas., p. 178, 29 W.R. 746, Sir R. Collier said: "It has been argued on the part of the Crown and of the opponents that the petitioner having taken out a foreign patent, although after the date of the English patent, and allowed it to expire, is thereby disentitled to a renewal, but, upon examination of the cases, it does not appear that any of them go to the length of deciding that, with respect to an English invention, and an English inventor, the mere taking out of letters patent in a foreign country, and allowing them to expire, would be a reason for their refusal to

“renew the patent.” See Aube’s Patent, 1854, 9 Moo. 43; Newton’s Patent, 1861, 14 & 15 Moo. 156, 176; Betts’ Patent, 1862, 1 Moo. N.S. 49, 7 L.T. 577, 11 W.R. 221; Hills’ Patent, 1863, 1 Moo. N.S. 258, 9 L.T. 101, 12 W.R. 25; Daw v. Eley, 1867, 3 Eq. 510, 511; Poole’s Patent, 1867, 4 Moo. N.S. 452, 1 P.C. 514, 36 L.J.P.C. 76; Normand’s Patent, 1870, 6 Moo. N.S. 477, 3 P.C. 193; Winan’s Patent, 1872, 8 Moo. N.S. 306, 4 P.C. 93; Blake’s Patent, 1873, 9 Moo. N.S. 373, 4 P.C. 535.

Procedure.

[Forms of Petition, Affidavits, and Advertisements, can be seen at the Judicial Department, Privy Council, Downing Street.]

The Attorney-General’s Duty.—The duty of the Attorney-General is as much to instruct the Lords of the Council, and to assist them, as to oppose; and, indeed, only to oppose the patent where, in his judgment, he considers that it is not one that ought to be prolonged. Sir William Grove in Stoney’s Patent, 1888, 5 R.P.C., 518.

Objections.—The objections to an extension are not incomplete if all that is stated are the grounds of objection, without stating the particulars. So where opponents to any extension give as much information as they possess to the petitioner, and crave leave to refer to certain documents as denoting anticipation, that is not to be taken as saying that those documents were the only instances of anticipation upon which they would rely. In *re* Ball’s Patent, for improvements in the manufacture of sheep shears, 1879, 4 App. Cas. 171, 27 W.R. 477, 48 L.J.P.C. 24.

Alien.—An alien may petition against an order granting an extension, if he can show a sufficient interest. In *re* Schlumberger, 29 November 1853, 9 Moo. 1.

Postponement of Hearing.—Has been granted where the petitioner was in a delicate state of health. In *re* Johnson’s and Atkinson’s Patent, 1873, 5 P.C. 87.

Yet the Committee will not enter into the consideration of the accounts unless filed as the rules direct, *ibid*.

Where the books had been lost, the Judicial Committee prolonged the patent, subject to proper accounts of the profits and losses being verified by affidavit, and sent to

the Attorney-General. *Markwick's Patent*, 1860, 13 Moo. 310, 8 W.R. 333.

But further time to produce accounts has been refused where the case was cumbrous; where there were many opponents attending; and where the applicant had already had plenty of time. *Newton's Patent*, 1884, 1 R.P.C. 177, 9 App. Cas. 592.

Delay in Notice.—Where the petitioner has been prevented prosecuting his petition for extension before the latter's patent has expired, by the conduct of parties objecting to the extension, the Judicial Committee will consider these circumstances. *Bodmer's Patent*, 1839, 1840, 2 Moo. 471, 1 Web. 740; *see* 2 & 3 Vict. c. 67., amending 5 & 6 Will. c. 83, and *Brandon's Patent*, 1884, 1 R.P.C. 154, 53 L.J.P.C. 84, 9 App. Cas. 589.

Advertisements.—Are to be inserted for the Queen's subjects. Where, therefore, a patentee is resident in France, and carries on no manufacturing in England, but had licensed persons in London and Liverpool, the advertisements should not appear in French newspapers, but in English newspapers. *Derosne's Patent*, 1844, 4 Moo. 416, 2 Web. 1.

Evidence.—Official copies of foreign patents will be received in evidence. *Betts' Patent*, 1862, 1 Moo. N.S. 49, 7 L.T. 577, 11 W.R. 221.

Statements in Petition.—It is most important that everything which relates to the title of the party making the application should be stated in the petition. *Hutchinson's Patent*, 1861, 14 Moo. 364.

Speculative Purchase.—When an assignee displays no special merit to be favoured, the patent will not be extended. *Normand's Patent*, 1870, 6 Moo. N.S. 477, 3 P.C. 193, on improvements in employment and condensation of steam in steam engines.

Assignee and Patentee.—The assignee of a patent does not, unless under peculiar circumstances, apply on the same favourable footing that the original inventor does: *Norton's Patent*, 1863, 1 Moo. N.S. 339, 343, 11 W.R. 720; *Hardy's Patent*, 1849, 6 Moo. 442: For the ground that the merits of the inventor ought to be properly rewarded, in dealing with an invention which has proved useful and beneficial to the public, does not exist in the case of an assignee, unless the assignee be a person who has assisted

the patentee with funds to enable him to perfect and bring out his invention.

And the reason why the assignee of a patent is not precluded from making an application for an extension is, because, if he were so precluded, it would diminish the value of the patent in the hands of the inventor, by not enabling him to dispose of his patent so favourably as he might. Morgan's Patent, 1843, 1 Web. 737; Woodcroft's Patent, 1846, 2 Web. 32; Bodmer's Patent, 1849, 6 Moo. 468; Berry's Patent, 1850, 7 Moo. 187; Cardwell's Patent, 1856, 10 Moo. 488; Russell's Patent, 1838, 2 Moo. 496; Markwick's Patent, 1860, 13 Moo. 310, 8 W.R. 333; Napier's Patent, 1861, 13 Moo. 543, 9 W.R. 390; Norton's Patent, 1863, 1 Moo. N.S. 339; Pitman's Patent, 1871, 8 Moo. N.S. 293, 4 P.C. 84.

When a patentee assigns to a company, not being able himself to bring out the patent, there is no reason why the company should not have the benefit of the prolongation if otherwise grantable. Davies' Patent, 1893, 11 R.P.C. 28.

But an assignee is not entitled to obtain a prolongation when the inventor himself could have no legitimate interest in making such an application. In *The Bower-Barff Patent*, 1895, A.C. 675, the Bower-Barff Rustless Iron Company applied for an extension of the letters patent granted in 1881 to Bower and Barff for "Improvements in effecting the protection of iron and steel surfaces, and in the surfaces employed therein," and of which the company had taken an assignment in 1882. Prolongation was refused, although the company alleged they had incurred great expense in working and introducing the patent to the public, and had never been in a position to pay a dividend. Lord Watson said:—

"The petition in the present case appears to their Lordships to be defective in substance, inasmuch as it does not disclose the amount of the profits, if any, which have been made by the inventors and assignees in the various countries in which they have secured an exclusive privilege. At the same time, their Lordships are not inclined to reject the petition upon that ground, because the accounts which have been lodged do give information with regard to profits derived from some of the foreign patents which their Lordships consider sufficient to enable them to dispose of this application. The accounts show that the original inventors have received substantial

remuneration. They have sold their patent in Great Britain, in France, and in America for sums amounting in all to 30,000*l.*, and even after allowing a reasonable deduction for those items which they have disbursed, there still remains to the good a very considerable sum of money; and it must be borne in mind that if the patentees were here claiming an extension, they would be obliged to account for the profits that have been made in France and America by the use of the patent in those countries during the continuance of the American and French patents.

“ But the more important question which arises in this case appears to their Lordships to be whether the petitioners, the Bower-Barff Rustless Iron Company, Limited, who are the assignees of the British patent, are in a position to maintain this application for its extension.

“ The cases of Claridge’s Patent [1851, 7 Moo. 394] and of Norton’s Patent [1863, 1 Moo. N.S. 339, 11 W.R. 720] appear to their Lordships to establish the principle that an assignee who has acquired a patent as the subject of a commercial adventure is not entitled to obtain a prolongation when the inventor himself could have no legitimate interest in making such an application. In one of those cases the judgment of this Board went expressly upon the ground that the applicants were a commercial company, and that the original inventor was dead, and could have no further interest in the patent. In this case one of the original patentees is dead. The others are alive, but they are for all practical purposes, and for all the purposes of the present question, in the same position as if they were dead, because they can no longer have an interest to ask for a prolongation on their own account, seeing that they have been sufficiently remunerated at the expense of the public. There is no case in which this Board has granted an extension of a patent to an assignee which did not directly or indirectly tend towards the benefit of an original inventor who would, had there been no assignment, have been in a position to claim an extension himself. In this case the inventors are not in that position; and their Lordships do not see any reason for departing from the principle already recognised by the Board in similar applications.”

Claim of Assistant. — In Lancaster’s Patent, 1864, 2 Moo. N.S. 139, for improvements in the manufacture

of fire-arms, one Haddan claimed a share in the proposed extension, on the ground that he had contributed to the perfection of the invention. Held, although he might have rendered material services, and might possibly not have received sufficient remuneration, he had established no title for his claim.

Time for entering Caveat.—Where the time limited for entering a caveat against the prolongation of a patent has expired, the Privy Council will not extend the time without very special reasons. *Hopkinson's Patent*, 1896, 13 R.P.C. 114.

An objection to the extension may be raised at the last moment. *Goucher's Patent*, 1865, 2 Moo. 532.

Lodging Copies of Specification.—If the rules of the Privy Council as to lodging copies of the specification are not complied with by the petitioner, only as a matter of grace will the case be allowed to proceed. *Bell's Patent*, 1846, 2 Web. 159.

Books destroyed.—Where a patentee became bankrupt, and having obtained his patent back again, applied for a prolongation, it appearing that the patentee's books and accounts had been destroyed after the bankruptcy, the production of the books was not insisted on. *Hutchison's Patent*, 1861, 14 Moo. 364; *Markwick's Patent*, 1860, 13 Moo. 310; but in *Adair's Patent*, 1881, 6 App. Cas. 176, 29 W.R. 746, the books had been destroyed by rats, and the accounts were held insufficient.

Opposers.—Only those named in the caveat are entitled to oppose. *Lowe's Patent*, 1852, 8 Moo. P.C. 1.

Admiralty Appearance.—When the Attorney-General is appearing against a prolongation of a patent the Admiralty or War Office need not also be represented, as the Attorney-General can do all that the public interest requires. *Pettit Smith's Patent*, 11 February 1850, 7 Moo. 133, 136.

Disclaimer.—Merit may be established in respect only of one part of an invention, and the extension may be granted in respect of that meritorious portion, the new patent being limited to that part without the necessity for disclaimer, as was formerly the case. *Willacy's Patent*, 1888, 5 R.P.C. 695. *See also Lee's Patent*, 1856, 10 Moo. 226.

Cognate Patent.—Where there are cognate inventions of different dates by the same patentees, they may be

extended to the same date. Johnson's and Atkinson's Patent, 1873, 5 P.C. 87.

Term of Prolongation.—Must depend upon the view which each mind takes of the particular invention to be dealt with, and, moreover, it must also depend not only upon the want of remuneration in the past, but upon the probability of remuneration in the future, and how soon that remuneration is likely to be attained. Thus, in the case of ordinary implements of daily use, such as improvements in forks or knives, in fireplaces, or things of that sort, which the mere advertisement of the prolongation would materially assist and start into rapid application, leading to the invention becoming quickly remunerative, the term of the prolongation would be different from those cases where, from the nature of the invention, it would not be quickly or largely used. Stoney's Patent, 1888, 5 R.P.C. 524.

Second Prolongation.—No second prolongation can be granted. Goucher's Patent, 1865, 2 Moo. N.S. 532.

Legal Personal Representative of a Bankrupt Patentee.

Where the patentee liquidated his affairs by arrangement with his creditors, and died intestate, the patent having been sold and resold back to the son, but without an executed assignment, the Judicial Committee intimated that the legal personal representative of the patentee ought to be a party to the application for prolongation. Willacy's Patent, 1888, 5 R.P.C. 690.

So, also, where the patentee died after application made, and the accounts given in were satisfactory; the patent was prolonged, with the condition that the assignees should have their moiety which they had purchased, and hold the other moiety of the profits for the patentee's widow and executors, she expressing herself satisfied with this arrangement. Herbert's Patent, 1867, 4 Moo. N.S. 300, 1 P.C. 399.

Restrictive Conditions.

Public Service.—Where it is admitted that the new patent will be subject to ss. 22 and 27 of the Act of 1883, it is unnecessary to recommend under s. 25 that the new patents granted on prolongation should contain any restrictive conditions and provisions. *Smith's Patent, 1885, 2 R.P.C. 14. See Lord Cairns in Dixon v. The London Small Arms Company, 1876, 1 App. Cas. 633.*

Before the Act of 1883, where the patent was of use to Her Majesty's service, in granting an extension of the patent the Judicial Committee have inserted a condition that any department of the service of the Crown shall have the right of manufacturing the invention without any license. *Pettit Smith's Patent, 1850, 7 Moo. 133, 138; Carpenter's Patent, 1854, 2 Moo. N.S. 191 n; Lancaster's Patent, 1864, 2 Moo. N.S. 189; Napier's Patent, 1881 6 App. Cas. 174. See now s. 27 of 46 & 47 Vict. c. 57.*

Applications for the prolongation of patents dealing with building ships may be treated to a different kind of public policy to that exercised in regard to simply commercial patents. *Semet and Solvay's Patent, 1894, 12 R.P.C. 15. See observations in Winan's Patent, 1872, 8 Moo. N.S. 306, 312, 4 P.C. 93.*

In *Hughes' Patent, 1879, 4 App. Cas. 174, 27 W.R. 493, 48 L.T. P.C. 20*, for improvements in the construction of armour-plates for ships, forts, &c., a condition was attached to the prolongation that the Government were to be at liberty to use the invention on the ground that both the Governments of Russia and Belgium were using it. Sir Montague Smith said: "Mr. Hughes, who had a right to go to foreign countries and introduce it, succeeded in getting it adopted abroad, but having done so, having exercised that which was his right, their Lordships think that on the ground of public policy the Government of his own country ought not to be put, with regard to the use of this patent, in a worse position than foreign Governments, and they also think the contractors employed by the Government should also be free to use this patent [*See Dixon v. The London Small Arms Company, 1876, 1 App. p. 633, 35 L.T. 559*]; otherwise this consequence would follow, inasmuch as a great part of the navy of this country is new built in private yards, there might be considerable hindrances to the Government in getting ships so built, if private

“builders were to be subject to such royalties as the patentee chose to impose under the patent.”

Public Detriment.—Where a patent restricts the public from using useful chemicals, the Judicial Committee will exercise their discretion, and, on public grounds, refuse any extension. *McDougal's Patent*, 1867, 5 Moo. N.S. 1, 2 P.C. 1, 37 L.J. P.C. 17, for improvements in disinfecting sewage.

In *Lyon's Patent*, 1894, 11 R.P.C. 537, the corporation of Newcastle-upon-Tyne objected to any extension unless the patentee do grant licenses to all persons to make and use the machine upon similar terms as he had granted to his exclusive licensees, namely, 10 per cent. The House of Lords had declared the patent valid, and all admitted it was most meritorious. The patentee entered into an arrangement with the exclusive licensees by which they waived all claim. The patent was extended five years, but upon condition that evidence be produced to the satisfaction of the registrar that the exclusive licensees had renounced all future rights they may have had to the exclusive license to use the patentee's invention; 2ndly, upon the condition that the patentee shall grant licenses on the same terms to all persons who may desire to use the said invention, otherwise the said letters patent to be of no effect; and 3rdly, that the extreme limit of the royalty to be paid should be 10 per cent. on the selling price of each machine.

Extended on Condition.

In *Whitehouse's Patent: Russell Application*: 1838, 2 Moo. 496, 1 Web. 473, the patent was extended for six years on condition that an annuity of 500*l.* a year was given to Whitehouse, the actual inventor.

In *Normandy's Patent*, 1855, 9 Moo. 452, the petition for prolongation was opposed by the petitioner's former partner. The patent was extended for three years, the opponent to have the same rights and privileges as he was entitled to under the deed affecting the original letters patent. But he was given no costs, on the ground that he asked for more than his just rights.

In *Markwick's Patent*, 1860, 13 Moo. 313, an application by an assignee, it was made a condition that the patentee should have an annuity.

In Mallet's Patent, 1866, 4 Moo. N.S. 175, 1 P.C. 308, for improvements in fire-proof building structures, the patentee gave an exclusive license to the manufacturer, and it was a condition of the prolongation that the patentee should grant licenses to all persons on the same terms as those given to the original sole licensee.

Where there is no evidence that a break has been used for certain machines mentioned in a vaguely-worded specification, the Judicial Committee may restrict the prolongation to that kind of machine on which the invention has been proved to have been used. Napier's Patent, 1881, 6 App. Cas., 174, 29 W.R. 745, 50 L.J. P.C. 40, for breaks for windlasses, cranes, &c.

Costs.—Where there are many opponents to an extension, and the opposition is successful, a lump sum in costs is sometimes given to avoid the costs and trouble of a formal taxation. In Hills' Patent, 1863, 1 Moo. N.S. 258, 9 L.T. 101, 12 W.R. 25, 1,000*l.* was given, and in Johnson's Patent, 1871, 8 Moo. N.S. 282, 4 P.C. 75, 500*l.* was ordered to be paid amongst the numerous opponents.

Where, however, the opponents to extension produce evidence wholly unworthy of credit, or occasioning much expense, relying on patents not resembling the one in question, they will not, even if no extension be granted, be given their costs. Porter's Patent (*Honiball ex parte*), 1855, 2 Web. 212.

In Muntz's Patent, 1846, 2 Web. 113, 121, extension was refused, but without costs against the petitioner, the case being one very well worthy of being fully sifted, and that the petitioner had "fairly and honestly stated his case, both the things against him and the things for him, on the face of his petition."

But the usual course is to dismiss with costs an unsuccessful application.

Thus in Bridson's Patent, 1852, 7 Moo. 499, 502, the petition for extension was withdrawn, and the opposers were given their costs; they having applied for them. See also Macintosh's Patent, 1836-7, 1 Web. 739; Westrupp and Gibbins' Patent, 1836, 1 Web. 556; Hornby's Patent, 1853, 7 Moo. 503.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883-1888.

CONSOLIDATED.

[46 & 47 Vict. c. 57; 48 & 49 Vict. c. 63; 49 & 50 Vict. c. 37;
51 & 52 Vict. c. 50.]

An Act to amend and consolidate the Law relating to Patents for Inventions, Registration of Designs, and of Trade Marks. [25th August 1883.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

- Short title. 1. This Act may be cited as the Patents, Designs, and Trade Marks Act, 1883.
- Division of Act into parts. 2. This Act is divided into parts, as follows:—
Part I.—PRELIMINARY.
Part II.—PATENTS.
Part III.—DESIGNS.
Part IV.—TRADE MARKS.
Part V.—GENERAL.
- Commence-
ment of Act. 3. This Act, except where it is otherwise expressed, shall commence from and immediately after the thirty-first day of December one thousand eight hundred and eighty-three.

PART II.

PATENTS.

Application for and Grant of Patent.

Persons
entitled to
apply for
patent.

4.—(1.) Any person, ⁽¹⁾ whether a British subject or not, may make an application for a patent,

(1) It will be noticed that a person, whether a British subject or not, may make an application for patent, and by s. 5, that the

application is to be in the form set forth in the First Schedule, or such other form as may be from time to time prescribed (*see revised Forms, Post, p. 120*). And s. 117 provides that the word person shall include a body corporate. It was not decided in *Société Anonyme du Générateur, Temple's Application, 1895, 13 R.P.C. 54.*, whether this included a foreign corporation.

(2.) Two or more persons may make a joint application for a patent, and a patent may be granted to them jointly.

[S. 5 of the Patents, Designs, and Trade Marks Act, 1885 (48 & 49 Vict. c. 63.), enacted as follows:—

Whereas doubts have arisen whether, under the principal Act a patent may lawfully be granted to several persons jointly, some or one of whom only are or is the true and first inventors or inventor; be it therefore enacted and declared that it has been, and is lawful, under the principal Act, to grant such a patent.]

5.—(1.) An application for a patent must be made in the form set forth in the First Schedule to this Act, or in such other form as may be from time to time prescribed; and must be left at, or sent by post to, the Patent Office in the prescribed manner.

Application
and specifica-
tion.

(2.) An application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application, one or more of the applicants, claims or claim to be the true and first inventor or inventors, and for which he or they desires or desire to obtain a patent; and must be accompanied by either a provisional or complete specification.

[This section was amended by s. 2 of the Patents, Designs, and Trade Marks Act of 1885, 48 & 49 Vict. c. 63., as follows:—

Whereas subs. 2 of s. 5 of the principal Act requires a declaration to be made by an applicant for a patent to the effect in that subsection mentioned, and doubts have arisen as to the nature of that declaration, and it is expedient to remove such doubts; be it therefore enacted that:

The declaration mentioned in subs. 2 of s. 5 of the principal Act may be either a statutory declaration under the Statutory Declarations Act, 1835 (5 & 6 Will. 4. c. 62.), or not, as may be from time to time prescribed.]

(3.) A provisional specification must describe the nature of the invention, and be accompanied by drawings, if required.

(4.) A complete specification, whether left on application or subsequently, must particularly describe and ascertain

the nature of the invention, and in what manner it is to be performed, and must be accompanied by drawings, if required.

[This subsection was amended by s. 2 of the Patents, Designs, and Trade Marks Act of 1886 (49 & 50 Vict. c. 37.), which enacted:—

“The requirement of subs. 4 of s. 5 of the Act of 1883 as to drawings shall not be deemed to be insufficiently complied with by reason only that instead of being accompanied by drawings the complete specification refers to the drawings which accompanied the provisional specification. And no patent heretofore sealed shall be invalid by reason only that the complete specification was not accompanied by drawings, but referred to those which accompanied the provisional specification.”]

(5.) A specification, whether provisional or complete, must commence with the title, and in the case of a complete specification must end with a distinct statement of the invention claimed.

Reference
of application
to examiner.

6. The comptroller shall refer every application to an examiner, who shall ascertain and report to the comptroller whether the nature of the invention has been fairly described, and the application, specification, and drawings (if any) have been prepared in the prescribed manner, and the title sufficiently indicates the subject matter of the invention.

7. [This section was repealed by s. 2 of the Patents, Designs, and Trade Marks Act of 1888, 51 & 52 Vict. c. 50., which enacted:

2. For section seven of the principal Act the following section shall be substituted, namely]:—

Amendments
of 46 & 47 Vict.
c. 57. s. 7,
as to appli-
cations.

“7.—(1.) If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings has not, or have not, been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject matter of the invention, the comptroller may refuse to accept the application, or require that the application, specification, or drawings be amended before he proceeds with the application; and in the latter case the application shall, if the comptroller so directs, bear date as from the time when the requirement is complied with.

“(2.) Where the comptroller refuses to accept an application or requires an amendment, the applicant may appeal from his decision to the law officer.

“ (3.) The law officer shall, if required, hear the applicant and the comptroller, and may make an order determining whether, and subject to what conditions (if any), the application shall be accepted.

“ (4.) The comptroller shall, when an application has been accepted, give notice thereof to the applicant.

“ (5.) If, after an application for a patent has been made, but before the patent thereon has been sealed, another application for a patent is made, accompanied by a specification bearing the same or a similar title, the comptroller, if he thinks fit, on the request of the second applicant, or of his legal representative, may, within two months of the grant of a patent on the first application, either decline to proceed with the second application or allow the surrender of the patent, if any, granted thereon.”

8.—(1.) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within nine months from the date of application. Time for leaving complete specification.

[This section, s. 9 and s. 12 were amended by s. 3 of the Act of 1885, 48 & 49 Vict. c. 63., as follows:—

“ Whereas under the principal Act a complete specification is required (by s. 8) to be left within nine months, and (by s. 9) to be accepted within twelve months from the date of application, and a patent is required by s. 12 to be sealed within fifteen months from the date of application, and it is expedient to empower the comptroller to extend in certain cases the said times. Be it therefore enacted as follows :

“ A complete specification may be left and accepted within such extended times not exceeding one month and three months respectively after the said nine and twelve months respectively as the comptroller may, on payment of the prescribed fee allow, and where such extension of time has been allowed, a further extension of four months after the said fifteen months shall be allowed for the sealing of the patent ; and the principal Act shall have effect as if any time so allowed were added to the said periods specified in the principal Act.”]

(2.) Unless a complete specification is left within that time the application shall be deemed to be abandoned.

9.—(1.) Where a complete specification is left after a provisional specification, the comptroller shall refer both specifications to an examiner for the purpose of ascertaining whether the complete specification has been prepared Comparison of provisional and complete specification.

in the prescribed manner, and whether the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification. [See Note *ante* to s. 8.]

(2.) If the examiner reports that the conditions hereinbefore contained have not been complied with, the comptroller may refuse to accept the complete specification unless and until the same shall have been amended to his satisfaction; but any such refusal shall be subject to appeal to the law officer.

(3.) The law officer shall, if required, hear the applicant and the comptroller, and may make an order determining whether and subject to what conditions, if any, the complete specification shall be accepted.

(4.) Unless a complete specification is accepted within twelve months from the date of application, then (save in the case of an appeal having been lodged against the refusal to accept) the application shall, at the expiration of those twelve months, become void.

(5.) Reports of examiners shall not in any case be published or be open to public inspection, and shall not be liable to production or inspection in any legal proceeding [other than an appeal to the law officer under this Act] unless the court or officer having power to order discovery in such legal proceeding shall certify that such production or inspection is desirable in the interests of justice, and ought to be allowed.

[The words within brackets were repealed by s. 3 of the Patents, Designs, and Trade Marks Act of 1888.]

Advertisement
on acceptance
of complete
specification.

10. On the acceptance of the complete specification the comptroller shall advertise the acceptance; and the application and specification or specifications with the drawings (if any) shall be open to public inspection.

Opposition to
grant of patent.

11.—(1.) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete specification give notice at the patent office of opposition to the grant of the patent on the ground of the applicant having obtained the invention from him, or from a person of whom he is the legal representative, or on the ground that the invention has been patented in this country on an application of prior date [or on the ground of an examiner having reported to the comptroller that the specification appears to him to comprise the same invention as is comprised in a specification bearing the same or a similar title, and accompanying

a previous application]. [The words between brackets were repealed by the Patents Designs and Trade Marks Act, 1888, s. 4, and the following words were added in lieu thereof “ or on the ground that the complete “ specification describes or claims an invention other than “ that described in the provisional specification, and that “ such other invention forms the subject of an application “ made by the opponent in the interval between the “ leaving of the provisional specification and the leaving “ of the complete specification ”], but on no other ground.

(2.) Where such notice is given, the comptroller shall give notice of the opposition to the applicant, and shall on the expiration of those two months, after hearing the applicant and the person so giving notice, if desirous of being heard, decide on the case, but subject to appeal to the law officer.

(3.) The law officer shall, if required, hear the applicant and any person so giving notice and being, in the opinion of the law officer, entitled to be heard in opposition to the grant, and shall determine whether the grant ought or ought not to be made.

(4.) The law officer may, if he thinks fit, obtain the assistance of an expert, who shall be paid such remuneration as the law officer, with the consent of the Treasury, shall appoint.

12.—(1.) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, the comptroller shall cause a patent to be sealed with the seal of the patent office. Sealing of patent.

(2.) A patent so sealed shall have the same effect as if it were sealed with the Great Seal of the United Kingdom.

(3.) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, except in the cases herein-after mentioned, that is to say—

[See Note to s. 8 ante.]

(a.) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the patent may be sealed at such time as the law officer may direct.

[Where the delay is not caused by opposition, see A. and B.'s application, 1896 13, R. P. C. 63.]

(b.) If the person making the application dies before the expiration of the fifteen months aforesaid, the patent

may be granted to his legal representative and sealed at any time within twelve months after the death of the applicant.

Date of patent. 13. Every patent shall be dated and sealed as of the day of application : Provided that no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification : Provided also, that in case of more than one application for a patent for the same invention, the sealing of a patent on one of those applications shall not prevent the sealing of a patent on an earlier application.

Provisional Protection.

Provisional protection. 14. Where an application for a patent in respect of an invention has been accepted, the invention may during the period between the date of the application and the date of sealing such patent be used and published without prejudice to the patent to be granted for the same ; and such protection from the consequences of use and publication is in this Act referred to as provisional protection.

Protection by Complete Specification.

Effect of acceptance of complete specification. 15. After the acceptance of a complete specification and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification : Provided that an applicant shall not be entitled to institute any proceeding for infringement unless and until a patent for the invention has been granted to him.

Patent.

Extent of patent. 16. Every patent when sealed shall have effect throughout the United Kingdom and the Isle of Man.

Term of patent. 17.—(1.) The term limited in every patent for the duration thereof shall be fourteen years from its date.

(2.) But every patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to make the prescribed payments within the prescribed times.

(3.) If, nevertheless, in any case, by accident mistake or inadvertence, a patentee fails to make any prescribed payment within the prescribed time, he may apply to the

comptroller for an enlargement of the time for making that payment

(4.) Thereupon the comptroller shall, if satisfied that the failure has arisen from any of the above-mentioned causes, on receipt of the prescribed fee for enlargement, not exceeding ten pounds, enlarge the time accordingly, subject to the following conditions :

(a.) The time for making any payment shall not in any case be enlarged for more than three months.

(b.) If any proceeding shall be taken in respect of an infringement of the patent committed after a failure to make any payment within the prescribed time, and before the enlargement thereof, the Court before which the proceeding is proposed to be taken may, if it shall think fit, refuse to award or give any damages in respect of such infringement.

[The following clause was enacted by s. 4 of the Patents, Designs, and Trade Marks Act, 1885 (48 & 49 Vict. c. 63.):

“Where an application for a patent has been abandoned, or become void, the specification or specifications and drawing (if any) accompanying or left in connexion with such application shall not at any time be open to public inspection or be published by the comptroller.”]

Amendment of Specification.

18.—(1.) An applicant or a patentee may, from time to time, by request in writing left at the patent office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of such amendment and his reasons for the same. Amendment of specification.

(2.) The request and the nature of such proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the patent office of opposition to the amendment.

(3.) Where such notice is given the comptroller shall give notice of the opposition to the person making the request, and shall hear and decide the case subject to an appeal to the law officer.

(4.) The law officer shall, if required, hear the person making the request and the person so giving notice, and being in the opinion of the law officer entitled to be heard in opposition to the request, and shall determine whether

and subject to what conditions, if any, the amendment ought to be allowed.

(5.) Where no notice of opposition is given, or the person so giving notice does not appear, the comptroller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6.) When leave to amend is refused by the comptroller, the person making the request may appeal from his decision to the law officer.

(7.) The law officer shall, if required, hear the person making the request and the comptroller, and may make an order determining whether, and subject to what conditions, if any, the amendment ought to be allowed.

(8.) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment.

(9.) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall in all courts and for all purposes be deemed to form part of the specification.

(10.) [This subs. was repealed by s. 5 of the Patents, Designs, and Trade Marks Act of 1888, and the following was substituted therefor]:—

“The foregoing provisions of this section do not apply when and so long as any action for infringement or proceeding for revocation of a patent is pending.”

Power to dis-
claim part
of invention
during action,
&c.

19.—(1.) In an action for infringement of a patent, and in a proceeding for revocation of a patent, the Court or a judge may at any time order that the patentee shall, subject to such terms as to costs and otherwise as the Court or a judge may impose, be at liberty to apply at the Patent Office for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

Restriction on
recovery of
damages.

20. Where an amendment by way of disclaimer, correction, or explanation, has been allowed under this Act, no damages shall be given in any action in respect of the use of the invention before the disclaimer, correction, or explanation, unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge.

Advertisement
of amendment.

21. Every amendment of a specification shall be advertised in the prescribed manner.

Compulsory Licenses.

22. If on the petition of any person interested it is proved to the Board of Trade that by reason of the default of a patentee to grant licenses on reasonable terms—

Power for Board to order grant of licenses.

(a) the patent is not being worked in the United Kingdom; or

(b) the reasonable requirements of the public with respect to the invention cannot be supplied; or

(c) any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Board may order the patentee to grant licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Board, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may be enforced by mandamus.

Register of Patents.

23.—(1.) There shall be kept at the Patent Office a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licenses under patents, and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed.

Register of patents.

(2.) The register of patents shall be *prima facie* evidence of any matters by this Act directed or authorised to be inserted therein.

(3.) Copies of deeds, licenses, and any other documents affecting the proprietorship in any letters patent or in any license thereunder, must be supplied to the comptroller in the prescribed manner for filing in the Patent Office.

Fees.

24.—(1.) There shall be paid in respect of the several instruments described in the Second Schedule to this Act, the fees in that schedule mentioned, and there shall likewise be paid, in respect of other matters under this part of the Act, such fees as may be from time to time, with the sanction of the Treasury, prescribed by the Board of Trade; and such fees shall be levied and paid to the account of Her Majesty's Exchequer in such manner as the Treasury may from time to time direct.

Fees in schedule.

(2.) The Board of Trade may from time to time, if they think fit, with the consent of the Treasury, reduce any of those fees.

Extension of Term of Patent.

Extension of term of patent on petition to Queen in Council.

25.—(1.) A patentee may, after advertising in manner directed by any rules made under this section his intention to do so, present a petition to Her Majesty in Council, praying that his patent may be extended for a further term; but such petition must be presented at least six months before the time limited for the expiration of the patent.

[See Bodmer's Patent, 1838-1840, 2 Moo. 471, and the Act 5 & 6 Will. 4. c. 83, amended in consequence of this case by 2 & 3 Vict. c. 67.]

(2.) Any person may enter a caveat, addressed to the Registrar of the Council at the Council Office, against the extension.

(3.) If Her Majesty shall be pleased to refer any such petition to the Judicial Committee of the Privy Council, the said Committee shall proceed to consider the same, and the petitioner and any person who has entered a caveat shall be entitled to be heard by himself or by counsel on the petition.

(4.) The Judicial Committee shall, in considering their decision, have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(5.) If the Judicial Committee report that the patentee has been inadequately remunerated by his patent, it shall be lawful for Her Majesty in Council to extend the term of the patent for a further term not exceeding seven, or in exceptional cases fourteen, years; or to order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the Judicial Committee may think fit.

(6.) It shall be lawful for Her Majesty in Council to make, from time to time, rules of procedure and practice for regulating proceedings on such petitions, and subject thereto such proceedings shall be regulated according to the existing procedure and practice in patent matters of the Judicial Committee.

(7.) The costs of all parties of and incident to such proceedings shall be in the discretion of the Judicial Committee; and the orders of the Committee respecting

costs shall be enforceable as if they were orders of a division of the High Court of Justice.

Revocation.

26.—(1.) The proceeding by scire facias to repeal a patent is hereby abolished. Revocation of patent.

(2.) Revocation of a patent may be obtained on petition to the Court.

(3.) Every ground on which a patent might, at the commencement of this Act, be repealed by scire facias shall be available by way of defence to an action of infringement and shall also be a ground of revocation.

(4.) A petition for revocation of a patent may be presented by—

(a.) The Attorney-General in England or Ireland, or the Lord Advocate in Scotland :

(b.) Any person authorised by the Attorney-General in England or Ireland, or the Lord Advocate in Scotland :

(c.) Any person alleging that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims :

(d.) Any person alleging that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee :

(e.) Any person alleging that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold, within this realm, before the date of the patent, anything claimed by the patentee as his invention.

(5.) The plaintiff must deliver with his petition particulars of the objections on which he means to rely, and no evidence shall, except by leave of the Court or a judge, be admitted in proof of any objection of which particulars are not so delivered.

(6.) Particulars delivered may be from time to time amended by leave of the Court or a judge.

(7.) The defendant shall be entitled to begin, and give evidence in support of the patent, and if the plaintiff gives evidence impeaching the validity of the patent the defendant shall be entitled to reply.

(8.) Where a patent has been revoked on the ground of fraud, the comptroller may, on the application of the true inventor made in accordance with the provisions of this

Act, grant to him a patent in lieu of and bearing the same date as the date of revocation of the patent so revoked, but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted.

[*Revocation of Patent.*—If a patent is a mere conjunction of well-known ingredients in a manner well known and practised at the date of the Letters Patent the Court of Chancery will, on application, revoke the patent. In *re Ingram; Jones & Elven's Patent*, 1896, 13 R.P.C. 446.

Costs and Revocation.—Even if the patentee does not oppose revocation, and never did, and, further, he applies to the Patent Office to revoke the Letters Patent, yet the patent must be revoked with costs. *Wallace's Patent*, October 26th, 1895, 12 R.P.C. 444.

For he has attempted, it may be in the very best of faith, to obtain a monopoly which he cannot sustain, and there is no other mode of putting an end to that patent except by a petition for revocation.]

Crown.

Patent to bind
Crown.

27.—(1.) A patent shall have to all intents the like effect as against Her Majesty the Queen, her heirs and successors, as it has against a subject.

(2.) But the officers or authorities administering any department of the service of the Crown may, by themselves, their agents, contractors, or others, at any time after the application, use the invention for the services of the Crown on terms to be before or after the use thereof agreed on, with the approval of the Treasury, between those officers or authorities and the patentee, or, in default of such agreement, on such terms as may be settled by the Treasury after hearing all parties interested.

Legal Proceedings.

Hearing with
assessor.

28.—(1.) In an action or proceeding for infringement or revocation of a patent, the Court may, if it thinks fit, and shall, on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try and hear the case wholly or partially with his assistance; the action shall be tried without a jury unless the Court shall otherwise direct.

(2.) The Court of Appeal or the Judicial Committee of the Privy Council may, if they see fit, in any proceeding before them respectively, call in the aid of an assessor as aforesaid.

(3.) The remuneration, if any, to be paid to an assessor under this section shall be determined by the Court or the Court of Appeal or Judicial Committee, as the case may be,

and be paid in the same manner as the other expenses of the execution of this Act.

[Earl Selborne said, in *Oakland Oil Company*, H.L. 1881, that it might be well to have a patent assessor attendant on patent cases during the hearing in the House; and the counsel present agreed it would be a great advantage.]

29.—(1.) In an action for infringement of a patent the plaintiff must deliver with his statement of claim, or by order of the Court or the judge, at any subsequent time, particulars of the breaches complained of. Delivery of particulars.

(2.) The defendant must deliver with his statement of defence, or, by order of the Court or a judge, at any subsequent time, particulars of any objections on which he relies in support thereof.

(3.) If the defendant disputes the validity of the patent, the particulars delivered by him must state on what grounds he disputes it, and if one of those grounds is want of novelty must state the time and place of the previous publication or user alleged by him.

(4.) At the hearing no evidence shall, except by leave of the Court or a judge, be admitted in proof of any alleged infringement or objection of which particulars are not so delivered.

(5.) Particulars delivered may be from time to time amended, by leave of the Court or a judge.

(6.) On taxation of costs regard shall be had to the particulars delivered by the plaintiff and by the defendant; and they respectively shall not be allowed any costs in respect of any particular delivered by them unless the same is certified by the Court or a judge to have been proven or to have been reasonable and proper, without regard to the general costs of the case.

[This certificate must be asked for, *The Pneumatic Tyre Company v. Chisholm & Co.*, 1896, 13 R.P.C., 488; but a certificate will not be given if no evidence is given before the judge of the particulars, *Mandleberg v. Morley*, 1895. 12 R.P.P. 35 gives the cases.]

Excessive Declarations.—When in a question before the controller and law officer as to the sealing of a patent a large number of declarations are filed which are perfectly useless, the responsibility for these declarations will be fixed on the proper party, and he will be called upon to pay these costs. *Brand's Application*, 1894, 12 R.P.C. 102.]

30. In an action for infringement of a patent, the Court or a judge may on the application of either party make such order for an injunction inspection or account, and impose such terms and give such directions respecting the Order for inspection, &c. in action.

same and the proceedings thereon, as the Court or a judge may see fit.

Certificate of validity questioned and costs thereon.

31. In an action for infringement of a patent, the Court or a judge may certify that the validity of the patent came in question; and if the Court or a judge so certifies, then in any subsequent action for infringement, the plaintiff in that action on obtaining a final order or judgment in his favour shall have his full costs charges and expenses as between solicitor and client, unless the Court or a judge trying the action certifies that he ought not to have the same.

Remedy in case of groundless threats of legal proceedings.

32. Where any person claiming to be the patentee of an invention, by circulars, advertisements, or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged manufacture, use, sale, or purchase of the invention, any person or persons aggrieved thereby may bring an action against him, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as may have been sustained thereby, if the alleged manufacture, use, sale, or purchase to which the threats related was not in fact an infringement of any legal rights of the person making such threats: Provided that this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent.

Miscellaneous.

Patent for one invention only.

33. Every patent may be in the form in the First Schedule to this Act, and shall be granted for one invention only, but may contain more than one claim; but it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it comprises more than one invention.

Patent on application of representative of deceased inventor.

34.—(1.) If a person possessed of an invention dies without making application for a patent for the invention, application may be made by, and a patent for the invention granted to, his legal representative.

(2.) Every such application must be made within six months of the decease of such person, and must contain a declaration by the legal representative that he believes such person to be the true and first inventor of the invention.

Patent to first inventor not invalidated by

35. A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by

provisional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection. application in fraud of him.

36. A patentee may assign his patent for any place in or part of the United Kingdom, or Isle of Man, as effectually as if the patent were originally granted to extend to that place or part only. Assignment for particular places.

37. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the comptroller, the comptroller may at any time cause a duplicate thereof to be sealed. Loss or destruction of patent.

38. The law officers may examine witnesses on oath and administer oaths for that purpose under this part of this Act, and may from time to time make, alter, and rescind rules regulating references and appeals to the law officers and the practice and procedure before them under this part of this Act; and in any proceeding before either of the law officers under this part of this Act, the law officer may order costs to be paid by either party, and any such order may be made a rule of the Court. Proceedings and costs before law officer.

39. The exhibition of an invention at an industrial or international exhibition, certified as such by the Board of Trade, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely,— Exhibition at industrial or international exhibition not to prejudice patent rights.

(a.) The exhibitor must, before exhibiting the invention, give the comptroller the prescribed notice of his intention to do so; and

(b.) The application for a patent must be made before or within six months from the date of the opening of the exhibition.

[This section was extended by s. 3 of the Patents, Designs, and Trade Marks Act of 1886 (49 & 50 Vict c. 37) as follows :

“Whereas by s. 39 of the Act of 1883 as respects patents, and by s. 57 of the same Act as respects designs, provision

is made that the exhibition of an invention or design at an industrial or international exhibition, certified as such by the Board of Trade, shall not prejudice the rights of the inventor or proprietor thereof, subject to the conditions therein mentioned, one of which is that the exhibitor must before exhibiting the invention, design, or article, or publishing a description of the design, give the comptroller the prescribed notice of his intention to do so.

“ And whereas it is expedient to provide further extension of the said section to industrial and international exhibitions held out of the United Kingdom ; be it, therefore, enacted as follows :

“ It shall be lawful for Her Majesty by Order in Council from time to time to declare that ss. 39 and 57 of the Patents, Designs, and Trade Marks Act, 1883, or either of those sections, shall apply to any exhibition mentioned in this order in like manner as if it were an industrial or international exhibition certified by the Board of Trade, and to provide that the exhibitor shall be relieved from the conditions specified in the said sections of giving notice to the comptroller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as to Her Majesty in Council may seem fit.”

Publication of
illustrated
journal,
indexes, &c.

40.—(1.) The comptroller shall cause to be issued periodically an illustrated journal of patented inventions, as well as reports of patent cases decided by courts of law, and any other information that the comptroller may deem generally useful or important.

(2.) Provision shall be made by the comptroller for keeping on sale copies of such journal, and also of all complete specifications of patents for the time being in force, with their accompanying drawings, if any.

(3.) The comptroller shall continue, in such form as he may deem expedient, the indexes and abridgments of specifications hitherto published, and shall from time to time prepare and publish such other indexes, abridgments of specifications, catalogues, and other works relating to inventions, as he may see fit.

Patent
Museum.

41. The control and management of the existing Patent Museum, and its contents shall, from and after the commencement of this Act, be transferred to and vested in the Department of Science and Art, subject to such directions as Her Majesty in Council may see fit to give.

42. The Department of Science and Art may at any time require a patentee to furnish them with a model of his invention on payment to the patentee of the cost of the manufacture of the model; the amount to be settled, in case of dispute, by the Board of Trade.

Power to require models on payment.

43.—(1.) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any of Her Majesty's Courts in the United Kingdom, or Isle of Man, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connexion with the manufacture or preparation of anything intended to be sold in or exported from the United Kingdom or Isle of Man.

Foreign vessels in British waters.

(2.) But this section shall not extend to vessels of any foreign State of which the laws authorise subjects of such foreign State, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British vessels while in the ports of such foreign State, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture or preparation of anything intended to be sold in or exported from the territories of such foreign State.

44.—(1.) The inventor of any improvement in instruments or munitions of war, his executors, administrators, or assigns (who are in this section comprised in the expression the inventor) may (either for or without valuable consideration) assign to Her Majesty's Principal Secretary of State for the War Department (herein-after referred to as the Secretary of State), on behalf of Her Majesty, all the benefit of the invention and of any patent obtained or to be obtained for the same; and the Secretary of State may be a party to the assignment.

Assignment to Secretary for War of certain inventions.

(2.) The assignment shall effectually vest the benefit of the invention and patent in the Secretary of State for the time being on behalf of Her Majesty, and all covenants and agreements therein contained for keeping the invention secret, and otherwise, shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by the Secretary of State for the time being.

(3.) Where any such assignment has been made to the Secretary of State, he may, at any time before the application for a patent for the invention, or before publication of

the specification or specifications, certify to the comptroller his opinion that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4.) If the Secretary of State so certifies, the application and specification or specifications, with the drawings (if any), and any amendment of the specification or specifications, and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the patent office, be delivered to the comptroller in a packet sealed by authority of the Secretary of State.

(5.) Such packet shall, until the expiration of the term or extended term during which a patent for the invention may be in force, be kept sealed by the comptroller, and shall not be opened save under the authority of an order of the Secretary of State, or of the law officers.

(6.) Such sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by writing under the hand of the Secretary of State to receive the same, and shall, if returned to the comptroller, be again kept sealed by him.

(7.) on the expiration of the term or extended term of the patent, such sealed packet shall be delivered to any person authorised by writing under the hand of the Secretary of State to receive it.

(8) Where the Secretary of State certifies as aforesaid, after an application for a patent has been left at the Patent Office, but before the publication of the specification or specifications, the application specification or specifications, with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the comptroller, and such packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Secretary of State.

(9.) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which the Secretary of State has certified as aforesaid.

(10.) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but save as in this section otherwise directed, the provisions of this part of this Act shall apply in respect of any such invention and patent as aforesaid.

(11.) The Secretary of State may, at any time by writing under his hand, waive the benefit of this section with

respect to any particular invention, and the specifications, documents, and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12.) The communication of any invention for any improvement in instruments or munitions of war to the Secretary of State, or to any person or persons authorised by him to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same. [*See* 22 Vict. c. 13.]

Existing Patents.

45.—(1.) The provisions of this Act relating to applications for patents and proceedings thereon shall have effect in respect only of applications made after the commencement of this Act. Provisions respecting existing patents.

(2.) Every patent granted before the commencement of this Act, or on an application then pending, shall remain unaffected by the provisions of this Act relating to patents binding the Crown, and to compulsory licenses.

(3.) In all other respects (including the amount and time of payment of fees) this Act shall extend to all patents granted before the commencement of this Act, or on applications then pending, in substitution for such enactments as would have applied thereto if this Act had not been passed.

(4.) All instruments relating to patents granted before the commencement of this Act required to be left or filed in the Great Seal Patent Office shall be deemed to be so left or filed if left or filed before or after the commencement of this Act in the Patent Office.

Definitions.

46. In and for the purposes of this Act—

“Patent” means letters patent for an invention :

“Patentee” means the person for the time being entitled to the benefit of a patent :

“Invention” means any manner of new manufacture, the subject of letters patent, and grant of privilege within section six of the Statute of Monopolies (that is, the Act of the twenty-first year of the reign of King James the First, chapter three, intituled “An

Definitions of patent, patentee, and invention.

“ Act concerning monopolies and dispensations with
 “ penal laws and the forfeiture thereof”), and
 includes an alleged invention.
 In Scotland “ injunction ” means “ interdict.”

PART III.

DESIGNS.

Registration of Designs.

Application for
 registration of
 designs.

47.—(1.) The comptroller may, on application by or on behalf of any person claiming to be the proprietor of any new or original design not previously published in the United Kingdom, register the design under this part of this Act.

(2.) The application must be made in the form set forth in the First Schedule to this Act, or in such other form as may be from time to time prescribed, and must be left at, or sent by post to, the Patent Office in the prescribed manner.

(3.) The application must contain a statement of the nature of the design, and the class or classes of goods in which the applicant desires that the design be registered.

(4.) This same design may be registered in more than one class.

(5.) In case of doubt as to the class in which a design ought to be registered, the comptroller may decide the question.

(6.) The comptroller may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal therefrom to the Board of Trade.

(7.) The Board of Trade shall, if required, hear the applicant and the comptroller, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

Drawings, &c.
 to be furnished
 on application.

48.—(1.) On application for registration of a design the applicant shall furnish to the comptroller the prescribed number of copies of drawings, photographs, or tracings of the design sufficient, in the opinion of the comptroller, for enabling him to identify the design; or the applicant may, instead of such copies, furnish exact representations or specimens of the design.

(2.) The comptroller may, if he thinks fit, refuse any drawing, photograph, tracing, representation, or specimen which is not, in his opinion, suitable for the official records.

49.—(1.) The comptroller shall grant a certificate of registration to the proprietor of the design when registered. Certificate of registration.

(2.) The comptroller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, grant a copy or copies of the certificate.

Copyright in registered Designs.

50.—(1.) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration. Copyright on registration.

(2.) Before delivery on sale of any articles to which a registered design has been applied, the proprietor must (if exact representations or specimens were not furnished on the application for registration), furnish to the comptroller the prescribed number of exact representations or specimens of the design; and if he fails to do so, the comptroller may erase his name from the register, and thereupon his copyright in the design shall cease.

51. Before delivery on sale of any articles to which a registered design has been applied, the proprietor of the design shall cause each such article to be marked with the prescribed mark, or with the prescribed word or words or figures, denoting that the design is registered; and if he fails to do so the copyright in the design shall cease, unless the proprietor shows that he took all proper steps to ensure the marking of the article. Marking registered designs.

52.—(1.) During the existence of copyright in a design, the design shall not be open to inspection except by the proprietor, or a person authorised in writing by the proprietor, or a person authorised by the comptroller or by the court, and furnishing such information as may enable the comptroller to identify the design, nor except in the presence of the comptroller, or of an officer acting under him, nor except on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof. Inspection of registered designs.

[S. 6 of the Patents, Designs, and Trade Marks Act of 1888 added to this section the following :—

“ Provided that where registration of a design is refused, on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design so registered.”]

(2.) When the copyright in a design has ceased, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

Information as to existence of copyright.

53. On the request of any person producing a particular design, together with its mark of registration, or producing only its mark of registration, or furnishing such information as may enable the comptroller to identify the design, and on payment of the prescribed fee, it shall be the duty of the comptroller to inform such person whether the registration still exists in respect of such design, and if so, in respect of what class or classes of goods, and stating also the date of registration, and the name and address of the registered proprietor.

Cesser of copyright in certain events.

54. If a registered design is used in manufacture in any foreign country and it is not used in this country within six months of its registration in this country, the copyright in the design shall cease.

Register of Designs.

Register of designs.

55.—(1.) There shall be kept at the Patent Office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may from time to time be prescribed.

(2.) The register of designs shall be *primâ facie* evidence of any matters by this Act directed or authorised to be entered therein.

Fees.

Fees on registration, &c.

56. There shall be paid in respect of applications and registration and other matters under this part of this Act such fees as may be from time to time, with the sanction of the Treasury, prescribed by the Board of Trade; and such fees shall be levied and paid to the account of Her Majesty's Exchequer in such manner as the Treasury shall from time to time direct.

Industrial and International Exhibitions.

57. The exhibition at an industrial or international exhibition, certified as such by the Board of Trade, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design, or of any article to which a design is applied, or the publication, during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof, provided that both the following conditions are complied with; namely,—

Exhibition at industrial or international exhibition not to prevent or invalidate registration.

- (a.) The exhibitor must, before exhibiting the design or article, or publishing a description of the design, give the comptroller the prescribed notice of his intention to do so; and
- (b.) The application for registration must be made before or within six months from the date of the opening of the exhibition.

[See extension of this section, and s. 39, given *ante*, p. 49, by a note to section 39.]

Legal Proceedings.

58. During the existence of copyright in any design—

- (a.) It shall not be lawful for any person without the license or written consent of the registered proprietor to apply ["or cause to be applied" was added by the Patents, Designs, and Trade Marks Act of 1888, s. 7], such design or any fraudulent or obvious imitation thereof, in the class or classes of goods in which such design is registered, for purposes of sale to any article of manufacture or to any substance artificial or natural or partly artificial and partly natural; and
- (b.) It shall not be lawful for any person to publish or expose for sale any article of manufacture or any substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, knowing that the same has been so applied without the consent of the registered proprietor.

Penalty on piracy of registered design.

Any person who acts in contravention of this section shall be liable for every offence to forfeit a sum not exceeding fifty pounds to the registered proprietor of the design, who may recover such sum as a simple contract debt by action in any court of competent jurisdiction. ["Provided that the total sum forfeited in respect of any

“ one design shall not exceed 100*l.*” These words were added by the Act of 1888, s. 7.]

Action for damages.

59. Notwithstanding the remedy given by this Act for the recovery of such penalty as aforesaid, the registered proprietor of any design may (if he elects to do so) bring an action for the recovery of any damages arising from the application of any such design, or of any fraudulent or obvious imitation thereof for the purpose of sale, to any article of manufacture or substance, or from the publication sale or exposure for sale by any person of any article or substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, such person knowing that the proprietor had not given his consent to such application.

Definitions.

Definition of “ design,” “ copyright.”

60. In and for the purposes of this Act—

“ Design ” means any design applicable to any article of manufacture, or to any substance artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined, not being a design for a sculpture, or other thing within the protection of the Sculpture Copyright Act of the year 1814 (fifty-fourth George the Third, chapter fifty-six).

“ Copyright ” means the exclusive right to apply a design to any article of manufacture or to any such substance as aforesaid in the class or classes in which the design is registered.

Definition of proprietor.

61. The author of any new and original design shall be considered the proprietor thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case such person shall be considered the proprietor, and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to any such article or substance as aforesaid, either exclusively of any other person or otherwise, and also every person on whom the property in such design or such right to the application thereof shall devolve,

shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise

PART IV.

TRADE MARKS.

Registration of Trade Marks.

62.—(1.) The comptroller may, on application by or on behalf of any person claiming to be the proprietor of a trade mark, register the trade mark. Application for registration.

(2.) The application must be made in the form set forth in the First Schedule to this Act, or in such other form as may be from time to time prescribed, and must be left at, or sent by post to, [the Patent Office in the prescribed manner.] [For the words within brackets the Patents, Designs, and Trade Marks Act of 1888, s. 8, substituted the following words]:—“such place, and in such manner as may be prescribed.”

(3.) The application must be accompanied by the prescribed number of representations of the trade mark, and must state the particular goods or classes of goods in connexion with which the applicant desires the trade mark to be registered.

(4.) The comptroller may, if he thinks fit, refuse to register a trade mark, but any such refusal shall be subject to appeal to the Board of Trade, who shall, if required, hear the applicant and the comptroller, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

(5.) The Board of Trade may, however, if it appears expedient, refer the appeal to the Court; and in that event the Court shall have jurisdiction to hear and determine the appeal and may make such order as aforesaid. [The Act of 1888, s. 8. added to this section the following]:—

“ (6.) Where an applicant for the registration of a trade mark otherwise than under an international convention is out of the United Kingdom at the time of making the application, he shall give to the comptroller an address for service in the United Kingdom, and if he fails to do so, the application shall not be proceeded with until the address has been given.’

Limit of time
for proceeding
with applica-
tion.

63. Where registration of a trade mark has not been or shall not be completed within 12 months from the date of the application, by reason of default on the part of the applicant, [the application shall be deemed to be abandoned.]

[For the words in brackets the Patents, Designs, and Trade Marks Act of 1888, s. 9, substituted the words]—
“ the Comptroller shall give notice of the non-completion
“ to the agent employed on behalf of the appellant, and, if
“ at the expiration of fourteen days from that notice the
“ registration is not completed, shall give the like notice to
“ the applicant, and if at the expiration of the latter fourteen
“ days, or such further time as the Comptroller may in
“ special cases permit, the registration is not completed,
“ the application shall be deemed to be abandoned.”

Conditions of
registration of
trade mark.

As to fancy
words.

For this section in the Act of 1883 the Act of 1888, s. 10, substituted the following:—

“ 64.—(1.) For the purposes of this Act, a trade mark must consist of or contain at least one of the following essential particulars:—

“ (a.) A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner ;
or

“ (b.) A written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark ; or

“ (c.) A distinctive device, mark, brand, heading, label, or ticket ; or

“ (d.) An invented word or invented words ; or” [this is new]

“ (e.) A word or words having no reference to the character or quality of the goods, and not being a geographical name.” [This is new.]

“ (2.) There may be added to any one or more of the essential particulars mentioned in this section any letters, words, or figures, or combination of letters, words, or figures, or of any of them, but the applicant for registration of any such additional matter must state in his application the essential particulars of the trade mark, and must disclaim in his application any right to the exclusive use of the added matter, and a copy of the statement and disclaimer shall be entered on the register.

“ (3.) Provided as follows :

“ (i.) A person need not under this section disclaim his own name or the foreign equivalent thereof, or his

place of business, but no entry of any such name shall affect the right of any owner of the same name to use that name or the foreign equivalent thereof:

“(ii.) Any special and distinctive word or words, letter, figure, or combination of letters or figures, or of letters and figures used as a trade mark before the thirteenth day of August, one thousand eight hundred and seventy-five, may be registered as a trade mark under this part of this Act” [see ss. 68 and 76, *below*].

“Bovril” under the Act of 1883 has been held by the Court of Appeal to have been, on the date of its registration—2nd November 1886—a distinctive fancy word not in common use. Trade Mark No. 58405 (Bovril), 1896, 13 R.P.C., p. 358.

The Act of 1888, s. 10, lets in words which were excluded by the Act of 1883, by reason of their being words in common use. The practice of the Patent Office has been to allow the registration of names of imaginary persons, although such names are not printed, impressed, or woven in any particular or distinctive manner. The view taken in the office has been that such names are words within clause (e) of s. 10, and not names of individuals within clause (a). And Lindley, L.J., considered this practice correct in the “Trilby” case, where the majority of the Court were of opinion that “Trilby,” being a fictitious fancy name, a name of an imaginary personage, but not the name of a person—not a name having reference to the character or quality of goods, and not a geographical name—was a good trade mark. Holt & Co., Trade Mark, 1896, 13 R.P.C., 118.

On the other hand, the Act of 1883, by letting in fancy words, was wider than the Act of 1888, which has left out fancy words, and replaced them by invented words. And “invented” words are said to embrace such fictitious names as might emanate from the pen of novel writers, or from the creative brain of other composers. See in *re* Farbenfabriken, “Somatose.” [1894], 1 Ch. 645, 11 R.P.C. 84, and “Trilby,” 1896, 13 R.P.C. 118.

And a word familiar to residents in other countries cannot be an “invented word.” In *re* “E. strozone,” 1896, 13 R.P.C. 447.

65. A trade mark must be registered for particular goods or classes of goods. Connexion of trade mark with goods.

66. When a person claiming to be the proprietor of several trade marks which, while resembling each other in the material particulars thereof, yet differ in respect of (a) the statement of the goods for which they are respectively used or proposed to be used, or (b) statements of numbers, or (c) statements of price, or (d) statements of quality, or (e) statements of names of places, seeks to register such trade marks, they may be registered as a series in one registration. A series of trade marks shall be assignable and transmissible only as a whole, but for all Registration of a series of marks.

other purposes each of the trade marks composing a series shall be deemed and treated as registered separately.

Trade marks may be registered in any colour.

67. A trade mark may be registered in any colour "or colours," and such registration shall (subject to the provisions of this Act) confer on the registered owner the exclusive right to use the same in that or any other colour "or colours." [The quoted words were added by s. 11 of the Act of 1888.]

Advertisement of application.

68. Every application for registration of a trade mark under this part of this Act shall, as soon as may be after its receipt, be advertised by the comptroller, "unless the "comptroller refuse to entertain the application" [added by the Act of 1888, s. 12].

[The following sections are as altered by the Act of 1888]:—

Opposition to registration.

69.—(1.) Any person may within one month or such further time not exceeding three months as the comptroller may allow, of the advertisement of the application, give notice in duplicate at the Patent Office of opposition to registration of the trade mark, and the comptroller shall send one copy of such notice to the applicant.

(2.) Within one month after receipt of such notice or such further time as the comptroller may allow, the applicant may send to the comptroller a counter statement in duplicate of the grounds on which he relies for his application, and if he does not do so, shall be deemed to have abandoned his application.

(3.) If the applicant sends such counter statement, the comptroller shall furnish a copy thereof to the person who gave notice of opposition, and shall, after hearing the applicant and the opponent, if so required, decide whether the trade mark is to be registered, but his decision shall be subject to appeal to the Board of Trade, who shall, if required, hear the applicant and the opponent and the comptroller, and may make an order determining whether and subject to what conditions (if any) registration is to be permitted.

(4.) The Board of Trade may, however, if it appears expedient, refer the appeal to the Court, and in that event the Court shall have jurisdiction to hear and determine the appeal, and may make such order as aforesaid.

(5.) If the applicant abandons his application after notice of opposition in pursuance of this section, he shall be liable to pay to the opponent such costs in respect of

the opposition as the comptroller may determine to be reasonable.

(6.) Where the opponent is out of the United Kingdom, he shall give the comptroller an address for service in the United Kingdom.

70. A trade mark, when registered, shall be assigned and transmitted only in connexion with the goodwill of the business concerned in the particular goods or classes of goods for which it has been registered, and shall be determinable with that goodwill. Assignment and transmission of trade mark.

71. Where each of several persons claims to be registered as proprietor of the same trade mark, the comptroller may refuse to register any of them until their rights have been determined according to law, and the comptroller may himself submit or require the claimants to submit their rights to the Court. Conflicting claims to registration.

72.—(1.) Except where the Court has decided that two or more persons are entitled to be registered as proprietors of the same trade mark, the comptroller shall not register in respect of the same goods or description of goods a trade mark identical with one already on the register with respect to such goods or description of goods. Restrictions on registration.

(2.) Except as aforesaid, the comptroller shall not register with respect to the same goods or description of goods a trade mark having such resemblance to a trade mark already on the register with respect to such goods or description of goods as to be calculated to deceive.

[A Disclaimer may clear the way for registration. In *re* König and Ebhardt's trade mark [a coronet], 1896, 13 R.P.C. 419.]

73. It shall not be lawful to register as part of or in combination with a trade mark any words the use of which would by reason of their being calculated to deceive or otherwise, be deemed disentitled to protection in a court of justice, or any scandalous design. Further restriction on registration.

74.—(1.) Nothing in this Act shall be construed to prevent the comptroller entering on the register, in the prescribed manner, and subject to the prescribed conditions, as an addition to any trade mark— Saving for power to provide for entry on register of common marks as additions to trade marks.

(a.) In the case of an application for registration of a trade mark used before the thirteenth day of August one thousand eight hundred and seventy-five—

Any distinctive device, mark, brand, heading, label, ticket, letter, word, or figure, or combination of

letters, words, or figures, though the same is common to the trade in the goods with respect to which the application is made ;

- (b.) In the case of an application for registration of a trade mark not used before the thirteenth day of August one thousand eight hundred and seventy-five—
Any distinctive word or combination of words, though the same is common to the trade in the goods with respect to which the application is made.

(2.) The applicant for registration of any such addition must, however, state in his application the essential particulars of the trade mark, and must disclaim in his application any right to the exclusive use of the added matter, and a copy of the statement and disclaimer shall be entered on the register :

Provided that a person need not under this section disclaim his own name, or the foreign equivalent thereof, or his place of business, but no entry of any such name shall affect the right of any owner of the same name to use that name, or the foreign equivalent thereof.

(3.) Any device, mark, brand, heading, label, ticket, letter, word, figure, or combination of letters, words, or figures, which was or were, before the thirteenth day of August one thousand eight hundred and seventy-five, publicly used by more than three persons on the same or a similar description of goods shall for the purposes of this section be deemed common to the trade in such goods.

EFFECT OF REGISTRATION.

As to effect of registration.

75. Application for registration of a trade mark shall be deemed to be equivalent to public use of the trade mark, and the date of the application shall for the purposes of this Act be deemed to be, and as from the first day of January one thousand eight hundred and seventy-six to have been, the date of the registration.

Right of first proprietor to exclusive use of trade mark.

76. The registration of a person as proprietor of a trade mark shall be *primâ facie* evidence of his right to the exclusive use of the trade mark, and shall, after the expiration of five years from the date of the registration, be conclusive evidence of his right to the exclusive use of the trade mark, subject to the provisions of this Act.

77. A person shall not be entitled to institute any proceeding to prevent or to recover damages for the infringement of a trade mark, unless, in the case of a trade mark capable of being registered under this Act, it has been registered in pursuance of this Act, or of an enactment repealed by this Act, or, in the case of any other trade mark in use before the thirteenth of August one thousand eight hundred and seventy five, registration thereof under this part of this Act, or of an enactment repealed by this Act, has been refused. The comptroller may, on request, and on payment of the prescribed fee, grant a certificate that such registration has been refused.

Restrictions on actions for infringement, and on defence to action in certain cases.

77A. In an action for infringement of a registered trade mark the court or a judge may certify that the right to the exclusive use of the trade mark came in question, and if the court or a judge so certifies, then in any subsequent action for infringement the plaintiff in that action, on obtaining a final order or judgment in his favour, shall have his full costs, charges, and expenses as between solicitor and client, unless the court or judge trying the subsequent action certifies that he ought not to have the same.

Certificate as to exclusive use and costs thereon.

Register of Trade Marks.

78. There shall be kept at the Patent Office a book called the Register of Trade Marks, wherein shall be entered the names and addresses of proprietors of registered trade marks, notifications of assignments and of transmissions of trade marks, and such other matters as may be from time to time prescribed.

Register of trade marks.

79.—(1.) At a time not being less than two months nor more than three months before the expiration of fourteen years from the date of the registration of a trade mark, the comptroller shall send notice to the registered proprietor that the trade mark will be removed from the register unless the proprietor pays to the comptroller before the expiration of such fourteen years (naming the date at which the same will expire) the prescribed fee; and if such fee be not previously paid, he shall at the expiration of one month from the date of the giving of the first notice send a second notice to the same effect.

Removal of trade mark after fourteen years unless fee paid.

(2.) If such fee be not paid before the expiration of such fourteen years the comptroller may after the end of three months from the expiration of such fourteen years

remove the mark from the register, and so from time to time at the expiration of every period of fourteen years.

(3.) If before the expiration of the said three months the registered proprietor pays the said fee together with the additional prescribed fee, the comptroller may without removing such trade mark from the register accept the said fee as if it had been paid before the expiration of the said fourteen years.

(4.) Where after the said three months a trade mark has been removed from the register for nonpayment of the prescribed fee, the comptroller may, if satisfied that it is just so to do, restore such trade mark to the register on payment of the prescribed additional fee.

(5.) Where a trade mark has been removed from the register for nonpayment of the fee or otherwise, such trade mark shall nevertheless for the purpose of any application for registration during one year next after the date of such removal, be deemed to be a trade mark which is already registered, unless it is shown to the satisfaction of the comptroller that the nonpayment of the fee arises from the death or bankruptcy of the registered proprietor, or from his having ceased to carry on business, and that no person claiming under that proprietor or under his bankruptcy is using the trade mark.

Fees.

Fees for registration, &c.

80. There shall be paid in respect of applications and registration and other matters under this part of this Act such fees as may be from time to time, with the sanction of the Treasury, prescribed by the Board of Trade; and such fees shall be levied and paid to the account of Her Majesty's Exchequer in such manner as the Treasury may from time to time direct.

Sheffield Marks.

Registration by Cutlers' Company of Sheffield marks.

81. With respect to the master, wardens, searchers, assistants, and commonalty of the Company of Cutlers in Hallamshire, in the county of York (in this Act called the Cutlers' Company) and the marks or devices (in this Act called Sheffield marks) assigned or registered by the master, wardens, searchers, and assistants of that company, the following provisions shall have effect:

(1.) The Cutlers' Company shall establish and keep at Sheffield a new Register of Trade Marks (in this Act called the Sheffield register):

- (2.) The Cutlers' Company shall enter in the Sheffield register, in respect of metal goods as defined in this section, all the trade marks entered before the first day of January one thousand eight hundred and eighty-nine in respect of metal goods either in the register established under the Trade Marks Registration Act, 1875, or in the register of trade marks under this Act, belonging to persons carrying on business in Hallamshire or within six miles thereof. The Cutlers' Company shall also, on request made in the prescribed manner, enter in the Sheffield register, in respect of metal goods, all the trade marks which shall have been assigned by the Cutlers' Company and actually used before the first day of January one thousand eight hundred and eighty-four, but which have not been entered in either of the said other registers: 38 & 39 Vict.
c. 91.
- (3.) An application for registration of a trade mark used on metal goods shall, if made after the commencement of this Act by a person carrying on business in Hallamshire, or within six miles thereof, be made to the Cutlers' Company:
- (4.) Every application so made to the Cutlers' Company shall be notified to the comptroller in the prescribed manner, and unless the comptroller within the prescribed time gives notice to the Cutlers' Company that he objects to the acceptance of the application, it shall be proceeded with by the Cutlers' Company in the prescribed manner:
- (5.) If the comptroller gives notice of objection as aforesaid, the application shall not be proceeded with by the Cutlers' Company, but any person aggrieved may appeal to the Court:
- (6.) Upon the registration of a trade mark in the Sheffield register the Cutlers' Company shall give notice thereof to the comptroller, who shall thereupon enter the mark in the register of trade marks; and such registration shall bear date as of the day of application to the Cutlers' Company, and have the same effect as if the application had been made to the comptroller on that day:
- (7.) The provisions of this Act and of any general rules made under this Act with respect to the registration of trade marks, and all matters relating thereto shall, subject to the provisions of this section, apply to the registration of trade marks

on metal goods by the Cutlers' Company and to all matters relating thereto ; and this Act and any such general rules shall, so far as applicable, be construed accordingly with the substitution of the Cutlers' Company, the office of the Cutlers' Company, and the Sheffield Register for the Comptroller, the Patent Office, and the Register of Trade Marks respectively, and notice of every entry, cancellation, or correction made in the Sheffield Register shall be given to the Comptroller by the Cutlers' Company : Provided that this section shall not affect any life, estate, and interest of a widow of the holder of any Sheffield mark which may be in force in respect of such mark at the time when it shall be placed upon the Sheffield registry :

- (8.) Where the comptroller receives from any person not carrying on business in Hallamshire, or within six miles thereof, an application for registration of a trade mark used on metal goods, he shall in the prescribed manner notify the application and proceedings thereon to the Cutlers' Company :
- (9.) At the expiration of five years from the commencement of this Act the Cutlers' Company shall close the Cutlers' register of corporate trade marks, and thereupon all marks entered therein shall, unless entered in the Sheffield register, be deemed to have been abandoned :
- (10.) A person may (notwithstanding anything in any Act relating to the Cutlers' Company) be registered in the Sheffield register as proprietor of two or more trade marks :
- (11.) A body of persons, corporate or not corporate, may (notwithstanding anything in any Act relating to the Cutlers' Company) be registered in the Sheffield register as proprietor of a trade mark or trade marks :
- (12.) Any person aggrieved by a decision of the Cutlers' Company in respect of anything done or omitted under this Act may, in the prescribed manner, appeal to the comptroller, who shall have power to confirm, reverse, or modify the decision, but the decision of the comptroller shall be subject to a further appeal to the Court :
- (13.) So much of the Cutlers' Company's Acts as applies to the summary punishment of persons counterfeiting Sheffield corporate marks, that is to say, the fifth section of the Cutlers' Company's Act of 1814, and

the provisions in relation to the recovery and application of the penalty imposed by such last-mentioned section contained in the Cutlers' Company's Act of 1791, shall apply to any mark entered in the Sheffield register:

- (14.) For the purposes of this section, the expression "metal goods" means all metals whether wrought, unwrought, or partly wrought, and all goods composed wholly or partly of any metal:
- (15.) For the purpose of legal proceedings in relation to trade marks entered in the Sheffield register, a certificate under the hand of the Master of the Cutlers' Company shall have the same effect as the certificate of the comptroller.

PART V.

GENERAL.

Patent Office and Proceedings thereat.

82.—(1.) The Treasury may provide for the purposes of this Act an office with all requisite buildings and conveniences, which shall be called, and is in this Act referred to, as the Patent Office. Patent Office.

(2.) Until a new patent office is provided, the offices of the Commissioners of Patents for inventions and for the registration of designs and trade marks, existing at the commencement of this Act, shall be the Patent Office within the meaning of this Act.

(3.) The Patent Office shall be under the immediate control of an officer called the comptroller-general of patents, designs, and trade marks, who shall act under the superintendence and direction of the Board of Trade.

(4.) Any act or thing directed to be done by or to the comptroller may, in his absence, be done by or to any officer for the time being in that behalf authorised by the Board of Trade.

83.—(1.) The Board of Trade may at any time after the passing of this Act, and from time to time, subject to the approval of the Treasury, appoint the comptroller-general of patents, designs, and trade marks, and so many examiners and other officers and clerks, with such designations and duties as the Board of Trade think fit, Officers and clerks.

and may from time to time remove any of those officers and clerks.

(2.) The salaries of those officers and clerks shall be appointed by the Board of Trade, with the concurrence of the Treasury, and the same and the other expenses of the execution of this Act shall be paid out of money provided by Parliament.

Seal of Patent Office.

84. There shall be a seal for the Patent Office, and impressions thereof shall be judicially noticed and admitted in evidence.

Trust not to be entered in registers.

85. There shall not be entered in any register kept under this Act, or be receivable by the comptroller, any notice of any trust expressed implied or constructive.

Refusal to grant patent, &c. in certain cases.

86. The comptroller may refuse to grant a patent for an invention, or to register a design or trade mark, of which the use would, in his opinion, be contrary to law or morality.

Entry of assignments and transmissions in registers.

87. Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, or to the copyright in a registered design, or to a registered trade mark, the comptroller shall on request, and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the patent, copyright in the design, or trade mark, in the register of patents, designs, or trade marks, as the case may be. The person for the time being entered in the register of patents, designs, or trade marks, as proprietor of a patent, copyright in a design, or trade mark, as the case may be, shall, subject to the provisions of this Act and to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with the same, and to give effectual receipts for any consideration for such assignment, license, or dealing. Provided that any equities in respect of such patent, design, or trade-mark may be enforced in like manner as in respect of any other personal property.

Inspection of and extracts from registers.

88. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to the provisions of this Act and to such regulations as may be prescribed; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register

shall be given to any person requiring the same on payment of the prescribed fee.

[(1.) This gives liberty to the public of inspecting the register, subject to obtaining permission under section 52, *ante*.]

89. Printed or written copies or extracts, purporting to be certified by the comptroller and sealed with the seal of the Patent Office, or from patents, specifications, disclaimers and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all courts in Her Majesty's dominions, and in all proceedings, without further proof or production of the originals.

Sealed copies to be received in evidence.

90.—(1.) The Court may on the application of any person aggrieved by the omission without sufficient cause of the name of any person or of any other particulars from any register kept under this Act, or by any entry made without sufficient cause in any such register, make such order for making expunging or varying the entry, as the Court thinks fit; or the Court may refuse the application; and in either case may make such order with respect to the costs of the proceedings as the Court thinks fit.

Rectification of registers by court.

[See Lindley, L.J., in *Clarke's Registered Design*, 1896, 13 R.P.C. p. 357, and in post, p. 159. Rules for designs, rule 19.]

(2.) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for the rectification of a register, and may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3.) Any order of the Court rectifying a register shall direct that due notice of the rectification be given to the comptroller.

91. The comptroller may, on request in writing accompanied by the prescribed fee,—

Power for comptroller to correct clerical errors.

- (a.) Correct any clerical error in or in connexion with an application for a patent, or for registration of a design or trade mark; or
- (b.) Correct any clerical error in the name, style, or address of the registered proprietor of a patent, design, or trade mark;
- (c.) Cancel the entry or part of the entry of a trade mark on the register: Provided that the applicant

accompanies his request by a statutory declaration made by himself, stating his name, address, and calling, and that he is the person whose name appears on the register as the proprietor of the said trade mark;

(d.) Permit an applicant for registration of a design or trade mark to amend his application by omitting any particular goods or classes of goods in connexion with which he has desired the design or trade mark to be registered [this was added by the Act of 1888].

Alteration of registered mark.

92.—(1.) The registered proprietor of any registered trade mark may apply to the Court for leave to add to or alter such mark in any particular, not being an essential particular within the meaning of this Act, and the Court may refuse or grant leave on such terms as it may think fit.

(2.) Notice of any intended application to the Court under this section shall be given to the comptroller by the applicant; and the comptroller shall be entitled to be heard on the application.

(3.) If the Court grants leave, the comptroller shall, on proof thereof and on payment of the prescribed fee, cause the register to be altered in conformity with the order of leave.

Falsification of entries in registers.

93. If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders, or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanor.

Exercise of discretionary power by comptroller.

94. Where any discretionary power is by this Act given to the comptroller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, or for registration of a trade mark or design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent. [See p. 159, rr. 12, 13.]

Power of comptroller to take directions of law officers.

95. The comptroller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to either of the law officers for directions in the matter.

Certificate of comptroller to be evidence.

96. A certificate purporting to be under the hand of the comptroller as to any entry, matter, or thing which he is authorised by this Act, or any general rules made there-

under, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

97.—(1.) Any application, notice, or other document authorised or required to be left, made, or given at the Patent Office or to the comptroller, or to any other person under this Act, may be sent by a prepaid letter through the post; and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

Applications and notices by post.

(2.) In proving such service or sending it shall be sufficient to prove that the letter was properly addressed and put into the post.

98. Whenever the last day fixed by this Act, or by any rule for the time being in force, for leaving any document or paying any fee at the Patent Office shall fall on Christmas Day, Good Friday, or on a Saturday or Sunday, or any day observed as a holiday at the Bank of England, or any day observed as a day of public fast or thanksgiving, herein referred to as excluding days, it shall be lawful to leave such document or to pay such fee on the day next following such excluded day, or days if two or more of them occur consecutively.

Provision as to days for leaving documents at office.

99. If any person is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall, for the purposes of this Act, be as effectual as if done by the person for whom he is substituted.

Declaration by infant, lunatic, &c.

100. Copies of all specifications, drawings, and amendments left at the Patent Office after the commencement of this Act, printed for and sealed with the seal of the Patent Office, shall be transmitted to the Edinburgh Museum of

Transmission of certified printed copies of specifications, &c.

Science and Art, and to the Enrolments Office of the Chancery Division in Ireland, and to the Rolls Office in the Isle of Man, within twenty-one days after the same shall respectively have been accepted or allowed at the Patent Office; and certified copies of, or extracts from, any such documents shall be given to any person requiring the same on payment of the prescribed fee; and any such copy or extract shall be admitted in evidence in all courts in Scotland and Ireland and in the Isle of Man without further proof or production of the originals.

Power for Board of Trade to make general rules for classifying goods and regulating business of Patent Office.

101.—(1.) The Board of Trade may from time to time make such general rules and do such things as they think expedient, subject to the provisions of this Act:—

[See Note to Rules, post p. 159.]

- (a.) For regulating the practice of registration under this Act:
- (b.) For classifying goods for the purposes of designs and trade marks:
- (c.) For making or requiring duplicates of specifications, amendment, drawings, and other documents:
- (d.) For securing and regulating the publishing and selling of copies at such prices and in such manner as the Board of Trade think fit of specifications, drawings, amendments, and other documents:
- (e.) For securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office; and providing for the inspection of indexes and abridgments and other documents:
- (f.) For regulating (with the approval of the Treasury) the presentation of copies of patent office publications to patentees and to public authorities, bodies, and institutions at home and abroad:
- (g.) Generally for regulating the business of the Patent Office, and all things by this Act placed under the direction or control of the comptroller, or of the Board of Trade.

(2.) Any of the forms in the First Schedule to this Act may be altered or amended by rules made by the Board as aforesaid

(3.) General rules may be made under this section at any time after the passing of this Act, but not so as to take effect before the commencement of this Act, and shall (subject as herein-after mentioned) be of the same effect as

if they were contained in this Act, and shall be judicially noticed.

(4.) Any rules made in pursuance of this section shall be laid before both Houses of Parliament, if Parliament be in session at the time of making thereof, or, if not, then as soon as practicable after the beginning of the then next session of Parliament, and they shall also be advertised twice in the official journal to be issued by the comptroller.

(5.) If either House of Parliament, within the next forty days after any rules have been so laid before such House, resolve that such rules or any of them ought to be annulled, the same shall, after the date of such resolution, be of no effect, without prejudice to the validity of anything done in the meantime under such rules or rule or to the making of any new rules or rule.

[Held in *Institute of Patent Agents v. Lockwood*, 1894, A.C. 347, that the rules made were equal in force to an enactment of an Act of Parliament. See s. 1 of the Patents, Designs, and Trade Marks Act, 1888, 51 & 52 Vict. c. 50, which provided as follows:—

(1.) After the 1st day of July 1889 a person shall not be entitled to describe himself as a patent agent, whether by advertisement, by description, on his place of business, by any document issued by him, or otherwise, unless he is registered as a patent agent in pursuance of this Act.

(2.) The Board of Trade shall, as soon as may be after the passing of this Act, and may from time to time make such general rules as are, in the opinion of the Board, required for giving effect to this section; and the provisions of s. 101 of the principal Act shall apply to all rules so made as if they were made in pursuance of that section.

(3.) Provided that every person who proves to the satisfaction of the Board of Trade that, prior to the passing of this Act, he had been *bonâ fide* practising as a patent agent, shall be entitled to be registered as a patent agent in pursuance of this Act.

(4.) If any person knowingly describe himself as a patent agent in contravention of this section, he shall be liable, on summary conviction, to a fine not exceeding 20%.

(5.) In this section "patent agent" means exclusively an agent for obtaining patents in the United Kingdom.]

102. The comptroller shall, before the first day of June in every year, cause a report respecting the execution by or under him of this Act to be laid before both Houses of Parliament, and therein shall include for the year to which each report relates, all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this Act. Annual reports of comptroller.

102A.—(1.) All things required or authorised under this Act to be done by, to, or before the Board of Trade, may Proceedings of Board of Trade.

be done by, to, or before the President or a secretary or an assistant secretary of the Board.

(2.) All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or by any person authorised in that behalf by the President of the Board, shall be received in evidence, and shall be deemed to be such orders without further proof, unless the contrary is shown.

(3.) A certificate, signed by the President of the Board of Trade, that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified.

International and Colonial Arrangements.

International arrangements for protection of inventions, designs, and trade marks.

103.—(1.) If Her Majesty is pleased to make any arrangement with the Government or Governments of any foreign State or States for mutual protection of inventions, designs, and trade marks, or any of them, then any person who has applied for protection for any invention, design, or trade mark in any such State, shall be entitled to a patent for his invention or to registration of his design or trade mark (as the case may be) under this Act, in priority to other applicants; and such patent or registration shall have the same date as the date of the application [as amended by 48 & 49 Vict. c. 63. s. 6.] in such foreign State.

Provided that his application is made in the case of a patent within seven months, and in the case of a design or trade mark within four months, from his applying for protection in the foreign State with which the arrangement is in force.

Provided that nothing in this section contained shall entitle the patentee or proprietor of the design or trade mark to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification or the actual registration of his design or trade mark in this country as the case may be.

(2.) The publication in the United Kingdom, or the Isle of Man, during the respective periods aforesaid of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design, or the publication therein during such periods of a description or

representation of the design, or the use therein during such periods of the trade mark shall not invalidate the patent which may be granted for the invention or the registration of the design or trade mark.

(3.) The application for the grant of a patent, or the registration of a design, or the registration of a trade mark under this section, must be made in the same manner as an ordinary application under this Act: Provided that, in the case of trade marks, any trade mark the registration of which has been duly applied for in the country of origin may be registered under this Act.

(4.) The provisions of this section shall apply only in the case of those foreign States with respect to which Her Majesty shall from time to time by Order in Council declare them to be applicable, and so long only in the case of each state as the Order in Council shall continue in force with respect to that State.

104.—(1.) Where it is made to appear to Her Majesty that the legislature of any British possession has made satisfactory provision for the protection of inventions, designs, and trade marks, patented or registered in this country, it shall be lawful for Her Majesty from time to time, by Order in Council, to apply the provisions of the last preceding section, with such variations or additions, if any, as to Her Majesty in Council may seem fit, to such British possession.

Provision for colonies and India.

(2.) An Order in Council under this Act shall, from a date to be mentioned for the purpose in the Order, take effect as if its provisions had been contained in this Act; but it shall be lawful for Her Majesty in Council to revoke any Order in Council made under this Act.

Offences.

105.—(1.) Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, or describes any design or trade mark applied to any article sold by him as registered which is not so, shall be liable for every offence on summary conviction to a fine not exceeding five pounds. [See *Davies v. Townsend*, 1896, 13 R.P.C. 265.]

Penalty on falsely representing articles to be patented.

(2.) A person shall be deemed, for the purposes of this enactment, to represent that an article is patented or a design or a trade mark is registered, if he sells the article with the word "patent," "patented," "registered," or any

word or words expressing or implying that a patent or registration has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to, the article.

Penalty on unauthorised assumption of Royal arms.

106. Any person who, without the authority of Her Majesty, or any of the Royal Family, or of any Government department, assumes or uses in connexion with any trade, business, calling, or profession, the Royal arms, or arms so nearly resembling the same as to be calculated to deceive, in such a manner as to be calculated to lead other persons to believe that he is carrying on his trade, business, calling, or profession by or under such authority as aforesaid, shall be liable on summary conviction to a fine not exceeding twenty pounds.

Scotland, Ireland, &c.

Saving for Courts in Scotland.

107. In any action for an infringement of a patent in Scotland the provisions of this Act, with respect to calling in the aid of an assessor, shall apply, and the action shall be tried without a jury, unless the court shall otherwise direct, but otherwise nothing shall affect the jurisdiction and forms of process of the courts in Scotland in such an action or in any action or proceeding respecting a patent hitherto competent to those courts.

For the purposes of this section "Court of Appeal" shall mean any Court to which such action is appealed.

Summary proceedings in Scotland.

108. In Scotland any offence under this Act declared to be punishable on summary conviction may be prosecuted in the Sheriff Court.

Proceedings for revocation of patent in Scotland.

109.—(1.) Proceedings in Scotland for revocation of a patent shall be in the form of an action of reduction at the instance of the Lord Advocate, or at the instance of a party having interest with his concurrence, which concurrence may be given on just cause shown only.

(2.) Service of all writs and summonses in that action shall be made according to the forms and practice existing at the commencement of this Act.

Reservation of remedies in Ireland.

110. All parties shall, notwithstanding anything in this Act, have in Ireland their remedies under or in respect of a patent as if the same had been granted to extend to Ireland only.

General saving for jurisdiction of Courts.

111.—(1.) The provisions of this Act conferring a special jurisdiction on the Court as defined by this Act, shall not,

except so far as the jurisdiction extends, affect the jurisdiction of any Court in Scotland or Ireland in any proceedings relating to patents or to designs or to trade marks; and with reference to any such proceedings in Scotland, the term "the Court" shall mean any Lord Ordinary of the Court of Session, and the term "Court of Appeal" shall mean either division of the said Court; and with reference to any such proceedings in Ireland, the terms "the Court" and "the Court of Appeal" respectively mean the High Court of Justice in Ireland and Her Majesty's Court of Appeal in Ireland.

(2.) If any rectification of a register under this Act is required in pursuance of any proceeding in a Court in Scotland or Ireland, a copy of the order, decree, or other authority for the rectification, shall be served on the comptroller, and he shall rectify the register accordingly.

112. This Act shall extend to the Isle of Man, and— Isle of Man.

(1.) Nothing in this Act shall affect the jurisdiction of the Courts in the Isle of Man, in proceedings for infringement or in any action or proceeding respecting a patent, design, or trade mark competent to those Courts;

(2.) The punishment for a misdemeanor under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the Court;

(3.) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

112A. The Court of Chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to trade marks the registration whereof is applied for in the Manchester Office, have the like jurisdiction under this Act as Her Majesty's High Court of Justice in England, and the expression "the Court" in this Act shall be construed and have effect accordingly. Jurisdiction of
Lancashire
Palatine Court.

Provided that every decision of the Court of Chancery of the County Palatine of Lancaster in pursuance of this

section shall be subject to the like appeal as decisions of that Court in other cases.

Repeal: Transitional Provisions: Savings.

Repeal and saving for past operations of repealed enactments, &c.

113. The enactments described in the Third Schedule to this Act are hereby repealed. But this repeal of enactments shall not—

(a.) Affect the past operation of any of those enactments or any patent or copyright or right to use a trade mark granted or acquired, or application pending, or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act; or

[The policy of discretion which grew out of s. 25 of the Act of 1852 is now repealed. *Semet and Solvay's Patent*, 1894, 12 R.P.O., p. 15.]

(b.) Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed; or

(c.) Take away or abridge any protection or benefit in relation to any such action or proceeding.

Former registers to be deemed continued.

114.—(1.) The registers of patents and of proprietors kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of patents kept under this Act.

(2.) The registers of designs and of trade marks kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of designs and the register of trade marks kept under this Act.

Saving for existing rules.

115. All general rules made by the Lord Chancellor or by any other authority under any enactment repealed by this Act, and in force at the commencement of this Act may at any time after the passing of this Act be repealed, altered, or amended by the Board of Trade, as if they had been made by the Board under this Act, but so that no such repeal alteration or amendment shall take effect before the commencement of this Act; and, subject as aforesaid, such general rules shall, so far as they are consistent with and are not superseded by this Act, continue in force as if they had been made by the Board of Trade under this Act.

116. Nothing in this Act shall take away, abridge, or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof. Saving for prerogative.

General Definitions.

117.—(1.) In and for the purposes of this Act, unless the context otherwise requires,— General definitions.

‘ Person ’ includes a body corporate :

“ The Court ” means (subject to the provisions for Scotland, Ireland, and the Isle of Man) Her Majesty’s High Court of Justice in England :

“ Law officer ” means Her Majesty’s Attorney-General or Solicitor-General for England :

“ The Treasury ” means the Commissioners of Her Majesty’s Treasury :

“ Comptroller ” means the Comptroller-General of patents, designs, and trade marks :

“ Prescribed ” means prescribed by any of the Schedules to this Act, or by general rules under or within the meaning of this Act :

“ British possession ” means any territory or place situate within Her Majesty’s dominions, and not being or forming part of the United Kingdom, or of the Channel Islands, or of the Isle of Man, and all territories and places under one legislature, as herein-after defined, are deemed to be one British possession for the purposes of this Act :

“ Legislature ” includes any person or persons who exercise legislative authority in the British possession ; and where there are local legislatures as well as a central legislature, means the central legislature only.

In the application of this Act to Ireland, “ summary conviction ” means a conviction under the Summary Jurisdiction Acts, that is to say, with reference to the Dublin Metropolitan Police District the Acts regulating the duties of justices of the peace and of the police for such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any Act amending it.

[The above Act is as altered by the Acts of 1885-6-8, which latter Act, by ss. 27, 28 and 29, enacted that the Act of 1883, as from 1 January 1889, should take effect subject to the additions, omissions, and substitutions required by the Act of 1888, and that the Acts 1883-5-6 and 1888, might be cited as the Patents, Designs, and Trade Marks Acts, 1883 to 1888.]

FORM B.

FORM OF PROVISIONAL SPECIFICATION.

Improvements in Sewing Machines. (a)

I, (b) *John Smith*, of *29, Perry Street, Birmingham*, in the county of *Warwick*, *Engineer*, do hereby declare the nature of my invention for "*Improvements in Sewing Machines*," to be as follows (c):—

* * * * *

(d) *John Smith.*

Dated this day of 18 .

(a) Here insert title as in declaration.

(b) Here insert name, address, and calling of inventor, as in declaration.

(c) Here insert short description of invention.

(d) Signature of inventor.

NOTE.—No stamp is required on this document.

[The form now in use is contained in the Patent Rules, p. 124, Form B.]

FORM C.

FORM OF COMPLETE SPECIFICATION.

Improvements in Sewing Machines. (a)

I, (b) *John Smith*, of *29, Perry Street, Birmingham*, in the county of *Warwick*, *Engineer*, do hereby declare the nature of my invention for "*Improvements in Sewing Machines*," and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement (c):—

* * * * *

Having now particularly described and ascertained the nature of my said invention and in what manner the same is to be performed, I declare that what I claim is (d):—

- 1.
- 2.
3. &c.

(e) *John Smith.*

Dated this day of 18 .

(a) Here insert title as in declaration.

(b) Here insert name, address, and calling of inventor, as in declaration.

(c) Here insert full description of invention.

(d) Here state distinctly the features of novelty claimed.

(e) Signature of inventor.

[See forms Patent Rules, post, p. 125, Form C., and the size of the paper to be used in all these forms is given, p. 124.]

FORM D.

Section 33.

FORM OF PATENT.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith: To all to whom these presents shall come greeting:

Whereas *John Smith*, of *29, Perry Street, Birmingham*, in the county of *Warwick*, *Engineer*, hath [by his solemn declaration] represented unto us that he is in possession of an invention for "*Improvements in Sewing Machines*," that he is the true and first inventor thereof, and that the same is not in use by any other person to the best of his knowledge and belief:

And whereas the said inventor hath humbly prayed that we would be graciously pleased to grant unto him (herein-after together with his executors, administrators, and assigns, or any of them, referred to as the said patentee) our Royal Letters Patent for the sole use and advantage of his said invention:

And whereas the said inventor hath by and in his complete specification particularly described the nature of his invention:

And whereas we being willing to encourage all inventions which may be for the public good, are graciously pleased to condescend to his request:

Know ye, therefore, that We, of our especial grace, certain knowledge, and mere motion do by these presents, for us, our heirs and successors, give and grant unto the said patentee our especial license, full power, sole privilege, and authority, that the said patentee by himself, his agents, or licensees, and no others, may at all times hereafter during the term of years herein mentioned, make, use, exercise, and vend the said invention within our United Kingdom of Great Britain and Ireland, and Isle of Man, in such manner as to him or them may seem meet, and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention, during the term of fourteen years from the date hereunder written of these presents: And to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention, We do by these presents for us our heirs and successors, strictly command all our subjects whatsoever within our United Kingdom of Great Britain and Ireland, and the Isle of Man, that they do not at any time during the continuance of the said term of fourteen years either directly or indirectly make use of or put in practice the said invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent, license, or agreement of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this our Royal command, and of being answerable to the patentee according to law for his damages thereby occasioned: Provided that these our letters patent are on this condition, that, if at any time during the said term it be made to appear to us, our heirs, or successors, or any six or more of our Privy Council, that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof within our United Kingdom of Great Britain and Ireland, and Isle of Man,

FORM F.

Section 62.

FORM OF APPLICATION FOR REGISTRATION OF TRADE MARK.

(One representation to be fixed within this square, and two others on separate sheets of foolscap of same size.)

(Representations of a larger size may be folded, but must be mounted upon linen and affixed hereto.)

You are hereby requested to register the accompanying Trade Mark [in Class Iron in bars, sheets, and plates; in Class Steam engines and boilers; and in Class Warming apparatus] in the name of (a) who claims to be the proprietor thereof.

(a) Here insert legibly the name, address, and business of the individual or firm.

Registration fees enclosed £ „ s.

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, W.C.

(Signed)

NOTE.—If the Trade Mark has been in use before August 13, 1875, state length of use.

[This form is now altered, see Rule 4, p. 192. and new forms F. and G., pp. 207-8.]

THE SECOND SCHEDULE.

Section 24.

FEES ON INSTRUMENTS FOR OBTAINING PATENTS, AND RENEWAL.

(a.) *Up to Sealing.*

	£	s.	d.	£	s.	d.
On application for provisional protection	-	1	0	0		
On filing complete specification	-	3	0	0		
				<u>4</u>	<u>0</u>	<u>0</u>

or

On filing complete specification with first application	-	4	0	0		
---	---	---	---	---	--	--

(b.) *Further before end of four years from date of Patent.*

On certificate of renewal	-	50	0	0		
---------------------------	---	----	---	---	--	--

(c.) *Further before end of seven years, or in the case of Patents granted after the commencement of this Act, before the end of eight years from date of Patent.*

On certificate of renewal	-	100	0	0		
---------------------------	---	-----	---	---	--	--

Or in lieu of the fees of £50 and £100, the following annual fees:—

Before the expiration of the—	£	s.	d.
fourth year from the date of the patent	-	10	0 0
fifth	”	10	0 0
sixth	”	10	0 0
seventh	”	10	0 0
eighth	”	15	0 0
ninth	”	15	0 0
tenth	”	20	0 0
eleventh	”	20	0 0
twelfth	”	20	0 0
thirteenth	”	20	0 0

[See now Fees, pp. 93, 150.]

THE THIRD SCHEDULE.

Section 113.

ENACTMENTS REPEALED.

21 James 1. c. 3. [1623.]	-	The Statute of Monopolies. In part; namely,— Sections ten, eleven, and twelve.
5 & 6 Will. 4. c. 62. [1835.] In part.	-	The Statutory Declarations Act, 1835. In part; namely,— Section eleven.
5 & 6 Will. 4. c. 83. [1835.]	-	An Act to amend the law touching letters patent for inventions.
2 & 3 Vict. c. 67. [1839.]	-	An Act to amend an Act of the fifth and sixth years of the reign of King William the Fourth, intituled “An Act to amend “ the law touching letters patent for “ inventions.”
5 & 6 Vict. c. 100. [1842.]	-	An Act to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
6 & 7 Vict. c. 65. [1843.]	-	An Act to amend the laws relating to the copyright of designs.

7 & 8 Vict. c. 69. - [1844.] In part.	An Act for amending an Act passed in the fourth year of the reign of His late Majesty, intituled "An Act for the better administration of justice in His Majesty's Privy Council, and to extend its jurisdiction and powers." In part; namely,— S. two to five, both included [and since ss. six, seven].
13 & 14 Vict. c. 104. [1850.]	An Act to extend and amend the Acts relating to the copyright of designs.
15 & 16 Vict. c. 83. - [1852.]	The Patent Law Amendment Act, 1852.
16 & 17 Vict. c. 5. - [1853.]	An Act to substitute stamp duties for fees on passing letters patent for inventions, and to provide for the purchase for the public use of certain indexes of specifications.
16 & 17 Vict. c. 115. [1853.]	An Act to amend certain provisions of the Patent Law Amendment Act, 1852, in respect of the transmission of certified copies of letters patent and specifications to certain offices in Edinburgh and Dublin, and otherwise to amend the said Act.
21 & 22 Vict. c. 70. - [1858.]	An Act to amend the Act of the fifth and sixth years of Her present Majesty, to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
22 Vict. c. 13. [1859.]	An Act to amend the law concerning patents for inventions with respect to inventions for improvements in instruments and munitions of war.
24 & 25 Vict. c. 73. - [1861.]	An Act to amend the law relating to the copyright of designs.
28 & 29 Vict. c. 3. - [1865.]	The Industrial Exhibitions Act, 1865.
33 & 34 Vict. c. 27. - [1870.]	The Protection of Inventions Act, 1870.
33 & 34 Vict. c. 97. - [1870.]	The Stamp Act, 1870. In part; namely,— Section sixty-five, and in the Schedule the words and figures. "Certificate of the registration of a design . . . £5 0 0 And see s. 65."
33 & 39 Vict. c. 91. - [1875.]	The Trade Marks Registration Act, 1875.
38 & 39 Vict. c. 93. - [1875.]	The Copyright of Designs Act, 1875.
39 & 40 Vict. c. 33. - [1876.]	The Trade Marks Registration Amendment Act, 1876.
40 & 41 Vict. c. 37. - [1877.]	The Trade Marks Registration Extension Act, 1877.
43 & 44 Vict. c. 10. - [1880.]	The Great Seal Act, 1880. In part; namely,— Section five.
45 & 46 Vict. c. 72. - [1882.]	The Revenue, Friendly Societies, and National Debt Act, 1882. In part; namely,— Section sixteen.

P A T E N T S.

CIRCULAR issued by the PATENT OFFICE, giving directions
how to proceed to obtain Letters Patent.

[See the Rules which follow p. 102. And for Judicial Sanction
of the "Instructions," see p. 189*n.*]

1. *Mode of Proceeding to obtain Patents for Inventions in the United Kingdom.*—(i.) All applications and communications must be made in English. No models are required.

(ii.) Any person, whether a British subject or not, may make an application for a patent, either by direct communication with the office or through the intervention of an agent. See page 99, paragraph 16.

Two or more persons may make a joint application for a patent, and a patent may be granted to them jointly. In every case the true and first inventor (or inventors) must be a party (or parties) to the application.

A company (body corporate) may apply for a patent as joint applicant with the inventor, but not as sole applicant, unless the application is made in respect of an invention communicated from abroad (Form A1), or under the international and colonial arrangements (Form A2). The application should be signed by the secretary or other principal officer, who should add after his signature the words "for the company."

A firm as such cannot apply for a patent, but a joint application may be made by all the individual members of the firm.

The declaration on Form A (or A1 or A2) must be signed by the applicant or applicants; but all other communications may be made by or through agents duly authorised to the satisfaction of the comptroller. For applications under the international and colonial arrangements, see page 100, paragraph 22, and page 106.

(iii.) Applications must be left at the Patent Office by hand, or sent by post, addressed to the Comptroller, Patent Office, 25, Southampton Buildings, Chancery Lane, London, W.C.

(iv.) Every application must be accompanied by a statement of an address to which all communications from the Patent Office may be sent.

(v.) Application for a patent may be made in one of two ways:—(a) The applicant may apply in the first instance for provisional protection [see (vi.), (vii.), (viii.) below], and at any later period within nine months may leave his complete specification, or (b) the applicant may leave his complete specification at the time of making his application [see (ix.), (x.) below], in which case a provisional specification is unnecessary.

Application accompanied by Provisional Specification.

- (vi.) An application for provisional protection consists of—
- (a.) The Application Form A or (for inventions communicated from abroad) A1, or (for applications under the international and colonial arrangements) A2, [see pp. 120-1-2], stamped £1 duly filled in as directed by the marginal notes on the form, and signed by the applicant or applicants; and
- (b.) The provisional specification, Form B, in duplicate. Form B does not require to be stamped.
- (vii.) The provisional specification must fairly describe the nature of the invention, and be accompanied by drawings if required. See (xiii.) below for regulations as to drawings. The applicant should in this document give a clear description of the invention, but he need not enter into all the minute details as to the manner in which the invention is to be carried out.
- (viii.) Unless a complete specification, stamped £3, is left within nine months from the date of application (or with extension fee (Form U), 10 months), the application is deemed to be abandoned. The complete specification should be prepared as stated at (x.) below. It should refer to the number and date of the provisional specification, and should contain a full and detailed description of the invention, independent of the description given in the provisional specification. Drawings which may have been filed with the provisional specification may be used again with the complete specification, if they are considered suitable. Where this is done the drawings should be referred to in the complete specification as those "filed with my provisional specification."

Application accompanied by Complete Specification.

- (ix.) An application accompanied by complete specification consists of—
- (a.) The Application Form A or (for inventions communicated from abroad) A1, or (for applications under the international and colonial arrangements) A2, stamped £1, duly filled in, as directed by the marginal notes on the form, and signed by the applicant or applicants; and
- (b.) The complete specification, Form C, stamped £3, and unstamped duplicate.
- (x.) The complete specification must be begun upon Form C (bearing a £3 stamp), and continued, if necessary, on foolscap paper [for size, see p. 124a]. The duplicate must be an exact copy, but unstamped. The specification should contain a full and detailed description of the invention, of such a nature that the invention could be carried into practical effect by a competent workman from the directions of the document alone. See (xiii.) below for regulations as to drawings.

It is necessary to make a distinct and proper statement of claims in the complete specification, and inventors should be careful that their claims include neither more nor less than they desire to

protect by their patent. In the claims the actual novelty or novelties in the structure, or composition, or processes, or apparatus, should be stated.

Claims are not intended to be made for the efficiency or advantages of the invention.

Titles of Inventions.

(xi.) The title of the invention should appear on the Application Form, and at the commencement of the specification, and the wording of the title in the two documents should be identical.

In the title of the invention the following forms are not allowable :—

- (a.) Fancy names or titles, *e.g.*, The Simplex Wheel, The Hercules Braces.
- (b.) The use of the inventor's name, or of the word "patent."
- (c.) The abbreviation "*etc.*" This should be replaced by words expressing the intended meaning of the term, or by the phrase "and the like."

Specifications and other Documents.

(xii.) The specifications and all other documents must be written or printed in large and legible characters upon strong wide-ruled foolscap paper measuring 13 by 8 inches (on one side only), leaving a margin of 2 inches on the left-hand; and the signatures of the applicants or agents thereto must be written in a large and legible hand, and the several sheets should be fastened together at the top left-hand corner. [For size see p. 124*a.*]

Drawings.

(xiii.) The provisional or complete specification need not be accompanied by drawings if the specification sufficiently describes the invention without them, but if furnished, they should accompany the provisional or complete specification to which they refer. No drawing or sketch such as requires a special engraving for letter-press should appear in the specification itself.

Where drawings accompany the specification, they must be delivered at the Patent Office either in a flat state or on rollers so as to be free from folds, breaks, or creases.

They must be made on pure white, hot-pressed, rolled, or calendered drawing-paper of smooth surface and good quality, and where possible without colour or Indian-ink washes.

They must be on sheets of one of the two following sizes (the smaller being preferable), 13 inches at the sides by 8 inches at the top and bottom, or 13 inches at the sides by 16 inches at the top and bottom, including margin, which must be half an inch wide. If there are more figures than can be shown on one of the smaller-sized sheets two or more of these sheets should be used in preference to employing the larger size. When an exceptionally

large drawing is required, it should be *continued* on subsequent sheets. There is no limit to the number of sheets that may be sent in.

To ensure their satisfactory reproduction, the drawings must be executed with *absolutely black Indian ink; the same strength and colour of fine and shade lines to be maintained throughout.* Section lines and lines for effect, or shading lines, must not be closely drawn. Reference figures and letters must be bold, distinct, and not less than one-eighth of an inch in height; and the same letters should be used in different views of the same parts. In cases of complicated drawings, the reference letters must be shown outside the figure, and connected with the part referred to by a fine line.

The scale adopted should be large enough to show clearly wherein the invention consists, and only so much of the apparatus, machine, &c., need be shown as effects this purpose. When the scale is shown on the drawing it should be denoted, *not* by words, but by a drawn scale.

Drawings must bear the name of the applicant (and in the case of drawings left with a complete specification after a provisional specification, the number and year of the application) in the *left-hand top corner*; the number of sheets of drawings sent, and the number of each sheet in the *right-hand top corner*; and the signature of the applicant or his agent in the *right-hand bottom corner*.

No written description of the invention should appear on the drawings.

Wood engravings, or representations of the invention, other than the drawings prepared as above described, will not be received, unless of such a character as to be suitable for reproduction by the process of photo-lithography.

A *facsimile* of the original drawings, but *without* colour or Indian-ink washes, and prepared strictly in accordance with the regulations prescribed above, must accompany the originals, and be marked "true copy."⁽¹⁾

If an applicant desires to adopt the drawings lodged with his provisional specification as the drawings for his complete specification, he should refer to them as those "left with the provisional specification."

2. Forms of Application and other Patent Forms.—(i.) Forms are not supplied by the Patent Office, but can be purchased on personal application at the Inland Revenue Office, Royal Courts of Justice (Room No. 6), or, at a few days' notice, and upon pre-payment of the value of the stamp, at any money order office in the United Kingdom.

If it should not be convenient to apply in person in either of the ways specified, the stamped forms can be ordered by post from the Comptroller of Stamps, Room 7, Inland Revenue Office, Somerset House, London, W.C.

(1) NOTE.—It is desirable that the reference letters in the "true copy" be in *faint blue pencil* (not aniline pencil).

In that case a bankers' draft or a money or postal order payable to the Commissioners of Inland Revenue, and crossed Bank of England, for the value of the stamp and for the cost of postage and registration, must be forwarded to Somerset House with the application for the form.

	£	s.	d.
Form A. Application for patent - - -	1	0	0
„ A1. „ „ for invention communicated from abroad - - -	1	0	0
„ A2. Application for patent under international and colonial arrangements - - -	1	0	0
„ B. Provisional specification - - -	No fee.		
„ C. Complete specification - - -	3	0	0
„ C1. On postal request for printed copy of specification (<i>for use in the United Kingdom only</i>) - - -	0	0	8
„ D. On notice of opposition to grant of patent. By opponent - - -	0	10	0
„ E. On hearing by comptroller. By applicant and by opponent respectively -	1	0	0
„ F. On application to amend specification. Up to sealing - - -	1	10	0
„ On application to amend specification. After sealing - - -	3	0	0
„ G. On notice of opposition to amendment. By opponent - - -	0	10	0
„ H. On application to the Board of Trade for a compulsory license - - -	5	0	0
„ I. On opposition to grant of compulsory license - - -	5	0	0
„ J. On certificate of payment of renewal fee :—			
Before the expiration of the—			
4th year from date of patent, and in respect of the			
5th year	5	0	0
5th „ 6th „	6	0	0
6th „ 7th „	7	0	0
7th „ 8th „	8	0	0
8th „ 9th „	9	0	0
9th „ 10th „	10	0	0
10th „ 11th „	11	0	0
11th „ 12th „	12	0	0
12th „ 13th „	13	0	0
13th „ 14th „	14	0	0
Form K. On enlargement of time for payment of renewal fees :—			
Not exceeding one month - - -	1	0	0
„ two months - - -	3	0	0
„ three months - - -	5	0	0
„ L. For every entry of an assignment, transmission, or agreement - - -	0	10	0
„ M. For every entry of a license - - -	0	10	0

		£	s.	d.
Form S.	For every entry of an extension of patent	0	10	0
„ N.	For duplicate of letters patent - -	2	0	0
„ O.	On notice to comptroller of intended exhibition of unpatented invention -	0	10	0
„ P.	On request to comptroller to correct a clerical error. Up to sealing - -	0	5	0
	On request to comptroller to correct a clerical error. After sealing - -	1	0	0
„ Q.	For certificate of comptroller - -	0	5	0
„ R.	For altering address in register - -	0	5	0
„ T.	On appeal from comptroller to law officer	3	0	0
„ U.	On enlargement of time for leaving complete specification, not exceeding one month - - - -	2	0	0
„ V.	On enlargement of time for acceptance of complete specification after 12 months:—			
	Not exceeding one month - -	2	0	0
	„ two months - -	4	0	0
	„ three months - -	6	0	0

(ii.) Forms A, B, C, and C1 are, however, *usually kept on sale* at the undermentioned places:—

The Inland Revenue Office, Royal Courts of Justice (Room No. 6).

The following post offices:—

London General Post Office, E.C.

Post Office, 195, Whitechapel Road, E.

„ 239, Borough, High Street, S.E.

„ Charing Cross, W.C.

„ Lombard Street, E.C.

„ 28, Eversholt Street, Camden Town, N.W.

„ 12, Parliament Street, S.W., and at the following chief post offices:—

IN ENGLAND AND	Bristol.	Darlaston.
WALES.	Bromsgrove.	Derby.
Accrington.	Burnley.	Dewsbury.
Altrincham.	Burslem.	Doncaster.
Ashton-under-Lyne.	Burton-on-Trent.	Dorchester.
Barnsley.	Bury.	Driffield.
Barrow-in-Furness.	Cambridge.	Droitwich.
Bath.	Cardiff.	Dudley.
Bedford.	Carlisle.	Durham.
Beverley.	Chatham.	Exeter.
Birkenhead.	Chester.	Gateshead.
Birmingham.	Clitheroe.	Goole.
Blackburn.	Congleton.	Greenwich.
Bolton.	Coventry.	Guildford.
Bradford.	Crewe.	Halifax.
Brighton.	Croydon.	Hartlepool.

Huddersfield.	Reading.	Wolverton.
Hull.	Redditch.	Woolwich.
Ipswich.	Richmond (Yorks.).	Worcester.
Keighley.	Ripon.	York.
Kendal.	Rechdale.	
Kidderminster.	Rotherham.	
Knaresbro'.	Rugby.	IN SCOTLAND.
Knutsford.	Salford.	Aberdeen.
Lancaster.	St. Helens.	Dumbarton.
Leamington.	Scarborough.	Dundee.
Leeds.	Sedgeley.	Edinburgh.
Leicester.	Sheffield.	Glasgow.
Lichfield.	Southampton.	Greenock.
Lincoln.	Stafford.	Inverness.
Liverpool.	Stalybridge.	Lanark.
Macclesfield.	Stockport.	Leith.
Manchester.	Stoke-on-Trent.	Paisley.
Middlesbrough.	Stourbridge.	Perth.
Nantwich.	Stourport.	Renfrew.
Newcastle.	Sunderland.	
Newport (Mor.)	Swansea.	IN IRELAND.
Northallerton.	Tamworth.	Belfast.
Northampton.	Truro.	Cork.
Nottingham.	Tunstall.	Dublin.
Nuneaton.	Wakefield.	Dundalk.
Oldbury.	Walsall.	Galway.
Oldham.	Warrington.	Limerick.
Patrington.	Wednesbury.	Londonderry.
Plymouth.	West Bromwich.	Waterford.
Pontefract.	Whitby.	Wexford.
Portsmouth.	Widnes.	
Prescot.	Wigan.	
Preston.	Wolverhampton.	

3. *Opposition to the Grant of a Patent.*—Under section 11 of the Act of 1883, opposition may be made to the grant of a patent at any time within two months from the advertisement in the illustrated official journal of the acceptance of the complete specification by any person; on the ground of the applicant having obtained the invention from him, or from a person of whom he is the legal representative; or on the ground that the invention has been patented in this country on an application of prior date; or on the ground that the complete specification describes or claims an invention other than that described in the provisional specification, and that such other invention forms the subject of an application made by the opponent in the interval between the leaving of the provisional specification and the leaving of the complete specification; *but on no other ground.* See Par. 2, Form D., p. 126.

4. *Amendment of Specification.*—Under section 18 of the Act, a complete specification may be amended by way of disclaimer,

correction, or explanation, but no amendment will be allowed that would make the specification as amended claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment. A request for leave to amend must be made, and signed, by the applicant, or the registered proprietor of the patent, and must be accompanied by a certified printed copy of the specification showing clearly in red ink the proposed amendments. A printed copy of any published specification may be obtained from the Patent Office Sale Branch, 25, Southampton Buildings, W.C., price 8d., including inland postage (*see par. 25, p. 102*). The fee for certifying the printed copy is 1s. Care should be taken to indicate clearly what part of the printed description it is proposed to omit, and at what point interlineations are to be inserted. Additional description which cannot be written upon the printed copy, should be written upon a separate sheet and attached to the print. *See Par. 2, Forms F. and P. [pp. 128, 139].*

NOTE.—It should be remembered that the proposed amendments, whether allowable or not, are made public and advertised, and that this publication may be a bar to obtaining a valid patent for matter disallowed by way of amendment. No amendment of a provisional specification is allowed under section 18, but clerical errors therein may be corrected.

5. *Payment of Renewal Fees for Continuance of Patent.*—Every patent is granted for the term of 14 years from the date of application, subject to the payment, before the expiration of the fourth and each succeeding year during the term of the patent, of the prescribed fee. The patentee may pay all or any of such prescribed annual fees in advance.

Payment must be made by way of Form J duly stamped, which must be sent to the Patent Office for entry of the payment in the register. The production of letters patent at the Patent Office on payment of these fees is not required. *See Par. 2, Form J. [p. 133].*

As the payment of these renewal fees is regulated by Act of Parliament, a fee cannot be received a *single day* after it is due; but if by accident, mistake, or inadvertence the payment has been omitted, application may be made to the Comptroller, on Patent Form "K," for an extension of time to make such payment, specifying the reason for such omission, but no extension can be allowed beyond three months. *See Par. 2, Form K. [p. 134].*

TABLE showing AMOUNT of RENEWAL FEES payable
Year by Year.

Year in which the Patent is dated.	Amount payable in respective Years.										
	1897.	1898.	1899.	1900.	1901.	1902.	1903.	1904.	1905.	1906.	1907.
1884 . . .	£ 14	£	£	£	£	£	£	£	£	£	£
1885 . . .	13	14									
1886 . . .	12	13	14								
1887 . . .	11	12	13	14							
1888 . . .	10	11	12	13	14						
1889 . . .	9	10	11	12	13	14					
1890 . . .	8	9	10	11	12	13	14				
1891 . . .	7	8	9	10	11	12	13	14			
1892 . . .	6	7	8	9	10	11	12	13	14		
1893 . . .	5	6	7	8	9	10	11	12	13	14	
1894 . . .		5	6	7	8	9	10	11	12	13	14
1895 . . .			5	6	7	8	9	10	11	12	13
1896 . . .				5	6	7	8	9	10	11	12
1897 . . .					5	6	7	8	9	10	11

6. *Enlargement of Time.*—Applications for enlargement of time must state in what circumstances and upon what grounds the enlargement is applied for. See Par. 2, Forms K, U, and V. [pp. 134, 144–5].

7. *Assignments, Licenses, &c.*—Deeds of assignment of patents, and other documents affecting the proprietorship of patents, licenses to manufacture or use patented inventions, are required by section 23 of the Act to be entered in the register at the Patent Office. No document can, however, be recorded until the patent affected has been actually sealed. Every deed sent for registration must be duly stamped in accordance with the provisions of the Stamp Act, 1891 [54–5 V. c. 39.], and must be accompanied by an attested copy written upon foolscap paper (on one side only) and bearing a 1s. impressed stamp, and by the stamped Form of Request. See Par. 2, Form L, and Form M. [pp. 135–6].

8. *Exhibitions of Unpatented Inventions.*—Any person may exhibit an unpatented invention at an exhibition certified by the Board of Trade as industrial or international, without prejudice to his subsequent patent rights, provided (a) that he gives the prescribed notice to the comptroller of his intention so to exhibit it, and (b) that the application for a patent be made within six months from the date of the opening of the exhibition. See Par. 2, Form O. [p. 138]. In the case of exhibitions held out of the United Kingdom (sec. 3 of Patents, &c. Act, 1886 [p. 49]) no notice of intention to exhibit is required to be given to the comptroller.

9. *Comptroller's Certificate.*—Anyone wishing to be informed as soon as a complete specification is accepted, or an application for amendment is entered, should forward a copy of Form Q with a request for such information. See Par. 2, Form Q. [p. 140]. An applicant for a patent, however, is duly notified of the acceptance of his complete specification.

10. *Provisional Protection.*—Provisional protection, which is conferred by the acceptance of an application, entitles an applicant to use and publish his invention without thereby prejudicing his patent rights, but it does not protect him from infringement. The right to sue for infringement does not arise until a patent is sealed, and then only in respect of such infringements as have been committed after the acceptance and publication of the complete specification.

11. *Searches, Office Copies, &c.*—Searches cannot be undertaken by the Patent Office, but must be made by the person requiring information, or by his solicitor or agent.

The following fees are charged :—

	£	s.	d.
For inspection of original documents - - each	0	1	0
For office copies - every 100 words (but never less than 1s.)	0	0	4
For certifying office copies, MS. or printed - each	0	1	0

An additional stamp duty of one shilling is also charged under the Stamp Act upon certified copies of Registers, or of stamped legal documents.

For office copies of drawings, cost according to size and character of drawings.

12. *Information by Post.*—Any person wishing to know whether a particular patent is still in force, or any similar details, may obtain an extract from the register of patents upon stating the number and year of the patent and forwarding the fee of one shilling by postal order.

13.—*Date of printing Specification and sealing Patent.*—Specifications are printed three weeks after the complete specification has been accepted. The patent is usually sealed about 10 weeks after the acceptance of the complete specification, *i.e.*, about 10 days after the expiration of the period allowed for opposition. (See Par. 3, p. 95.)

14. *Documents not open to Inspection.*—The provisional specification (if any) and the complete specification are not open to public inspection, for searches or for copying, until after the acceptance of the complete specification. The specifications of abandoned or void applications are not printed or open to inspection.

15. *Use of the word "Patent".*—Any person who represents that any article sold by him is a patented article when no patent

has been granted for the same is liable for every offence on summary conviction to a fine not exceeding five pounds.

16. *Advice on Patent Matters, Opinions as to the Merit or Novelty of Inventions, the Infringement or fraudulent Appropriation of Inventions, &c.*—The Patent Office does not undertake to give legal advice or opinions on any subject connected with Patent Law, which, like other laws, is left to the interpretation of professional men; nor does the Patent Office examine specifications or other documents before they are filed. The Patent Laws of this country make no provision for an official search as regards novelty; and consequently British patents are taken out at the risk of applicants, who are expected to cause a search to be made as to the novelty of their inventions either before they make, or before they complete, their applications.

It is left to every person to protect his rights by opposition or otherwise. (See Par. 3, p. 95.) A patent is granted upon an application which passes the prescribed stages and is unopposed, whether the invention be novel or not.

The Patent Office cannot recommend any particular patent agent for employment by applicants, but a list of registered patent agents may be obtained from Messrs. Eyre and Spottiswoode, East Harding Street, Fleet Street, W.C., and 32, Abingdon Street, Westminster, S.W., or through any bookseller. Price (including postage) 1s. 1d.

17. *Application for Assistance, Reduction of Fees, &c.*—It is not within the power of the comptroller to comply with any of the following requests:—

For pecuniary assistance to obtain patents.

For reduction or remission of any of the fees required by the Patent Law.

For purchase or acquirement of any interest in patented or other inventions.

For recommendation of any invention for purchase or use by a Government Department or by the public.

18. *Mechanical Inventions not protected by Registration.*—As many inventors imagine that mechanical inventions can be protected by registration as designs, it may be stated that improvements in the construction, arrangement, or application of machinery can only be protected by a patent.

19. *Patent Medicines.*—Communications with respect to the preparation and supply of medicine stamps appropriated to a particular medicine, or as to the liability to stamp duty of so-called "Patent Medicines," should be addressed to the Secretary (Stamps and Taxes), Inland Revenue, Somerset House, W.C.

The use of medicine stamps does not have the effect of letters patent.

20. *Full-size Copies of Drawings.*—Full-size copies of drawings printed by photo-lithography may be obtained at the under-mentioned rates :—

No. of Copies.	Whole Sheets Imperial.	Half-sheets Imperial.	Foolscap Size.	Half-foolscap Size.
	<i>s. d.</i>	<i>s. d.</i>	<i>s. d.</i>	<i>s. d.</i>
Single copies . . .	25 0	15 0	15 0	10 0
Not exceeding six copies.	28 0	18 0	17 0	12 0
Not exceeding 12 copies.	30 0	20 0	18 6	13 6
Not exceeding 25 copies.	32 0	22 0	20 0	15 0

If a satisfactory photograph cannot be obtained from the original drawing, an extra charge will be made to cover the expense of taking a tracing.

When the original drawings are coloured there will also be an extra charge for colouring the copies.

21. *Patents, &c. in the British Colonies and Foreign States.*—Applications for colonial or foreign patents, &c., must be made to the Government of the Colony or foreign State in which protection is desired. A collection of colonial and foreign patent, design, and trade mark laws and rules may be seen in the free library of the Patent Office.

22. *International and Colonial Arrangements.*—An International Convention for the protection of industrial property exists between the following States :—

Belgium.	Great Britain.	Servia.
Brazil.	Italy.	Spain.
Curaçoa and Surinam.	Netherlands.	Sweden.
Denmark.	New Zealand.	Switzerland.
East Indian Colonies of the Netherlands.	Norway.	Tunis.
France.	Portugal.	United States.
	Queensland.	
	Santo Domingo.	

A copy of the text of the Convention, published by Messrs. Eyre and Spottiswoode, may be purchased for 2*d.* through any bookseller.

Under this Convention, an applicant for a patent in any one of the contracting States may obtain six or seven months' priority in any of the other States.

Similar arrangements for the mutual protection of inventions, designs, and trade marks, have been made between Great Britain on the one side, and each of the following States and Colonies on the other :—

Ecuador (designs and trade marks only).	Paraguay.	Uruguay.
Greece (designs and trade marks only).	Roumania (designs and trade marks only).	Western Australia.
Mexico.	Tasmania.	

An application in the United Kingdom for a patent having priority of date under the International and Colonial arrangements must be made within seven months from the date of the *first* foreign application, and must be signed by the person or persons by whom such first foreign application was made. It must be made upon Form A2 (stamped £1, and obtainable upon prepayment of the value of the stamp, through any Money Order Office), and in addition to the specification, provisional or complete, must be accompanied by :—

- (1.) A copy or copies of the specification and drawings as filed in the Patent Office of the foreign State or British possession in respect of the first foreign application duly certified by the official chief of such patent office, or otherwise verified to the satisfaction of the comptroller;
- (2.) A statutory declaration as to the identity of the invention in respect of which the application is made with the invention in respect of which the said first foreign application was made, and if the specification be in a foreign language, a translation thereof shall be annexed to and verified by such statutory declaration.

An international office, in connexion with the Convention, has been established at Berne, Switzerland, which publishes a monthly periodical, entitled "La Propriété Industrielle." The yearly subscription (including postage) for all countries within the Postal Union is 5 francs 60 centimes, and should be forwarded by money order to M. S. Collin, Imprimeur, Berne.

23. Patent Museum, South Kensington.—This museum was in 1883 placed under the management of the Department of Science and Art. It no longer forms a separate section, but has been incorporated with the general science collections of the South Kensington Museum. All communications relating thereto should be addressed to the Secretary, Science and Art Department, South Kensington, London, S.W. The Science Collections are open to the public *free* daily, from 10 a.m. to 10 p.m. on Mondays, Tuesdays, and Saturdays, and from 10 a.m. to 4, 5, or 6 p.m. on other days of the week according to the season. A number of the models may be seen in motion from 11 a.m. to the hour of closing. Entrance—Exhibition Road.

24. Patent Office Library.—The Reading Rooms of the Free Public Library, in the Patent Office, are open daily, from 10 a.m. till 10 p.m., except on Sundays, Christmas Day, Good Friday, and Bank Holidays. On the day observed as Her Majesty's birthday, Christmas Eve, and Easter Eve, Whitsun Eve, the library is closed at 4 p.m.

In addition to the printed specifications, indexes, and other publications of the Patent Office, the library contains a collection of the leading British and foreign scientific journals, transactions of learned societies, and text-books of science and art, and the full or abridged patent specifications of the following countries :— Barbados, Belgium, Canada, Cape Colony, Denmark, France,

Germany, Italy, Japan, Mauritius, Natal, New South Wales, Norway, Portugal, Queensland, Russia, St. Lucia, St. Vincent, Straits Settlements, Sweden, Switzerland, Trinidad, United States of America, Victoria.

25. Patent Office Publications. — These may be consulted daily at the Free Public Library in the Patent Office; at the Science and Art Department, South Kensington; and at the Free Libraries, &c., named on pages 9–12 of the Instructions [not printed]. They are also on sale at the Patent Office Sale Branch, 25, Southampton Buildings, Chancery Lane, W.C. (page 13 of the Instructions gives a long list of Publications on sale; these are not printed).

Specifications and other publications will be forwarded by post on receipt of the price and of the postage when such is charged. *Sums amounting to 1s. or more must be remitted by Postal or Post Office Order payable to the Comptroller-General.* Postage stamps sent in payment of any amount exceeding 11d. will be returned. Cheques will not be accepted.

In ordering specifications the name of the patentee, and the number and year of the patent must be given. These particulars can be obtained by searching the indexes of patents and (for recent specifications) the illustrated official journal. Such searches cannot be undertaken by the Patent Office (*see par. 11, p. 98*). The indexes and the journals can be referred to at the places named in the List "A" in the Instructions, and at the Patent Office Library (*see par. 24, p. 101*). The price of each specification is 8d., which includes postage in the United Kingdom.

Printed specifications or other publications cannot be returned by the purchasers, unless a wrong number has been supplied through an error on the part of the Patent Office.

26. Specifications of Foreign Patents. — Specifications of foreign patents are not sold by the Patent Office. Applications for these should be made to the Patent Office of the country in which the patent was granted.

Patents Rules, 1890, by the Board of Trade.

[These Rules have the force of a statutory enactment. *Institute of Patent Agents v. Lockwood, 1894, A.C. 347.*]

By virtue of the provisions of the Patents, Designs, and Trade Marks Acts, 1883 to 1888, the Board of Trade do hereby make the following Rules:—

Short Title.

Short title.

1. These Rules may be cited as the Patents Rules, 1890.

Commencement.

Commencement.

2. These Rules shall come into operation from and immediately after the 31st day of March 1890.

Interpretation.

3. In the construction of these Rules, any words herein used defined by the said Acts shall have the meanings thereby assigned to them respectively. Interpretation

Fees.

4. The fees to be paid under the above-mentioned Acts shall be those specified in the list of fees in the First Schedule to these Rules [see new List, pp. 150, 147]. Fees.

Forms.

5. The Forms A, B, and C in the First Schedule to the Act of 1883 shall be altered or amended by the substitution thereof of the Forms A, A1, A2, B, and C in the Second Schedule to these Rules, p. 120 [see Form C1, for copy, p. 148]. Forms. Alterations.

6.—(1.) An application for a patent containing the declaration mentioned in sub-section 2 of section 5 of the Act of 1883, and section 2 of the Act of 1885, [ante p. 35] shall be made either in the Form A or the Form A1, or the Form A2, set forth in the Second Schedule to these Rules, as the case may be. Application.

(2.) The Form B in such Schedule of provisional specification and the Form C of complete specification shall respectively be used. Specification.

(3.) The remaining forms other than A, A1, A2, B, and C, set forth in the Second Schedule to these Rules, may, as far as they are applicable, be used in any proceedings under these Rules. Other forms.

General.

7. The Patent Office shall be open to the public every week-day between the hours of 10 and 4, except on the days and times following:— Hours of business.

Christmas Day.

Good Friday.

The day observed as Her Majesty's birthday.

The days observed as days of public fast or thanksgiving, or as holidays at the Bank of England.

8. An application for a patent must be signed by the applicant, but all other communications between the applicant and the comptroller and all attendances by the applicant upon the comptroller may be made by or through an agent duly authorised to the satisfaction of the comptroller, and, if he so require, resident in the United Kingdom. Agency.

9. The application shall be accompanied by a statement of an address to which all notices, requisitions, and communications of every kind may be made by the comptroller or by the Board of Trade, and such statement shall thereafter be binding upon the applicant unless and until a substituted statement of address shall be furnished by him to the comptroller. He may in any Statement of address.

particular case require that the address mentioned in this rule be in the United Kingdom.

Size, &c. of documents.

10. All documents and copies of documents, except statutory declarations and affidavits, sent to or left at the Patent Office or otherwise furnished to the comptroller or to the Board of Trade shall be written or printed in large and legible characters and unless otherwise directed in the English language upon strong wide ruled paper (on one side only), of a size of 13 inches by 8 inches, leaving a margin of 2 inches on the left-hand part thereof [see Size 12-1a], and the signature of the applicants or agents thereto must be written in a large and legible hand. Duplicate documents shall at any time be left, if required by the comptroller.

Exercise of discretionary power by comptroller.

Notice of hearing.

11. Before exercising any discretionary power given to the comptroller by the said Acts adversely to the applicant for a patent or for amendment of a specification, the comptroller shall give 10 days' notice, or such longer notice as he may think fit, to the applicant of the time when he may be heard personally or by his agent before the comptroller. Statutory declarations and affidavits shall be in the form for the time being in use in the High Court of Justice.

Notice by applicant.

12. Within five days from the date when such notice would be delivered in the ordinary course of post, or such longer time as the comptroller may appoint in such notice, the applicant shall notify in writing to the comptroller whether or not he intends to be heard upon the matter.

Comptroller may require statement, &c.

13. Whether the applicant desires to be heard or not, the comptroller may at any time require him to submit a statement in writing within a time to be notified by the comptroller, or to attend before him and make oral explanations with respect to such matters as the comptroller may require.

Decision to be notified to parties.

14. The decision or determination of the comptroller in the exercise of any such discretionary power as aforesaid shall be notified by him to the applicant, and any other person affected thereby.

Industrial or international exhibitions.

15. Any person desirous of exhibiting an invention at an industrial or international exhibition, or of publishing any description of the invention during the period of the holding of the exhibition, or of using the invention for the purpose of the exhibition in the place where the exhibition is held, shall, after the Board of Trade have issued a certificate that the exhibition is an industrial or international one, give to the comptroller notice, in writing, of his intention to exhibit, publish, or use the invention, as the case may be [see Form O, p. 138 and p. 97].

For the purpose of identifying the invention in the event of an application for a patent being subsequently made the applicant shall furnish to the comptroller a brief description of his invention, accompanied, if necessary, by drawings, and such other information as the comptroller may in each case require.

16. Any document for the amending of which no special provision is made by the said Acts may be amended, and any irregularity in procedure, which in the opinion of the comptroller may be obviated without detriment to the interests of any person, may be corrected, if and on such terms as the comptroller may think fit. Power of amendment, &c.

16A. Any application, notice, or other document authorised or required to be left, made, or given at the Patent Office, or to the comptroller, or to any other person under these Rules, may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been left, made, or given at the time when the letter containing the same would be delivered in the ordinary course of post. In proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

17. The statutory declarations required by the said Acts and these Rules, or used in any proceedings thereunder, shall be made and subscribed as follows:— Manner in which, and persons before whom, declaration is to be taken.

(a.) In the United Kingdom, before any justice of the peace, or any commissioner or other officer authorised by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceeding;

(b.) In any other part of Her Majesty's dominions, before any court, judge, justice of the peace, or any officer authorised by law to administer an oath there for the purpose of a legal proceeding; and

(c.) If made out of Her Majesty's dominions, before a British Minister, or person exercising the functions of a British Minister, or a Consul, Vice-Consul, or other person exercising the functions of a British Consul, or a notary public, or before a judge or magistrate.

17A. Statutory declarations and affidavits shall be headed in the matter or matters to which they relate. They shall be divided into paragraphs consecutively numbered, and each paragraph shall so far as possible be confined to one subject.

Application with Provisional or Complete Specification.

18. Applications for patents sent through the post shall, as far as may be practicable, be opened and numbered in the order in which the letters containing the same have been respectively delivered in the ordinary course of post. Order of recording applications.

Applications left at the Patent Office otherwise than through the post shall be in like manner numbered in the order of their receipt at the Patent Office.

19. Where a person making application for a patent includes therein by mistake, inadvertence, or otherwise, more than one invention, he may, after the refusal of the comptroller to accept such application, amend the same so as to apply to one invention Application for separate patents by way of amendment.

only, and may make application for separate patents for each such invention accordingly.

Every such application shall, if the applicant notify his desire to that effect to the comptroller, bear the date of the first application, and shall, together therewith, be proceeded with in the manner prescribed by the said Acts and by these Rules, as if every such application had been originally made on that date.

Application by representative of deceased inventor.

20. An application for a patent by the legal representative of a person who has died possessed of an invention shall be accompanied by an official copy of or extract from his will, or the letters of administration granted of his estate and effects in proof of the applicant's title as such legal representative and must be supported by such further evidence as the comptroller may require.

Notice and advertisement of acceptance.

21. On the acceptance of a provisional or complete specification the Comptroller shall give notice thereof to the applicant, and shall advertise such acceptance in the official journal of the Patent Office.

Inspection on acceptance of complete specification.

22. Upon the publication of such advertisement of acceptance in the case of a complete specification, the application and specification or specifications with the drawings (if any) may be inspected at the Patent Office upon payment of the prescribed fee.

Application on Communication from Abroad.

Communication from abroad.

23. An application for a patent for an invention communicated from abroad shall be made in the Form A1 [p. 121] set forth in the Second Schedule to these Rules.

International and Colonial Arrangements.

24. The term "foreign application" shall mean an application by any person for protection of his invention in a foreign State or British possession to which by any Order of Her Majesty in Council for the time being in force the provisions of section 103 of the Patents, Designs, and Trade Marks Act, 1883, have been declared applicable.

25. An application in the United Kingdom for a patent for any invention in respect of which a foreign application has been made shall contain a declaration that such foreign application has been made and shall specify all the foreign States or British possessions in which foreign applications have been made and the official date or dates thereof respectively. The application must be made within seven months from the date of the first foreign application, and must be signed by the person or persons by whom such first foreign application was made. If such person, or any of such persons, be dead, the application must be signed by the legal personal representative of such dead person, as well as by the other applicants, if any.

26. The application in the United Kingdom shall be made in the Form A2 [p. 122] in the Second Schedule to these Rules, and in addition to the specification, provisional or complete, left with such application must be accompanied by—

- (1.) A copy or copies of the specification, and drawings or documents corresponding thereto, filed or deposited by the applicant in the Patent Office of the foreign State or British possession in respect of the first foreign application duly certified by the official chief or head of the Patent Office of such foreign State or British possessions as aforesaid, or otherwise verified to the satisfaction of the comptroller;
- (2.) A statutory declaration as to the identity of the invention in respect of which the application is made with the invention in respect of which the said first foreign application was made, and if the specification or document corresponding thereto be in a foreign language, a translation thereof shall be annexed to and verified by such statutory declaration.

27. On receipt of such application, together with the prescribed specification and the other document or documents accompanying the same, required by the last preceding rule, and with such other proof (if any) as the comptroller may require of or relating to such foreign application or of the official date thereof, the comptroller shall make an entry of the applications in both countries and of the official dates of such applications respectively.

28. All further proceedings in connexion with such application shall be taken within the times and in the manner prescribed by the Acts or Rules for ordinary applications.

29. The patent shall be entered in the Register of Patents as dated of the date on which the first foreign application was made, and the payment of renewal fees, and the expiration of the patent, shall be reckoned as from the date of the first foreign application.

Sizes and Methods of preparing Drawings accompanying Provisional or Complete Specifications.

30. The provisional or complete specification need not be accompanied by drawings if the specification sufficiently describes the invention without them, but if drawings are furnished, they should accompany the provisional or complete specification to which they refer, except in the case provided for by Rule 33. No drawing or sketch such as requires a special engraving for letter-press should appear in the specification itself. Drawings for specifications.

31. Drawings (if any) must be delivered at the Patent Office either in a flat state or on rollers so as to be free from folds, breaks, or creases.

They must be made on pure white, hot-pressed, rolled, or calendered drawing paper of smooth surface and good quality, and where possible without colour or Indian-ink washes. Requirements as to paper, &c.

Size of drawings.

They must be on sheets of one of the two following sizes (the smaller being preferable), 13 inches at the sides by 8 inches at the top and bottom, or 13 inches at the sides by 16 inches at the top and bottom, including margin, which must be $\frac{1}{2}$ an inch wide. If there are more figures than can be shown on one of the smaller-sized sheets, two or more of these sheets should be used in preference to employing the larger size. When an exceptionally large drawing is required, it should be *continued* on subsequent sheets. There is no limit to the number of sheets that may be sent in.

Quality of ink.

To ensure their satisfactory reproduction, the drawings must be executed with *absolutely black Indian ink ; the same strength and colour of fine and shade lines to be maintained throughout.* Section lines, and lines for effect, or shading lines, must not be closely drawn. [A specimen drawing is inserted in illustration of this requirement. This is not given in this book.] Reference figures and letters must be bold, distinct, not less than $\frac{1}{8}$ of an inch in height ; and the same letters should be used in different views of the same parts. In cases of complicated drawings, the reference letters must be shown outside the figure, and connected with the part referred to by a fine line.

Scale of drawings.

The scale adopted should be large enough to show clearly wherein the invention consists, and only so much of the apparatus, machine, &c. need be shown as effects this purpose. When the scale is shown on the drawing it should be noted, *not* by words, but by a drawn scale, as illustrated in the specimen.

Drawings to bear name of applicant, &c.

Drawings must bear the name of the applicant (and in the case of drawings left with a complete specification after a provisional specification, the number and year of the application) in the *left-hand top corner* ; the number of sheets of drawings sent, and the number of each sheet in the *right-hand top corner* ; and the signature of the applicant or his agent in the *right-hand bottom corner*.

No written description of the invention should appear on the drawings.

Restrictions as to wood engravings.

Wood engravings, or representations of the invention, other than the drawings prepared as above described, will not be received, unless of such a character as to be suitable for reproduction by the process of photo-lithography.

Copies of drawings.

32. A *facsimile* of the original drawings, but *without* colour or Indian-ink washes, and prepared strictly in accordance with the regulations prescribed in Rule 31, must accompany the originals, and be marked "true copy."

Provisional drawings used for complete specification.

33. If an applicant desires to adopt the drawings lodged with his provisional specification as the drawings for his complete specification, he should refer to them as those "left with the provisional specification."

Opposition to Grants of Patents.

34. A notice of opposition to the grant of a patent shall be on Form D [p. 126], and shall state the ground or grounds on which the person giving such notice (herein-after in Rules 37, 38, 41 and 43 called the opponent) intends to oppose the grant, and must be signed by him. Such notice shall state his address for service in the United Kingdom, and shall be accompanied by an unstamped copy.

Notice of
opposition.

DISCLAIMER.—In *Kershaw's* Application for a patent for improvements in wood sawing machinery opposed by *Pickles* patentee of an invention of prior date, the Deputy-Comptroller, in allowing *Kershaw's* patent to be sealed, made it a condition that, although the applicant's claims were for particular combinations, which were different from the opponent's claims, which were also for particular combinations, the applicant ought, for the protection of the Public, to insert an express statement in the body of the specification that his mechanical arrangements for the tilting of the feed rollers and the tilting of the fonces were old, and that the applicant made no claim to these parts of his combinations. December 1, 1897. Wright Taylor for applicant; Crossley, Patent Agent, Halifax, for opponent. See König and Ehardt's Trade Mark, p. 188.

35. On receipt of such notice the copy thereof shall be transmitted by the comptroller to the applicant.

Copy for
applicant.

36. Where the ground or one of the grounds of opposition is that the invention has been patented in this country on an application of prior date, the number and date of such prior application shall be specified in the notice.

Particulars of
prior patent.

37. Within 14 days after the expiration of two months from the date of the advertisement of the acceptance of a complete specification, the opponent may leave at the Patent Office statutory declarations in support of his opposition, and on so leaving shall deliver to the applicant a list thereof.

Opponent's
evidence.

38. Within 14 days from the delivery of such list the applicant may leave at the Patent Office statutory declarations in answer, and on so leaving shall deliver to the opponent a list thereof, and within 14 days from such delivery the opponent may leave at the Patent Office his statutory declarations in reply, and on so leaving shall deliver to the applicant a list thereof. Such last-mentioned declarations shall be confined to matters strictly in reply.

Applicant's
evidence.

Evidence in
reply.

Copies of the declarations mentioned in this and the last preceding Rule may be obtained either from the Patent Office or from the opposite party.

39. No further evidence shall be left on either side, except by leave of the comptroller upon the written consent of the parties duly notified to him, or by special leave of the comptroller on application in writing made to him for that purpose.

Closing of
evidence.

40. Either party making such application shall give notice thereof to the opposite party, who shall be entitled to oppose the application.

41. On completion of the evidence, or at such other time as he may see fit, the comptroller shall appoint a time for the hearing of the case, and shall give the parties 10 days' notice at the least of such appointment. If the applicant or opponent desires to be heard he must forthwith send the comptroller an application on Form E. [p. 127]. The comptroller may refuse to hear either

Notice of
hearing.

party who has not sent such application for hearing. If neither party applies to be heard the comptroller shall decide the case and notify his decision to the parties.

Disallowance
of opposition
in certain cases.

42. On the hearing of the case no opposition shall be allowed in respect of any ground not stated in the notice of opposition, and where the ground or one of the grounds is that the invention has been patented in this country on an application of prior date, the opposition shall not be allowed upon such ground unless the number and date of such prior application shall have been duly specified in the notice of opposition.

43. Where the ground of an opposition is that the applicant has obtained the invention from the opponent, or from a person of whom such opponent is the legal representative, unless evidence in support of such allegation be left at the Patent Office within the time prescribed by these Rules, the opposition shall be deemed to be abandoned, and a patent shall be sealed forthwith.

Decision to be
notified to
parties.

44. The decision of the comptroller, after hearing any party who applies under Rule 41, shall be notified by him to the parties.

Certificates of Payment or Renewal.

Payment of
fees of 50*l.* and
100*l.* for con-
tinuance of
patent.

45. If a patentee intends, at the expiration of the fourth or eighth year from the date of his patent to keep the same in force, he shall, before the expiration of such fourth or eighth year, as the case may be, subject as herein-after provided, pay the prescribed fee of 50*l.* or 100*l.*, as the case may be. [Repealed, post, p. 149.]

As to patents
granted before
commencement
of Act.

46. In the case of patents granted before the commencement of the said Acts, the above rule shall be read as if the words "seventh year" were therein written instead of the words "eighth year." [Repealed, post, p. 149.]

Payment of
annual fees in
lieu of 50*l.* and
100*l.*

47. If the patentee intends to pay annual fees in lieu of the above mentioned fees of 50*l.* and 100*l.*, he shall, before the expiration of the fourth and each succeeding year during the term of the patent, until and inclusive of the thirteenth year thereof, pay the prescribed fee. [Repealed, post, p. 149.]

The Form J in the Second Schedule, duly stamped, should be used for the purpose of this and the payment referred to in Rule 45. [See p. 149.]

Certificate of
payment.

48. On due compliance with these Rules, and as soon as may be after such respective periods as aforesaid, or any enlargement thereof respectively duly granted, the comptroller shall issue a certificate that the prescribed payment has been duly made. [See Form Q., p. 140 and p. 98.]

Enlargement of Time.

Enlargement
of time for
payments.

49. An application for an enlargement of the time for making a prescribed payment shall state in detail the circumstances in which the patentee by accident, mistake, or inadvertence has failed to make such payment, and the comptroller may require the patentee to substantiate by such proof as he may think

necessary the allegations contained in the application for enlargement. [Forms K, U, V, pp. 134, 144-5.]

50. An application for enlargement of time for leaving or accepting a complete specification shall state in detail in what circumstances and upon what grounds such extension is applied for, and the comptroller may require the applicant to substantiate such allegations by such proof as the comptroller may think necessary. [See Forms U and V, pp. 144, 145.]

Extension of time for leaving and accepting complete specification.

51. The time prescribed by these Rules for doing any act, or taking any proceeding thereunder, may be enlarged by the comptroller if he think fit, and upon such notice to other parties, and proceedings thereon, and upon such terms, as he may direct.

In other cases.

Amendment of Specification.

52. A request for leave to amend a specification must be signed by the applicant or patentee (herein-after in Rules 54, 55, and 58 called the applicant) and accompanied by a duly certified printed copy of the original specification and drawings, showing in red ink the proposed amendment, and shall be advertised by publication of the request and the nature of the proposed amendment in the official journal of the Patent Office, and in such other manner (if any) as the comptroller may in each case direct. [See Forms F and P, pp. 128, 139, and p. 95.]

Request for leave to amend.

Advertisement.

53. A notice of opposition to the amendment shall state the ground or grounds on which the person giving such notice (herein-after called the opponent) intends to oppose the amendment, and must be signed by him. Such notice shall state his address for service in the United Kingdom, and shall be accompanied by an unstamped copy. [See Form G, p. 129.]

Notice of opposition.

54. On receipt of such notice the copy thereof shall be transmitted by the comptroller to the applicant.

Copy for the applicant.

55. Within 14 days after the expiration of one month from the first advertisement of the application for leave to amend, the opponent may leave at the Patent Office statutory declarations in support of his opposition, and on so leaving shall deliver to the applicant a list thereof.

Opponent's evidence.

56. Upon such declarations being left, and such list being delivered, the provisions of Rules 38, 39, 40, 41, and 44 shall apply to the case, and the further proceedings therein shall be regulated in accordance with such provisions as if they were here repeated.

Further proceedings.

57. Where leave to amend is given the applicant shall, if the comptroller so require, and within a time to be limited by him, leave at the Patent Office a new specification and drawings as amended, to be prepared in accordance with Rules 10, 30, and 31.

Requirements thereon.

58. Where a request for leave to amend is made by or in pursuance of an order of the Court or a judge, an official or verified copy of the order shall be left with the request at the Patent Office.

Leave by order of Court.

Advertisement of amendment.

59. Every amendment of a specification shall be forthwith advertised by the comptroller in the official journal of the Patent Office, and in such other manner (if any) as the comptroller may direct.

Compulsory Licenses.

Petition for compulsory grant of licenses.

60. A petition to the Board of Trade for an order upon a patentee to grant a license shall show clearly the nature of the petitioner's interest, and the ground or grounds upon which he claims to be entitled to relief, and shall state in detail the circumstances of the case, the terms upon which he asks that an order may be made, and the purport of such order. [Form H, p. 130.]

To be left with evidence at Patent Office.

61. The petition and an examined copy thereof shall be left at the Patent Office, accompanied by the affidavits, or statutory declarations, and other documentary evidence (if any) tendered by the petitioner in proof of the alleged default of the patentee. [Form H1, p. 131.]

Directions as to further proceedings unless petition refused.

62. Upon perusing the petition and evidence, unless the Board of Trade shall be of opinion that the order should be at once refused, they may require the petitioner to attend before the comptroller, or other person or persons appointed by them, to receive his or their directions as to further proceedings upon the petition.

Procedure.

63. If and when a *prima facie* case for relief has been made out to the satisfaction of the Board of Trade, the petitioner shall upon their requisition, and on or before a day to be named by them, deliver to the patentee copies of the petition and of the affidavits or statutory declarations and other documentary evidence (if any) tendered in support thereof.

Petitioner's evidence.

Patentee's evidence.

64. Within 14 days after the day of such delivery the patentee shall leave at the Patent Office his affidavits or statutory declarations in opposition to the petition, and deliver copies thereof to the petitioner. [Form I, p. 132.]

Evidence in reply.

65. The petitioner within 14 days from such delivery shall leave at the Patent Office his affidavits, or statutory declarations in reply, and deliver copies thereof to the patentee; such last-mentioned affidavits or declarations shall be confined to matters strictly in reply.

Further proceedings.

66. Subject to any further directions which the Board of Trade may give the parties shall then be heard at such time, before such person or persons, in such manner, and in accordance with such procedure as the Board of Trade may, in the circumstances of the case, direct, but so that full opportunity shall be given to the patentee to show cause against the petition.

Register of Patents.

Entry of grant.

67. Upon the sealing of a patent the comptroller shall cause to be entered in the Register of Patents the name, address, and

description of the patentee as the grantee thereof, and the title of the invention.

68. Where a person becomes entitled to a patent or to any share or interest therein, by assignment either throughout the United Kingdom and the Isle of Man, or for any place or places therein, or by transmission or other operation of law, a request for the entry of his name in the register as such complete or partial proprietor of the patent, or of such share or interest therein, as the case may be, shall be addressed to the comptroller, and left at the Patent Office. [See Form L., p. 135].

Request for entry of subsequent proprietorship.

69. Such request shall in the case of individuals be made and signed by the person requiring to be registered as proprietor, or by his agent duly authorised to the satisfaction of the comptroller, and in the case of a body corporate by their agent, authorised in like manner.

Signature of request.

70. Every such request shall state the name, address, and description of the person claiming to be entitled to the patent, or to any share or interest therein, as the case may be (herein-after called the claimant), and the particulars of the assignment, transmission, or other operation of law, by virtue of which he requires to be entered in the register as proprietor, so as to show the manner in which, and the person or persons to whom, the patent, or such share or interest therein as aforesaid, has been assigned or transmitted.

Particulars to be stated in request.

71. Every assignment and every other document containing, giving effect to, or being evidence of, the transmission of a patent or affecting the proprietorship thereof as claimed by such request, except such documents as are matters of record, shall be produced to the comptroller, together with the request above prescribed, and such other proof of title as he may require for his satisfaction.

Production of documents of title and other proof.

As to a document which is a matter of record, an official or certified copy thereof shall in like manner be produced to the comptroller.

72. There shall also be left with the request an attested copy of the assignment or other document above required to be produced.

Copies for Patent Office.

As to a document which is a matter of record, an official or certified copy shall be left with the request in lieu of an attested copy.

73. A body corporate may be registered as proprietor by its corporate name.

Body corporate.

74. Where an order has been made by Her Majesty in Council for the extension of a patent for a further term or for the grant of a new patent [see Form S., p. 142], or where an order has been made by the Court for the revocation of a patent or the rectification of the register under section 90 of the Act of 1883, or otherwise affecting the validity or proprietorship of the patent, the person in

Entry of Orders of the Privy Council or of the Court.

whose favour such order has been made shall forthwith leave at the Patent Office an office copy of such order. The register shall thereupon be rectified or the purport of such order shall otherwise be duly entered in the register, as the case may be.

Entry of payment of fees on issue of certificate.

75. Upon the issue of a certificate of payment under Rule 48, the comptroller shall cause to be entered in the Register of Patents a record of the amount and date of payment of the fee on such certificate.

Entry of failure to pay fees.

76. If a patentee fails to make any prescribed payment within the prescribed time or any enlargement thereof duly granted, such failure shall be duly entered in the register.

Entry of licenses.

77. An attested copy of every license granted under a patent shall be left at the Patent Office by the licensee, with a request that a notification thereof may be entered in the register. The licensee shall cause the accuracy of such copy to be certified as the comptroller may direct, and the original license shall at the same time be produced and left at the Patent Office if required for further verification. [Form M., p. 136.]

Hours of inspection of register.

78. The Register of Patents shall be open to the inspection of the public on every week day between the hours of ten and four, except on the days and the times following:—

- (a.) Christmas Day, Good Friday, the day observed as Her Majesty's birthday, days observed as days of public fast or thanksgiving, and days observed as holidays at the Bank of England; or
- (b.) Days which may from time to time be notified by a placard posted in a conspicuous place at the Patent Office;
- (c.) Times when the register is required for any purpose of official use.

Certified copies of documents.

79. Certified copies of any entry in the register, or certified copies of, or extracts from, patents, specifications, disclaimers, affidavits, statutory declarations, and other public documents in the Patent Office, or of or from registers and other books kept there, may be furnished by the comptroller on payment of the prescribed fee. [See fees, p. 150-1].

Power to dispense with Evidence, &c.

80. Where, under these Rules, any person is required to do any act or thing, or to sign any document, or to make any declaration on behalf of himself, or of any body corporate, or any document or evidence is required to be produced to or left with the comptroller, or at the Patent Office, and it is shown to the satisfaction of the comptroller that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or to make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the comptroller, with the sanction of the Board of Trade, and upon the production of such other evidence, and subject to such terms

as they may think fit, to dispense with any such act or thing, document, declaration, or evidence.

Repeal.

81. All general rules heretofore made by the Board of Trade under the Patents, Designs, and Trade Marks Acts, 1883 to 1888, and in force on the 31st day of March 1890, shall be and they are hereby repealed as from that date, without prejudice, nevertheless, to anything done under such rules, or to any application then pending. Repeal.

Dated the 31st day of March 1890.

M. E. HICKS-BEACH,
President of the Board of Trade.

**RULES regulating the PRACTICE and PROCEDURE ON
APPEALS to the LAW OFFICERS.**

I. When any person intends to appeal to the law officer from a decision of the comptroller in any case in which such appeal is given by the Acts, he shall within 14 days from the date of the decision appealed against file in the Patent Office a notice of such his intention. [See Form T., p. 143.]

II. Such notice shall state the nature of the decision appealed against, and whether the appeal is from the whole, or part only, and if so, what part of such decision.

III. A copy of such notice of intention to appeal shall be sent by the party so intending to appeal to the law officers' clerk, at Room 549, Royal Courts of Justice, London; and when there has been an opposition before the comptroller, to the opponent or opponents; and when the comptroller has refused to seal a patent on the ground that a previous application for a patent for the same invention is pending, to the prior applicant.

IV. Upon notice of appeal being filed, the comptroller shall forthwith transit to the law officers' clerk all the papers relating to the matter of the application in respect of which such appeal is made.

V. No appeal shall be entertained of which notice is not given within 14 days from the date of the decision appealed against, or such further time as the comptroller may allow, except by special leave upon application to the law officer.

VI. Seven days' notice, at least, of the time and place appointed for the hearing of any appeal, shall be given by the law officers' clerk, unless special leave be given by the law officer that any shorter notice be given.

VII. Such notice shall in all cases be given to the comptroller and the appellant; and, when there has been an opposition before

the comptroller, to the opponent or opponents; and, when the comptroller has refused to seal a patent on the ground that an application for a patent for the same invention is pending, to the prior applicant.

VIII. The evidence used on appeal to the law officer shall be the same as that used at the hearing before the comptroller; and no further evidence shall be given, save as to matters which have occurred or come to the knowledge of either party, after the date of the decision appealed against, except with the leave of the law officer upon application for that purpose.

[The law officers can consider the question of mechanical equivalents as bearing upon the question of identity, and if there is no substantial difference between the apparatus described in the specification of a patent of prior date and that which is described in the invention claimed to be patented, the patent will be refused. *Smith's Patent*, 1896, 13 R.P.C. 200.]

IX. The law officer shall, at the request of either party, order the attendance at the hearing on appeal, for the purpose of being cross-examined, of any person who has made a declaration in the matter to which the appeal relates, unless in the opinion of the law officer, there is good ground for not making such order.

X. Any person requiring the attendance of a witness for cross-examination shall tender to the witness whose attendance is required a reasonable sum for conduct money.

XI. Where the law officer orders that costs shall be paid by any party to another, he may fix the amount of such costs, and if he shall not think fit to fix the amount thereof, he shall direct by whom and in what manner the amount of such costs shall be ascertained.

[Costs given are generally fixed at about 5 guineas. *Whittaker's Application*, 1896, 13 R.P.C. 580.]

XII. If any costs so ordered to be paid be not paid within 14 days after the amount thereof has been so fixed or ascertained, or such shorter period as shall be directed by the law officer, the party to whom such costs are to be paid may apply to the law officer for an order for payment under the provisions of section 38 of the Act.

XIII. All documentary evidence required, or allowed by the law officer to be filed, shall be subject to the same regulations, in all respects, as apply to the procedure before the comptroller, and shall be filed in the Patent Office, unless the law officer shall order to the contrary.

XIV. Any notice or other document required to be given to the law officers' clerk, under these Rules, may be sent by a prepaid letter through the post.

HENRY JAMES, A.G.
FARRER HERSHELL, S.G.

FIRST SCHEDULE.

LIST OF FEES PAYABLE ON AND IN CONNEXION WITH
LETTERS PATENT.

See substituted List, p. 150, and pp. 146, 149.]

Up to Sealing.

	£	s	d.	£	s.	d.
1. On application for provisional protection -	1	0	0			
2. On filing complete specification -	3	0	0			
	<hr/>			4	0	0
or						
3. On filing complete specification with first application -				4	0	0
4. On appeal from Comptroller to Law Officer. By appellant -				3	0	0
<hr/>						
5. On notice of opposition to grant of patent. By opponent -				0	10	0
6. On hearing by Comptroller. By applicant and by opponent respectively -				1	0	0
<hr/>						
7. On application to amend specification :—						
Up to sealing. By applicant -	1	10	0			
8. After sealing. By patentee -	3	0	0			
9. On notice of opposition to amendment. By opponent -	0	10	0			
10. On hearing by Comptroller. By applicant and by opponent respectively -	1	0	0			
11. On application to amend specification during action or proceeding. By patentee -	3	0	0			
<hr/>						
12. On application to the Board of Trade for a compulsory license. By person applying -	5	0	0			
13. On opposition to grant of compulsory license. By patentee -	5	0	0			
14. On certificate of renewal :—						
Before end of four years from date of patent -	50	0	0			
15. Before end of seven years, or in the case of patents granted under the "Patents, Designs, and Trade Marks Act, 1883," before the end of eight years from date of patent -	100	0	0			
or in lieu of the fees of 50 <i>l.</i> and 100 <i>l.</i> , the following annual fees :—						
16. Before the expiration of the 4th year from the date of the patent -	10	0	0			
17. " " 5th " " " -	10	0	0			

	£	s.	d.
18. Before the expiration of the 6th year from the date of the patent -	10	0	0
19. " " 7th " " -	10	0	0
20. " " 8th " " -	15	0	0
21. " " 9th " " -	15	0	0
22. " " 10th " " -	20	0	0
23. " " 11th " " -	20	0	0
24. " " 12th " " -	20	0	0
25. " " 13th " " -	20	0	0
On enlargement of time for payment of renewal fees :—			
26. Not exceeding 1 month - - - -	3	0	0
27. " 2 months - - - -	7	0	0
28. " 3 months - - - -	10	0	0
29. For every entry of an assignment, transmission, agreement, license, or extension of patent -	0	10	0
30. For duplicate of letters patent - - each	2	0	0
31. On notice to Comptroller of intended exhibition of a patent under section 39 - - - -	0	10	0
32. Search or inspection fee - - - each	0	1	0
33. For office copies - every 100 words (but never less than one shilling)	0	0	4
34. For office copies of drawings, cost according to agreement.			
35. For certifying office copies, MSS. or printed - each	0	1	0
36. On request to Comptroller to correct a clerical error :—			
Up to sealing - - - -	0	5	0
After sealing - - - -	1	0	0
37. For certificate of Comptroller under section 96 -	0	5	0
38. For altering address in register - - -	0	5	0
39. For enlargement of time for filing complete specification, not exceeding one month - - -	2	0	0
40. For enlargement of time for acceptance of complete specification :—			
Not exceeding 1 month - - - -	2	0	0
" 2 months - - - -	4	0	0
" 3 months - - - -	6	0	0

M. E. HICKS-BEACH,

President of the Board of Trade.

31st March 1890.

Approved:

R. E. WELBY,

For the Lords Commissioners of
Her Majesty's Treasury.

31st March 1890.

THE SECOND SCHEDULE.

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SECOND SCHEDULE.

PATENT.

**PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 to 1888.**

FORM A.

(To be accompanied by two copies of Form B. or of Form C.)

APPLICATION FOR PATENT.

[See Rule 5, p. 103, and fees, p. 150].

(a) Here insert name and full address and calling of applicant or applicants.

(a) _____

(b) Here insert title of invention.

_____ do hereby
declare that _____ in possession of an invention the title of
which is (b) _____

(c) In the case of more than one applicant, state whether all, or if not, who is or are the inventor or inventors.

that (c) _____
_____ the true and first inventor(s) thereof; and that the
same is not in use by any other person or persons, to the best
of _____ knowledge and belief; and _____ humbly pray that a
patent may be granted to _____ for the said invention.

Dated _____ day of _____ 18 ____.

(d) To be signed by applicant or applicants.

In the case of a firm, each member of the firm must sign.

(d) _____

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

NOTE.—Where the application is made through an agent [Rule 8, p. 103], the authorization should be signed by the applicant or applicants.

[This Form is not applicable to the case of a British corporation or foreign corporations applying alone as the true and first inventors, but is intended to be used in the case of personal applicants who are the first and true inventors; and Form A1 is intended to be used in cases in which there has been a communication from abroad, whether the communicator is a corporation or a private person. Société Anonyme du Générateur, Temple's application, 1895, 13 E.P.C. 54.]

**PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1888.**

PATENT.

FORM A1.

(To be accompanied by two copies of Form B. or of Form C.)

**APPLICATION FOR PATENT FOR INVENTIONS COMMUNICATED
FROM ABROAD.**

[See Rules 5 and 23, pp. 103, 106, and fees, p. 150.]

(a) Here insert name, and full address, and calling of applicant.

I (a) _____
of _____ in the
county of _____ do hereby declare

(b) Here insert title of invention.

that I am in possession of an invention the title of which is (b)

(c) Here insert name, address, and calling of communicant.

which invention has been communicated to me by (c) _____

that I claim to be the true and first inventor thereof; and that the same is not in use within the United Kingdom of Great Britain and Ireland and the Isle of Man by any other person or persons to the best of my knowledge and belief; and I humbly pray that a patent may be granted to me for the said invention.

Dated _____ day of _____ 18 ____.

(d) To be signed by applicant or applicants.

(d) _____

**To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.**

NOTE.—Where the application is made through an agent [Rule 8, p. 103], the authorization should be signed by the applicant or applicants.

[This Form A1 is intended to be used in cases in which there has been a communication from abroad, whether the communicator is a corporation or a private person; and under Form A1 and Form A2 foreign corporations have rights which amply protect their interests. Sir R. Webster, Attorney-General, in *Société Anonyme du Générateur*, Temple's application, 1895, 13 R.P.C.R. 54.

And there is no difficulty whatever in a foreign corporation causing an application to be filed under Form A1, and the next day after the patent is granted taking an assignment from the applicant, if it is desired that the name of the corporation shall appear upon the register as being the proprietor of the patent. *Ibid.*]

**PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1888.**

FORM A2.

PATENT.

**APPLICATION FOR PATENT UNDER INTERNATIONAL AND COLONIAL
ARRANGEMENTS.**

[See Rule 26, p. 107, and for fees, p. 150].

(a) Here insert name and full address and calling of applicant or of each of the applicants. (a)

(b) Here insert title of invention. do hereby declare that I (or we) have made foreign applications for protection of my (or our) invention of (b)

(c) Here insert the names of each Foreign State, followed by the official date of the application in each respectively. in the following Foreign States, and on the following official dates, viz.: (c)

(d) Here insert the names of each British possession, followed by the official date of the application in each respectively. and in the following British Possessions, and on the following official dates, viz: (d)

(e) Here insert the official date of the earliest foreign application. That the said invention was not in use within the United Kingdom of Great Britain and Ireland and the Isle of Man by any other person or persons before the (e)

to the best of knowledge, information, and belief, and
 humbly pray that a patent may be granted to for the said
 invention, in priority to other applicants, and that such patent shall
 have the date (f)

(f) Here insert
 the official date
 of the earliest
 foreign applica-
 tion.

(g) Signature of
 applicant or of
 each of appli-
 cants.

(g) _____

To the Comptroller,
 Patent Office, 25, Southampton Buildings,
 Chancery Lane, London, W.C.

[This Form was sanctioned in 1898 respecting applications under s. 103 of the Act [ante, p. 78]. It will be noted that there is a change of language here from Form A1, the condition being that the applicant who claims to be entitled to the privileges or benefits of s. 103, and the convention made thereunder, shall be the same person who has applied for protection for his invention abroad. Form A1 and Form A2 give rights to foreign corporations as well as to foreign persons. That is, having become by themselves or by one of their servants possessed of an invention, they can, so far as our law is concerned, communicate that to an English patent agent, or to any personal applicant, who can bring the invention to this country or communicate to the Patent Office that he is in possession of the patent.]

(To be issued with Form A., A1, or A2.)

**PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 to 1888.**

FORM B.

PROVISIONAL SPECIFICATION.

(To be furnished in duplicate.)

[See Rule 6 (2), p. 103, and as fees note below].

(a) Here insert title as in declaration.

(a)

(b) Here insert name and full address and calling of applicant or applicants, as in declaration.

(b)

(c) Here insert short description of invention.

do hereby declare the nature of this invention to be as follows :—(c)

NOTE.—No stamp is required on this document, which must form the commencement of the provisional specification ; the continuation to be upon wide-ruled foolscap paper (but on one side only), with a margin of two inches on left hand of paper. The provisional specification and the “duplicate” thereof must be signed by the applicant or his agent on the last sheet, the date being first inserted as follows :—

“ Dated this day of 18 .”

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

To be issued with Form A, A^I. or A^{II}.

PATENTS, DESIGNS, AND TRADE MARKS ACTS, 1883 to 1888.

FORM B.

PROVISIONAL SPECIFICATION.

(To be furnished in Duplicate.)

(a) Here insert title as in declaration.

(a)

.....
.....
.....
.....

(b) Here insert name and full address and calling of applicant or applicants as in declaration.

(b)

.....
.....
.....
.....
.....

do hereby declare the nature of this invention to be as follows:—

(c) Here insert short description of invention.

(c)

.....
.....
.....
.....
.....
.....
.....

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 to 1888.

Where provisional specification has been left, quote No. and date.

No. _____
Date _____

PATENT.

FORM C.

COMPLETE SPECIFICATION

(To be furnished in Duplicate, one unstamped.)

[See Rule 6 (2), p. 103, and for fees, p. 150].

(a) Here insert title as in declaration.

(a) _____

(b) Here insert name, and full address and calling of applicant or applicants as in declaration.

(b) _____

do hereby declare the nature of this invention, and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement:

(c) Here insert full description of invention, which must end with a distinct statement of claim or claims in the following form:—

(c) _____

“Having now particularly described and ascertained the nature of my said invention, and in what manner the same is to be performed, I declare that what I claim is

- Here state distinctly the features of novelty claimed. 1.
- 2.
- 3.

NOTE.—This document must form the commencement of the Complete Specification; the continuation to be upon wide-ruled foolscap paper (but on one side only) with a margin of 2 inches on left hand of paper. The Complete Specification and the “Duplicate” thereof must be signed by the applicant or his agent on the last sheet, the date being first inserted as follows:

“ Dated this _____ day of _____, 18 ____ .”

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 to 1888.

FORM D.

PATENT.

FORM OF OPPOSITION TO GRANT OF PATENT.
[See Rule 34, p. 109, and for fee, p. 150].

[To be accompanied by an unstamped copy.]

* Here state name and full address.

*I

hereby give notice of my intention to oppose the grant of Letters Patent upon application No. _____ of _____, applied for by _____

† Here state upon which of the grounds of opposition permitted by section 11 of the Act the grant is opposed.

upon the ground† _____

‡ Here insert signature of opponent.

(Signed)‡ _____

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1888.

FORM E.

FORM OF APPLICATION FOR HEARING BY THE COMPTROLLER.

[See Rule 41, p. 109, and fee, p. 150].

PATENT.

IN CASES OF REFUSAL TO ACCEPT, OPPOSITION, OR APPLICATIONS
FOR AMENDMENTS, &C.

SIR,

of (a)

(a) Here insert
address.

hereby apply to be heard in reference to

and request that I may receive due notice of the day fixed for the
hearing.

Sir,

Your obedient Servant,

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1888.

PATENT.

FORM F.

FORM OF APPLICATION FOR AMENDMENT OF SPECIFICATION OR
DRAWINGS.

[See p. 95; Rule 52, p. 111; and fee, pp. 150-1. See also
Form P. 139.]

* Here state
name and full
address of appli-
cant or patentee.

* _____

seek leave to amend the specification of Letters Patent, No. _____,
of 18 ____, as shown in red ink in the copy of the original
specification hereunto annexed _____

† Here state
reasons for seek-
ing amendment;
and where the
applicant is not
the patentee,
state what inte-
rest he possesses
in the letters
patent.

My reasons for making this amendment are as follows† _____

‡ To be signed
by applicant.

(Signed)‡ _____

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 to 1888.

FORM G.

FORM OF OPPOSITION TO AMENDMENT OF SPECIFICATION OR
DRAWINGS.

[See Rule 53, p. 111, and Fee, pp. 150-1.]

[To be accompanied by an unstamped copy.]

PATENT.

* Here state name and full address of opponent.

hereby give notice of objection to the proposed amendment of the specification or drawings of Letters Patent, No. _____, of 188 _____, for the following reason: † _____

† Here state reason of opposition.

(Signed) _____

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

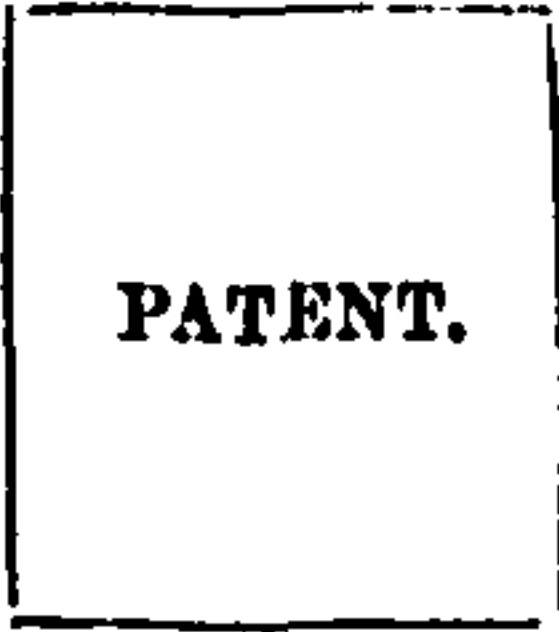
PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1888.

FORM H.

FORM OF APPLICATION FOR COMPULSORY GRANT OF LICENSE.

[To be accompanied by an unstamped copy.]

[See Rule 60, p. 112, and Fee, p. 150.]



* Here state #
name and full
address of ap-
plicant.

† Here state
name and ad-
dress of patentee,
and number and
date of his
patent.

hereby request you to bring to the notice of the Board of Trade
the accompanying petition for the grant of a license to me by†

(Signed) _____

NOTE.—The Petition must clearly set forth the facts of the case and be accompanied
by an examined copy thereof. See form next page.

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 to 1888.

FORM H 1.

FORM OF PETITION FOR COMPULSORY GRANT OF LICENSES.

[See Rule 61, p. 112, and Fee, p. 150.]

To the LORDS of the COMMITTEE of PRIVY COUNCIL for TRADE.

(a) Here insert name, full address, and description.

THE petition of (a) of _____, being a person interested in the matter of this petition as herein-after described:—

Sheweth as follows:—

(b) Here insert title of invention.

1. A patent dated _____ No. _____ was duly granted to _____ for an invention of (b)

(c) Here state fully the nature of petitioner's interest.

2. The nature of my interest in the matter of this petition is as follows:—(c)

(d) Here state in detail the circumstances of the case under section 22 of the said Act, and show that it arises by reason of the default of the patentee to grant licenses on reasonable terms. The statement of the case should also show, as far as possible, that the terms of the proposed order are just and reasonable. The paragraphs should be numbered consecutively.

3. (d)

(e) Here state the ground or grounds on which relief is claimed in the language of section 22, sub-section (a), (b), or (c), as the case may be.

Having regard to the circumstances above stated, the petitioner alleges that by reason of the aforesaid default of the patentee to grant licenses on reasonable terms (e)

Your petitioner therefore prays that an order may be made by the Board of Trade (f)

(f) Here state the purport and effect of the proposed order and the terms as to the amount of royalties, security for payment, or otherwise, upon which the petitioner claims to be entitled to the relief in question.

or that the petitioner may have such other relief in the premises as the Board of Trade may deem just.

**PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1888.**

FORM I.

FORM OF OPPOSITION TO COMPULSORY GRANT OF LICENSE.

[See Rule 64, p. 112, and Fee, p. 150.]

PATENT.

* Here state *
name and full
address.

hereby give notice of objection to the application of _____

for the compulsory grant of a license under Patent No. _____,
of 18 ____.

(Signed) _____

**To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.**

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1888.

FORM J.

APPLICATION FOR CERTIFICATE OF PAYMENT OR RENEWAL.

[See Rule 4, p. 149, and Fees, p. 150.]

_____ hereby transmit the fee prescribed for the continuation
 in force of * _____ Patent No. _____, of 18__ for
 a further period of _____.

Here insert
name of patentee,† Here insert
name and full
address.

Name† _____

Address _____

To the Comptroller,
 Patent Office, 25, Southampton Buildings,
 Chancery Lane, London, W.C.

(This part of the Form to be filled in at the Patent Office.)

PATENT.

CERTIFICATE OF PAYMENT OR RENEWAL.

Letters Patent No. _____ of 18__
 _____ 18__.

This is to certify that _____ did this
 day of _____ 18__, make the prescribed payment of
 £ _____ in respect of a period of _____ from _____
 and that by virtue of such payment the rights of the patentee
 remain in force.*

* See section 17
 of the Patents,
 Designs, and
 Trade Marks
 Act, 1883 [*ante*,
 p. 40].

Seal.

Patent Office, London.

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1888.

FORM K.

FORM OF APPLICATION FOR ENLARGEMENT OF TIME FOR PAYMENT
OF RENEWAL FEE.

[See Rule 49, p. 110, and Fees, p. 151 (24).]

PATENT.

SIR,

I HEREBY apply for an enlargement of time for _____
month in which to make the _____ payment of
£ _____ upon my Patent, No. _____
of 18

The circumstances in which the payment was omitted are as

(a) See Rule 49. follows (a):—

I am,

Sir,

Your obedient Servant,

(b) Here insert
full address to
which receipt is
to be sent.

(b) _____

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1888.

FORM L.

PATENT.

FORM OF REQUEST TO ENTER NAME UPON THE REGISTER OF PATENTS.

[See Rule 68, p. 113, and Fee, p. 151.]

(a) Or We,
Here insert
name, full ad-
dress, and de-
scription.

I (a)

(b) My or our,
(c) Or names.

hereby request that you will enter (b) name (c) in the
Register of Patents:—

(d) I or We,
(e) Here insert
the nature of the
claim.

(d) claim to be entitled (e)

(f) Here give
name and ad-
dress, &c., of
Patentee or Pa-
tentees.

of the Patent No. of 18, granted to (f)

(g) Here insert
title of the in-
vention.

for (g)

(h) Here specify
the particulars
of such docu-
ment, giving its
date, and the
parties to the
same, and show-
ing how the
claim here made
is substantiated.

by virtue of (h)

(i) Here insert
the nature of the
document.

And in proof whereof I transmit the accompanying (i)
with an attested copy

(j) Where any
document which
is a matter of
record is required
to be left, a cer-
tified or official
copy in lieu of
an attested copy
must be left.

thereof (j)

I am,

Sir,

Your obedient Servant,

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 to 1888.

FORM M.

PATENT.

FORM OF REQUEST TO ENTER NOTIFICATION OF LICENSE IN THE
REGISTER OF PATENTS.

[See Rule 77, p. 114, and Fee, p. 151.]

SIR,

I HEREBY transmit an attested copy of a license granted
to me by _____

under Patent No. _____ of 18 ____, as well as the original license
for verification, and I have to request that a notification thereof
may be entered in the Register.

I am,

Sir,

Your obedient Servant,

(a) Here insert
full address.

(a) _____

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 to 1888.

FORM N.



APPLICATION FOR DUPLICATE OF PATENT.

[See Fee, No. 28, p. 151.]

Date

SIR,

I REGRET to have to inform you that the Letters Patent

[* Here insert date, No., name, and full address of Patentee.]

dated*

No.

granted to

[† Here insert title of invention.]

for an invention of†

[‡ Here insert the word "destroyed" or "lost," as the case may be.]

have been ‡

I beg therefore to apply for the issue of a duplicate of such

[§ Here state interest possessed by applicant in the Letters Patent.]

Letters Patent.§

[Signature of Applicant.]

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

**PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 to 1888.**

FORM O.

PATENT.

NOTICE OF INTENDED EXHIBITION OF AN UNPATENTED INVENTION.

[See p. 97, Rule 15, p. 104, and Fee, p. 151 (29).]

* Here state *
name and full
address of appli-
cant.

hereby give notice of my intention to exhibit a _____

of _____ at the _____

† State "opened"
or "is to open."

Exhibition, which† _____ of _____ 18 _____,

under the provisions of the Patents, Designs, and Trade Marks
Act of 1883.

‡ Insert brief
description of
invention, with
drawings if
necessary.

‡ _____ herewith enclose _____

Signed _____

To the Comptroller.

Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

**PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1888.**

FORM P.

PATENT.

FORM OF REQUEST FOR CORRECTION OF CLERICAL ERROR.

[See Form F, p. 128; p. 95, Rule 52, p. 111, and Fee, p. 151 (34).]

SIR,

(a) Or errors.

I HEREBY request that the following clerical error (a)

(b) Here state whether in application, specification, or register.

No. _____ of 18 ____, may be corrected in the manner shown in

red ink in the certified copy of the original (b) _____

hereunto annexed.

Signature _____

Full Address _____

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

**PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 to 1888.**

FORM Q.

PATENT.

CERTIFICATE OF COMPTROLLER-GENERAL.

[See p. 98, Rule 43, p. 110, and Fee, p. 151 (35).]

**Patent Office,
London,**

18

**I, _____, Comptroller-General of Patents,
Designs, and Trade Marks, hereby certify**

* Here insert
name and full
address of person
requiring the
information.

To *

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1888.

FORM B.

FORM OF NOTICE FOR ALTERATION OF AN ADDRESS IN REGISTER.

[See p. 103 (9), and Fee, p. 151 (36).]

PATENT.

SIR,

(a) _____

hereby request that _____ address now upon the Register may be altered as follows:—

(b) _____

Sir,
Your obedient Servant,

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

(a) Here state name or names and full address of applicant or applicants.

(b) Here insert full address.

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1888.

FORM S.

PATENT.

FORM OF APPLICATION FOR ENTRY OF ORDER OF PRIVY COUNCIL
IN REGISTER.

[See Rule 74, p. 113.]

(a) Here state name and full address of applicant.

(a)

hereby transmit an office copy of an Order in Council with reference

(b) Here state to (b) the purport of the order.

Sir,
Your obedient Servant,

To the Comptroller,
Patent Office, 25, Southampton Buildings,
Chancery Lane, London, W.C.

PATENTS, DESIGNS, AND TRADE MARKS ACTS,
1883 TO 1888.

FORM T.

PATENT.

FORM OF APPEAL TO LAW OFFICER.

[See p. 115, and Fees, p. 150 (4).]

(a) Here insert name and full address of appellant.

I, (a) _____ of (a) _____

(b) Here insert "the decision" or "that part of the decision," as the case may be.

hereby give notice of my intention to appeal to the Law Officer from (b) _____

of the Comptroller of the _____ day of _____

(c) Here insert "refused [or allowed] application for Patent," or "refused [or allowed] application for leave to amend Patent," or otherwise, as the case may be.

18 __, whereby he (c) _____

(d) Insert number and year.

No. (d) _____ of the year 18 __ (d)

Signature _____

Date _____

N.B.—This notice has to be sent to the Comptroller General at the Patent Office, London, W.C., and a copy of same to the Law Officers' Clerk at Room 549, Royal Courts of Justice, London.